

**ARLINGTON LAND USE (ZONING) BYLAW**  
**AND**  
**FLOOD HAZARD AREAS REGULATIONS**

as amended by the  
**TOWN OF ARLINGTON**  
November 4, 2019

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The Arlington Land Use Bylaw was prepared by the Arlington Planning Commission with assistance from the Bennington County Regional Commission

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## SECTION 1 STATUTORY AUTHORITY

The Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A. Chapter 117, as amended, Subchapter 6, Section 4401, provides that “Any municipality that has adopted and has in effect a plan and has created a planning commission under this chapter may implement the plan by adopting, amending, and enforcing any or all of the regulatory and nonregulatory tools provided for in this chapter. All such regulatory and nonregulatory tools shall be in conformance with the plan, shall be adopted for the purposes set forth in Section 4302 of this title, and shall be in accord with the policies set forth therein.”

## SECTION 2 PURPOSE

This Bylaw is designed to protect and promote the public health, safety, and welfare of the people of the Town. It is intended to guide the future development of the Town in accordance with the Town Plan and to produce population densities that will bring about the most beneficial and convenient relationships among the residential, industrial, commercial, forest and recreational, and agricultural areas within the Town. This Bylaw is designed to maintain the character and economic stability of each part of the Town and to encourage orderly and beneficial development. It is designed to protect and conserve the value of land and buildings throughout the Town appropriate to the several districts established by this Bylaw. This Bylaw aims to bring about the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the Town. It aims to provide a guide for public policy and action in the efficient provision of public facilities and services and for private enterprise in building development, investment, and other economic activity relating to the use of land and buildings throughout the Town.

### SECTION 3 SHORT TITLE

This Bylaw shall be known and may be cited as the ARLINGTON LAND USE (ZONING) BYLAW.

## SECTION 4 INTERPRETATION

### 4.1 GENERAL

1. In interpreting and applying the provisions of this Bylaw they shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience, and general welfare, and more particularly for the purposes set forth in Section 2. Except as specifically provided herein this Bylaw does not repeal, abrogate, annul, or in any way impair or interfere with any existing use of land or provision of law, or any rule or regulation previously adopted, or any permit, license, certificate, or other authorization previously issued, granted, or approved pursuant to law and not in conflict with the provisions hereof relating to the use of buildings or land, or to the erection, construction, establishment, moving, structural alteration of any building or improvement, nor does this Bylaw interfere with or abrogate or annul any easement, covenant, or other agreement between parties, provided, however, that wherever any provision of this ordinance or Bylaw imposes greater restrictions on the erection, construction, establishment, moving, structural alteration, or enlargement of any building or on the use of land in any district established by this Bylaw than are imposed by such existing provisions of law or ordinance or by such rules, regulations, permits, licenses, certificates, or other authorizations or by such easements, covenants, or agreements, then the provisions of this Bylaw shall control.

### 4.2 INTERPRETATION OF THE MAP

1. The boundaries of the zoning districts described herein are shown on the Zoning Map of the Town and amendments thereto. The map and any amendments are hereby declared to be part of this Bylaw. Any uncertainty as to the location of a district boundary line on the Zoning Map shall be resolved by the Land Use Administrator with appeals of any such decisions made to the Zoning Board of Adjustment.

### 4.3 ZONING OF STREETS

1. Zoning districts shall include the beds of streets lying within them. Where opposite sides of a street lie in different districts, the boundary shall be deemed the center of the right-of-way.

### 4.4 LAND UNDER WATER

1. Zoning districts shall include any land under rivers, streams, lakes, or ponds lying within them. Where opposite sides of a river or stream lie in different districts, the boundary shall be the thread of the river or stream. Where opposite sides of a lake, pond, swamp, or water body lie in different districts, the boundary shall be deemed to be the center thereof.



## SECTION 5 GENERAL REGULATIONS

### 5.1 COMPLIANCE WITH BYLAW

1. Except as otherwise provided in this Bylaw:
  - a. No structure, or part thereof, shall be created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, nor shall any land or structure be used for any purpose other than one or more of those uses or purposes included among the uses listed for each district or part thereof as established by this Bylaw and shown on the zoning maps available in the Land Use Administrator's office. Nor shall any land or building be used in any manner contrary to any of the requirements specified in this Bylaw, except that the use of buildings or of land which existed prior to the enactment of this Bylaw may be continued without hindrance in the same manner in which these uses have been conducted. Except as otherwise provided herein, any use not specifically permitted shall be deemed to be prohibited.
  - b. In the case of lots lying in more than one district, the provisions of any one district may be applied for a distance of not more than 100 feet into any other adjacent district.
  - c. New Outdoor Hydronic Heaters (formerly Outdoor Wood Boilers) shall meet the federal Environmental Protection Agency (EPA) regulation effective May 15, 2015 which includes required certification by the EPA and minimum setback requirements, generally 100 feet, from nearest residences, schools and healthcare facilities.
  - d. Wind turbines and solar collectors that are connected into the power grid are subject to the regulations of the Vermont Public Service Board and exempt from municipal zoning regulations; others require a municipal permit.
2. Applicants should refer to Appendix A for information on definitions and possible additional bylaw restrictions.

### 5.2 EXEMPTIONS

1. No zoning permit shall be required for the following activities:
  - a. Required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, exempt in accordance with 24 V.S.A. Chapter 4413 (d)(1)(A). A person shall notify the Land Use Administrator of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets, and shall not locate a farm structure in a floodway.
  - b. Accepted silvicultural practices, as those practices are defined by the Commissioner of Forests, Parks and Recreation, exempt in accordance with 24 V.S.A. Chapter 4413 (d)(1)(B). Such practices include those which are in compliance with Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner of Forests, Parks and Recreation.

- c. Forestry operations, as the meaning is described in 10 V.S.A. Chapter 2602, exempt in accordance with 24 V.S.A. 4413 (d)(1)(C).
- d. Where limits are placed on the municipality's power to regulate hunting, fishing, trapping and other activities as specified under 24 V.S.A. Chapter 2295.
- e. Communications facilities where the applicant seeks a Certificate of Public Good under 30 V.S.A. Chapter 248a, which includes a requirement that notice be given to the municipal planning commission in the community where the applicant proposes to construct or install facilities.
- f. Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change in use.
- g. Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
- h. Exterior alterations to structures which do not result in any change to the footprint or height of the structure or a change of use.
- i. Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences less than eight (8) feet in height which do not extend into or obstruct public rights-of-way or interfere with corner visibilities or sight distances for vehicular traffic.
- j. Minor grading and excavation associated with road and driveway maintenance (e.g. including culvert replacement and resurfacing), and lawn and yard maintenance (e.g. for gardening or landscaping), or which is otherwise incidental to an approved use.
- k. Outdoor recreational trails (e.g. walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
- l. Small accessory buildings associated with residential areas which are less than 64 square feet of floor area and less than eight (8) feet in height and are not located within required setback areas. Such buildings are limited to two per property.
- m. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, no more than twelve (12) days in any calendar year.

### 5.3 DIMENSIONAL REQUIREMENTS

1. No building shall be erected, reconstructed, or structurally altered to exceed in height the limits for the particular district in which it is located as set forth in this Bylaw. The height limits for spires, cupolas, chimneys, ventilators, tanks, silos, flagpoles, radio aerials, television aerials, roof top solar collectors or similar accessory features shall be reviewed and approved by the Zoning Board of Adjustment. The height of any wireless telecommunication facility must conform to the appropriate section of this Bylaw.
2. No building shall be erected, reconstructed, or altered, enlarged, rebuilt, or moved, nor shall

any open space contiguous to any building be encroached upon or reduced in any manner except in conformity to the yard, lot area, building location, off-street parking space, or other space and area requirements designated for the district in which the building or plot lies.

3. Where a lot is hereafter formed from part of a lot already occupied by a building, such separation shall be effected in such a manner as not to impair conformity with any of the requirements of this Bylaw with respect to the existing building, and all yards and open spaces in connection therewith, and no permit shall be issued for a building on a lot thus created unless it complies with all the provisions of this Bylaw.
4. Any lot in existence on the original adoption date of this Bylaw (August 28, 1973) may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet.

In addition, if such nonconforming lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

- a) The lots are conveyed in their preexisting, nonconforming configuration.
  - b) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
  - c) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
  - d) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.
5. No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width.
  6. No solid fence, wall, hedge, shrubbery, or other obstruction to vision over three (3) feet in height shall be placed or allowed to grow within twenty (20) feet of a street intersection so as to block vision of oncoming traffic.
  7. Unless otherwise provided in this bylaw, no more than one principal use will be allowed on a lot regardless of lot size, except with the approval of the Planning Commission after all appropriate requirements of the Subdivision Regulations have been met.

## SECTION 6 USE DISTRICTS

### 6.1 DIVISION INTO DISTRICTS

All uses, in any of the land use districts, whether permitted or conditional, require a permit from the Land Use Administrator.

For the purposes of this Bylaw, the Town of Arlington is divided into the following use districts:

VILLAGE-RESIDENTIAL DISTRICT indicated by the letters "VR" on the Land Use Map.

COMMERCIAL-RESIDENTIAL indicated by the letters "CR" on the Land Use Map.

COMMERCIAL-RESIDENTIAL-RURAL indicated by the letters "CRR" on the Land Use Map.

COMMERCIAL-INDUSTRIAL indicated by the letters "CI" on the Land Use Map.

RURAL indicated by the letters "R or RR" on the Land Use Map.

FOREST AND RECREATION indicated by the letters "F or FR" on the Land Use Map.

PLANNED INDUSTRIAL indicated by the letters "P or PI" on the Land Use Map.

The locations of each land use district in the Town of Arlington are shown on the Land Use Maps in Appendix B.

### 6.2 VILLAGE-RESIDENTIAL DISTRICT

The Village-Residential District shall include all areas so designated on the Land Use Map.

#### 1. Purpose:

The purpose of the Village-Residential District is to provide for compact residential development in suitable areas.

#### 2. Permitted Uses:

- a. Single-family and two-family dwellings.
- b. Customary home occupations, provided that all of the criteria of Section 7.14 are satisfied.
- c. Rooming houses and tourist homes for not more than ten roomers or tourists.
- d. Accessory structures and uses incidental and subordinate to a principal structure or use.
- e. A state licensed or registered residential care home or group home, serving not more than eight persons who are developmentally disabled or physically handicapped, except that such homes shall be located not less than 1,000 feet from another such home.
- f. Subdivision or Development as provided for in Section 7.6.
- g. Guest houses on lots occupied by a principal dwelling, provided that the minimum lot size is met for each residential building and that the dwellings are located so that if the land were to be subdivided, both structures will conform to all aspects of the dimensional requirements. Water supply and wastewater disposal systems must receive local and state approval.
- h. Accessory Dwelling Unit (See Section 7.16).
- i. Family Child Care Facility as provided for in Section 7.17.
- j. Solar Collectors (See Section 5.1.1.d).

k. Outdoor Hydronic Heaters (See Section 5.1.1.c).

3. Conditional Uses:

1. The following may be permitted as conditional uses in the Village-Residential District following approval by the Zoning Board of Adjustment in conformance with the requirements of Section 7.1:
  - a. Multi-family dwellings provided that the following criteria are met:
    - 1) There is a minimum lot size of 3,500 square feet per bedroom.
    - 2) No more than six (6) units shall be permitted in any one building.
    - 3) There is a minimum of 600 square feet of living area per dwelling unit; however, one unit per building may contain less than 600 square feet of living area, but not less than 400 square feet.
    - 4) The building shall be no more than 2 and ½ stories high.
    - 5) No more than 35% of the lot area shall be in building coverage.
    - 6) Adequate off-street parking shall be provided.
  - b. Professional and business offices and financial institutions.
  - c. Funeral homes and undertaking establishments.
  - d. Farm stands not exceeding 400 square feet in area for the sale of farm products raised primarily on the premises.
  - e. A state licensed or registered residential care home or group home serving in excess of eight persons who are developmentally disabled or physically handicapped, provided such home is located not less than 1,000 feet from any other residential care home or group home.
  - f. Public utility power generating plants and transmission lines.
  - g. Public parks or playgrounds, community recreation centers or buildings, libraries, museums, or other similar uses operated by a governmental unit or non-profit corporation or community association.
  - h. Public and private schools and other educational institutions certified by the Vermont Department of Education.
  - i. Churches, convents, and parish houses.
  - j. Public and private hospitals.
  - k. A base of operations, as provided for in Section 7.15.
  - l. Family Child Care Facility as provided for in Section 7.17.
  - m. Wind Turbines (See Section 5.1.1.d).

4. Dimensional Requirements in the Village-Residential District:

Minimum lot size.....one-half (1/2) acre  
Minimum frontage on a public street or right-of-way.....fifty (50) feet  
or  
access by a right-of-way existing as of May 1, 1990 or by a new right-of-way if said right-of-way is approved by the Planning Commission  
Minimum front-yard setback from edge of highway right-of-way.....fifteen (15) feet  
Minimum side yard setback from property line.....fifteen (15) feet  
Minimum rear yard setback from property line.....fifteen (15) feet  
Maximum building height.....thirty (30) feet

## 6.3 COMMERCIAL-RESIDENTIAL AND COMMERCIAL-RESIDENTIAL-RURAL DISTRICTS

The CR and CRR Districts include those areas so designated on the Land Use Map.

### 1. Purpose:

- a. The purpose of the Commercial-Residential and the Commercial-Residential-Rural Districts is to promote sound economic development of the Town and to provide for convenient shopping and service areas for Town residents and visitors.

### 2. Permitted Uses:

- a. Motels, hotels, and restaurants.
- b. Retail stores or salesrooms.
- c. Theaters, bowling alleys, skating rinks, and other places of public amusement.
- d. Professional and business offices and financial institutions.
- e. Service establishments including, but not limited to, automobile service stations, barber shops, beauty shops, laundromats, appliance repair shops, shoe repair shops, dry cleaning, and similar establishments.
- f. Funeral homes and undertaking establishments.
- g. Mail order businesses, occupying not more than 5,000 square feet of gross floor area.
- h. Single-family and two-family dwellings.
- i. State registered or licensed residential care homes or group homes, serving not more than eight persons who are developmentally disabled or physically handicapped, provided that any such home is located not less than 1,000 feet from another such home.
- j. Subdivision or Development as provided for in Section 7.6.
- k. Customary Home Occupations, provided that all of the criteria of Section 7.14 are satisfied.
- l. Rooming houses and tourist homes for not more than ten roomers or tourists.
- m. Campgrounds for tents and/or camping trailers on lots of at least 5 acres, provided that the overall density shall not exceed 10 sites per acre, and that a minimum 25 feet wide vegetative buffer is provided at the perimeter of the lot.
- n. Accessory uses customarily incidental to a permitted use.
- o. Guest houses on lots occupied by a principal dwelling, provided that the minimum lot size is met for each residential building and that the dwellings are located so that if the land were to be subdivided, both structures will conform to all aspects of the dimensional requirements. Water supply and wastewater disposal systems must receive local and state approval.
- p. Accessory Dwelling Unit (See Section 7.16)
- q. Family Child Care Facility as provided for in Section 7.17.
- r. Solar Collectors (See Section 5.1.1.d).
- s. Outdoor Hydronic Heaters (See Section 5.1.1.c).

### 3. Conditional Uses:

- a. The following may be permitted as conditional uses in the CR and CRR Districts following approval by the Zoning Board of Adjustment in conformance with the requirements of Section 7.1:

- 1) Multi-family dwellings provided that the following criteria are met:
    - a) There is a minimum lot size of 3,500 square feet per bedroom.
    - b) No more than six (6) units shall be permitted in one building.
    - c) There is a minimum of 600 square feet of living area per dwelling unit; however, one dwelling unit per building may contain less than 600 square feet of living area, but not less than 400 square feet.
    - d) The building shall be no more than 2 and ½ stories high.
    - e) No more than 35% of the lot area shall be in building coverage.
    - f) Off-street parking should comply with Section 7.5.
  - 2) Light manufacturing and craft businesses, provided that retail sales of products manufactured on the site occur primarily on the premises.
  - 3) Public utility power generating plants and transmission lines.
  - 4) State or community owned and operated institutions and facilities.
  - 5) Public and private schools and other educational institutions certified by the Vermont Department of Education.
  - 6) Churches, convents, and parish houses.
  - 7) Public and private hospitals.
  - 8) A base of operations, as provided for in Section 7.15.
  - 9) A commercial kennel, veterinary hospital or riding stable, provided that the lot area is not less than two (2) acres and that no building or open enclosure for the keeping of dogs shall be located within 100 feet of any lot line and noise level at the lot lines shall not exceed 45 decibels and that offensive odors will not be evident beyond the lot lines.
  - 10) Wind turbines (See Section 5.1.1.d).
4. Performance Standards:
- a. No zoning permit shall be issued for a use or development identified in Section 6.3.2 (a-g) or 6.3.3 (2-7) and located within the CR or CRR District until it is demonstrated to the satisfaction of the Planning Commission that said use or development will satisfy each of the performance standards of Section 6.8 and the requirements of Section 8.5
5. Dimensional Requirements in the Commercial-Residential and Commercial-Residential-Rural District:
- Minimum lot size in the CR District.....one-half (1/2) acre (commercial) and one-half (1/2) acre per dwelling unit (except as provided for in Section 6.3.3(a))
- Minimum lot size in the CRR District.....one (1) acre (commercial) and one (1) acre per dwelling unit (except as provided for in Section 6.3.3(a))
- Minimum frontage on a public street or right-of-way.....fifty (50) feet or access by a right-of-way existing as of May 1, 1990 or by a new right-of-way if said right-of-way is approved by the Planning Commission.
- Minimum front-yard setback from edge of highway right-of-way.....twenty-five (25) feet
- Minimum side and rear yard setback from property line.....fifteen (15) feet
- Maximum building height.....thirty-five (35) feet

## 6.4 COMMERCIAL-INDUSTRIAL DISTRICT

### 1. Purpose:

- a. The purpose of the Commercial-Industrial District is to foster employment opportunities for the residents of Arlington while siting economically beneficial and environmentally sound commercial and industrial development in the most appropriate locations.

### 2. Permitted Uses:

- a. Public utility power generating plants and transmission lines.
- b. State or community owned and operated institutions and facilities.
- c. Manufacturing, processing, fabrication, packaging, or assembly plants.
- d. Research facilities.
- e. Distributorships dealing with commercial and industrial supplies.
- f. Construction businesses.
- g. Repair service establishments.
- h. Printing establishments.
- i. Mail order businesses.
- j. Warehousing and storage.
- k. Retail stores or salesrooms.
- l. Theaters, bowling alleys, skating rinks, and other places of public amusement.
- m. Professional and business offices and financial institutions.
- n. Service establishments including, but not limited to automobile service stations, barber shops, beauty shops, laundromats, appliance repair shops, shoe repair shops, dry cleaning, and similar establishments.
- o. Solar Collectors (See Section 5.1.1.d).
- p. Outdoor Hydronic Heaters (See Section 5.1.1.c).
- q. Wind Turbines (See Section 5.1.1.d).
- r. Accessory structures and uses customarily incidental to the above permitted uses.
- s. Rooming houses and tourist homes for not more than ten roomers or tourists in dwellings existing on the date of adoption of this amendment (May 17, 1994).

### 3. Performance Standards:

- a. No zoning permit shall be issued for any use or development in the Commercial-Industrial District until it is demonstrated to the satisfaction of the Planning Commission that said use or development will satisfy each of the performance standards of Section 6.8 and the requirements of Section 8.5.

### 4. Dimensional Requirements:

Minimum lot size.....	1 acre
Minimum frontage on a public street.....	100 feet*
Minimum front yard setback from street right-of-way.....	75 feet
Minimum side and rear yard setback from property line.....	15 feet**
Maximum building height.....	35 feet

\* Or access by an approved 50 foot right-of-way.



- \*\* For industrial lots abutting a residential district, the minimum side and rear yard setbacks shall be 50 feet from any adjoining property, where such adjoining property is located wholly or partially in a residential district.

## 6.5 PLANNED INDUSTRIAL DISTRICT

The Planned Industrial District includes those areas so designated on the Land Use Map.

1. Purpose:

The purpose of the Planned Industrial District is to provide suitable locations for industrial development in order to expand the local tax and employment bases while maintaining the rural character of the town.

2. Permitted Uses:

- a. Any use permitted in the Rural District (Section 6.6.2) provided the dimensional requirements for that district are satisfied.
- b. Public utility power generating plants and transmission lines.
- c. State or community owned and operated institutions and facilities.
- d. Manufacturing, processing, fabrication, packaging, or assembly plants.
- e. Research facilities.
- f. Distributorships dealing with commercial and industrial supplies.
- g. Construction businesses.
- h. Printing establishments.
- i. Mail order businesses.
- j. Warehousing and storage.
- k. Retail stores or salesrooms, clearly incidental and secondary to the principal use of the building and occupying no more than 20% of total floor area.
- l. Professional and business offices and financial institutions.
- m. Accessory structures and uses customarily incidental to the above permitted uses.
- n. Solar Collectors (See Section 5.1.1.d).
- o. Outdoor Hydronic Heaters (See Section 5.1.1.c).
- p. Wind Turbines (See Section 5.1.1.d).

3. Conditional Uses:

The following uses may be permitted as conditional uses in the Planned Industrial District after approval by the Zoning Board of Adjustment in conformance with the requirements of Section 7.1:

- a. Any use conditionally permitted in Section 6.6.3 provided it meets the specific requirements attached to such use in that section and further provided that it meets the dimensional requirements of Section 6.6.4.

4. Performance Standard:

- a. No zoning permit shall be issued for any commercial or industrial use or development in the Planned Industrial District until it is demonstrated to the satisfaction of the Planning Commission that said use or development will satisfy each of the

performance standards of Section 6.8 and the requirements of Section 8.5.

5. Dimensional Requirements:

- a. Industrial projects in the Planned Industrial District shall meet the following dimensional requirements:

Minimum lot size.....	one (1) acre
Minimum frontage on a public street or by an approved right-of-way	
50 feet in width.....	150 feet
Minimum setback from Route 313 right-of-way.....	15 feet*
Minimum setback from edge of any other highway right-of-way.....	50
feet	
Minimum setback from property lines other than highway right-of-way.....	15 feet**
Maximum building height.....	40 feet***
Minimum green	
space.....	30%

\* or 130' from center line of Route 313, whichever is greater.

\*\* except 75' from the PID zone boundary which separates PID zone from the Rural Residential District.

\*\*\* Building equipment and accessory structures exceeding 40 feet in height and not exceeding 10% of the building area may be permitted subject to compliance with the Performance Standards.

## 6.6 RURAL DISTRICT

The Rural District includes all areas outside the Village-Residential, Commercial-Residential, Commercial-Industrial, Planned Industrial, and Forest and Recreation Districts.

### 1. Purpose:

- a. The purpose of the Rural District is to ensure the preservation of the natural rural and scenic qualities of areas which are planned to be predominantly residential and agricultural in character.

### 2. Permitted Uses:

- a. Family Child Care Facility as provided for in Section 7.17.
- b. A state licensed or registered residential care home or group home, serving not more than eight persons who are developmentally disabled or physically handicapped, except that no such home may be located within 1,000 feet of another such home.
- c. Single-family and two-family dwellings.
- d. Customary home occupations, provided that all of the criteria of Section 7.14 are satisfied.
- e. Guest houses on lots occupied by a principal dwelling, provided the minimum lot size is met for each residential building and that the dwellings are located so that if the land were to be subdivided, both structures will conform to all aspects of the dimensional requirements. Water supply and wastewater disposal systems must receive local and state approval.
- f. Farms, truck gardens, nurseries, greenhouses, and tree farms; such uses may include incidental retail sales of plants produced on the premises.
- g. Farm stands not exceeding 400 square feet in area for the sale of farm products raised primarily on the premises.
- h. Rooming houses or tourist homes (but not motels), for not more than ten (10) roomers or tourists.
- i. Accessory uses customarily incidental to a permitted use.
- j. Subdivision or Development as provided for in Section 7.6.
- k. Private recreation, hunting, or fishing camps consisting of a building or tent not suitable for use as a dwelling, but used occasionally or seasonally for temporary shelter in connection with a recreational activity. Such camps shall not be operated as a business.
- l. Accessory Dwelling Unit (See Section 7.16).
- m. Solar Collectors (See Section 5.1.1.d).
- n. Outdoor Hydronic Heaters (See Section 5.1.1.c).

3. Conditional Uses:

- a. The following may be permitted as conditional uses in the Rural District after approval by the Zoning Board of Adjustment in conformance with the requirements of Section 7.1:
- 1) Manufactured home parks meeting the requirements of Section 7.8.
  - 2) Public parks or playgrounds, community recreation centers or buildings, libraries, museums, or other similar uses operated by a governmental unit or non-profit corporation or community association.
  - 3) Sawmill operations and customary accessory uses.
  - 4) Commercial or private golf courses provided that the lot area is not less than twenty (20) acres and that all buildings are located not less than one hundred (100) feet from any highway right-of-way or other property line.
  - 5) Cemeteries owned by churches or cemetery associations located within the Town.
  - 6) Conversion of an existing dwelling not less than 25 years old or with additions thereto not less than 10 years old to a multiple family dwelling unit, provided that the following criteria are met:
    - a) There shall be no exterior expansion or addition to the existing structure except for access to the units.
    - b) Dwelling units shall be greater than 600 square feet of livable floor area except that one unit may be reduced to not less than 400 square feet.
    - c) Parking must conform to the requirements set forth under Section 7.5 of this Bylaw.
    - d) Adequate provision for ingress and egress of vehicular movement.
    - e) All land not occupied for vehicular use or buildings shall be adequately landscaped and the open space shall be protected.
    - f) For the purpose of this use, the minimum lot area requirement is 10,000 square feet for each dwelling unit. Other dimensional requirements still apply. The multiple dwelling structure shall contain no more than six (6) units.
    - g) Prior to approval and granting of a zoning permit, the applicant shall certify that a permit has been obtained demonstrating compliance with State and Town regulations for wastewater treatment and water supply, if required. Additionally, the applicant may be required to document the accuracy of soil and percolation tests, septic system design specifications and installation, or use of an existing system.
  - 7) Conversion of an existing structure not less than 25 years old, with additions thereto not less than 10 years old, to a storage facility, provided the exterior appearance of the building is not substantially altered.
  - 8) Except as otherwise provided by Vermont law, Community Care Homes, provided, however, that there shall be at least 10,000 square feet of land for each resident being cared for in said home, and further provided that there shall be no more than twenty-four (24) residents being cared for in the home at one time. Community Care Home shall be defined under this Bylaw as a place, however named, excluding a licensed foster home, which provides, for

- 9) In addition to general conditions, a Community Care facility must meet the following criteria:
  - a) Setback of buildings shall be at least 100 feet from any street or property line.
  - b) Screening of parking areas or other parts of the premises from adjoining properties or street may be required.
  - c) Offices, support facilities, and accessory uses on the premises shall be for the exclusive benefit of the residents.
  - d) Adequate off-street parking shall be provided for staff, residents, and visitors.
  - e) Any other reasonable conditions which the Zoning Board of Adjustment may require to protect the health and welfare of the community and prevent unreasonable burdens on municipal services.
- 10) Public utility power generating plants and transmission lines.
- 11) State or community owned and operated institutions and facilities.
- 12) Public and private schools and other educational institutions certified by the Vermont Department of Education.
- 13) Churches, convents, and parish houses.
- 14) Public and private hospitals.
- 15) A base of operations, as provided for in Section 7.15.
- 16) Funeral homes and undertaking establishments.
- 17) A commercial kennel, veterinary hospital or riding stable, provided that the lot area is not less than two (2) acres, and that no building or open enclosure for the keeping of dogs shall be located within 100 feet of any lot line and that the noise level at the lot lines shall not exceed 45 decibels and that offensive odors will not be evident beyond the lot lines.
- 18) Family Child Care Facility as provided for in Section 7.17.
- 19) Wind Turbine (See Section 5.1.1.d).

Minimum lot size.....one (1) acre  
Minimum frontage on a public street or right-of-way.....one hundred (100) feet or  
access by a right-of-way existing as of May 1, 1990 or by a new right-  
of-way if said new right-of-way is approved by the Planning Commission  
Minimum front yard setback from edge of highway right-of-way.....fifty (50) feet  
Minimum side yard and rear yard setback from property line.....thirty-five (35) feet  
Maximum building height.....thirty (30) feet

## 6.7 FOREST AND RECREATION DISTRICT

The area within the Forest and Recreation District shall be determined by the following boundary description:

Beginning at the southwest corner of the Town of Arlington and northwest corner of the Town of Shaftsbury, thence northerly along the Vermont/New York state line to a point 4,000 feet southerly of the center line of Vermont Route 313. Thence 4,000 feet distant from and parallel to Route 313 to an intersection with the 1200' elevation contour, thence following the 1200' contour in a generally northerly then southerly direction around the north face of Buck Hill to the intersection of a line 4,000 feet distant from and parallel to the center line of Vermont Route 313, thence easterly along this line to an intersection with the 1200' elevation contour, thence following the 1200' contour as it continues in a generally easterly then southerly direction to the Shaftsbury Town Line; thence westerly along the Arlington/Shaftsbury Town Line to the point of beginning. In addition, all areas of Arlington north of Vermont Route 313 which are above 1200' elevation.

1. Purpose:
  - a. To guide the growth of the Town in an orderly manner by concentrating development where it can be served most efficiently by public facilities, services, utilities, and roads. To preserve the Town's forest resources and protect the Town's watershed.
2. Permitted Uses:
  - a. Private recreational, hunting, or fishing camps, consisting of a building or tent not suitable for use as a dwelling but used occasionally or seasonally for temporary shelter in connection with a recreational activity. Such camps may not be operated as a business, must each be located on a separate lot of no less than fifteen (15) acres and, for the purpose of wastewater disposal, may only include chemical, incinerator, or privy toilet facilities.
  - b. Accessory uses customarily incidental to a permitted use.
  - c. Solar Collectors (See Section 5.1.1.d).
  - d. Outdoor Hydronic Heaters (See Section 5.1.1.c).
3. Conditional Uses:
  - a. Recreation areas operated by a government unit or a non-profit organization, including hiking trails, bridle paths, and overnight shelters.
  - b. Hunting and fishing establishments, dealing with trap, skeet, sporting clays fields, firearms safety instruction, and fishing techniques, located on a lot of not less than 25 acres, provided that sales of merchandise be limited to items incidental to the principal use of the property, and that such sales be made only to users of the on-site facilities. As a condition of approval, the Zoning Board of Adjustment may set specific limits on hours and days of operation and noise levels.
  - c. Sawmill operations and customary accessory uses.
  - d. Wind Turbines (See Section 5.1.1.d).

## 6.8 PERFORMANCE STANDARDS

The following performance standards are applicable to commercial and industrial uses, as referenced in Sections 6.3.4, 6.4.3, and 6.5.4:

1. Lighting
  - a. Exterior lighting, including, but not limited to, lighting of exterior walls of buildings and lighting of walks and drives, shall be done in such a manner as to direct light away from adjacent lots and public ways. No light standard shall exceed 25 feet in height.
2. Noise
  - a. The maximum sound pressure level radiated by any use or facility (other than transportation facilities) at the property line shall not exceed 65 dBA after 7:00 A.M. and before 10:00 P.M., and shall not exceed 60 dBA after 10:00 P.M. and before 7:00 A.M.
3. Vibration
  - a. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at, or at any point beyond, the lot line.
4. Dust, Fumes, Vapors, Gases, and Odors
  - a. Emission of dust, dirt, fly ash, fumes, vapors, or gases which could be injurious to human health, animals, or vegetation; detrimental to the enjoyment of adjoining or nearby properties; or which could soil or stain persons or property, at any point beyond the lot line of the establishment creating that emission shall be prohibited. In addition, no land use or establishment shall produce harmful, offensive, or noxious odors perceptible beyond their lot lines, either at ground or habitable elevation. The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, or odors shall be shown on the site plan, with a description of source materials.
  - b. Atmospheric emissions of gaseous or particulate matter shall conform to all current provisions of the Air Pollution Control Regulations of the Vermont Agency of Natural Resources.
5. Water Quality
  - a. All necessary measures shall be taken to ensure that materials, which because of their chemical nature or temperature may contaminate surface or ground waters, are not discharged into a private sewer system, surface watercourse or waterbody, or the ground.
  - b. Storage facilities for fuel, toxic chemicals, industrial wastes, and potentially harmful raw materials shall be located on an impervious surface and enclosed in a manner that will prevent any spillage or overflow from leaving the containment area.

- c. Toxic materials that will be used or produced on the site shall be identified, and adequate plans provided for the safe storage, transport, and disposal of such materials.
- 6. Refuse Disposal
  - a. No refuse shall be dumped upon any part of the lot outside the buildings constructed thereon. Refuse stored outside buildings shall be placed in completely enclosed containers.
- 7. Explosive and Flammable Materials
  - a. Adequate fire prevention and suppression plans and equipment shall be provided for all uses that employ or store flammable or explosive materials.
  - b. No highly flammable or explosive materials shall be stored in bulk above ground, unless they are located in anchored tanks at least seventy-five (75) feet from any lot line and public or private street. Underground storage tanks shall be located not less than forty (40) feet from lot lines and streets.
- 8. Storm Water Run-Off
  - a. Increases in storm water discharges shall be minimized and detained on-site whenever possible or practicable. If it is not possible to detain water on-site, downstream improvements to drainage ways may be required of the developer to prevent flooding caused by his project. The Planning Commission may require demonstration of conformance with Vermont storm water discharge requirements.
- 9. Erosion Control
  - a. Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by using the following erosion control practices:
    - 1) Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion. Exposed or disturbed areas shall be permanently stabilized within six months of occupancy of a structure.
    - 2) During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Commission.
    - 3) Permanent erosion control and vegetative plantings shall be in accordance with erosion/sedimentation/vegetative practices recommended by the Soil Conservation Service.
    - 4) All slopes exceeding 15% resulting from site grading shall be either covered with four inches of topsoil and planted with a vegetative cover sufficient to



prevent erosion, or be stabilized with retaining walls.

- 5) Dust control shall be employed during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business.
- 6) If significant site disturbance is planned, the applicant shall contact the U.S. Soil Conservation Service and secure comments regarding erosion control.
- 7) All projects shall follow Vermont's Handbook on Erosion and Sedimentation Control for Construction Sites.

#### 10. Parking and Access

- a. Vehicular parking and access shall conform to all applicable provisions of Section 7.5 of these Regulations.
- b. In addition, for any use identified in Section 6.3.2 (a-g) or 6.3.3 (2-7) that is to be located on a lot which has frontage on Route 7A or Route 313, the majority of parking shall be located only to the side or rear of buildings.

#### 11. Screening and Landscaping

- a. A landscaped buffer at least 15 feet wide, continuous except for approved driveways and existing buildings, shall be established adjacent to any public road. The buffer strip shall be planted with grass, medium height shrubs, and trees. At street and driveway intersections, trees and shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard.
- b. Large parking areas shall be subdivided with landscaped islands.
- c. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
- d. Open storage areas, exposed machinery, and loading areas shall be visually screened from roads and surrounding land uses. Suitable types of screening include opaque wood fences and dense evergreen hedges of five feet or more in height. Where evergreen hedges are proposed, a temporary fence shall be built to provide screening until the evergreens are of sufficient height. Where new fencing would create a continuous surface greater than ten feet in length, it shall be softened visually with tree and shrub plantings.
- e. No solid fence, wall, hedge, shrubbery, or other structures over three (3) feet in height shall be placed or allowed to grow within twenty (20) feet of a street intersection so as to block vision of oncoming traffic.

#### 12. Building and Site Design

- a. The project shall be designed to take advantage of the natural terrain and protect natural vegetation and important views to the greatest extent possible.
- b. The project shall utilize an architectural design that compliments the rural

environment and is compatible with surrounding land uses. Consideration shall be given to building height and size, roof shape, pitch, and direction, exterior materials and textures, color, and architectural features (including, but not limited to, cornices, entablatures, doors, windows, shutters, chimneys, porches, stairways, signs, and accessory structures).

- c. Land which is not occupied by buildings, streets, or parking lots shall be reserved and maintained in open green space; the location, character, and size of such areas shall be planned so as to contribute favorably to the visual quality from the highway.

## SECTION 7 SPECIAL REGULATIONS

### 7.1 CONDITIONAL USE

1. A conditional use may be approved by the Zoning Board of Adjustment only after a public hearing, provided that the majority of the Board finds that the proposed use is in accord with applicable provisions of ordinances, regulations, and bylaws of the Town of Arlington, the provisions of this Bylaw for the applicable district and use, and shall not adversely affect:
  - a. the capacity of existing or planned community facilities;
  - b. the character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan;
  - c. traffic on roads and highways in the vicinity;
  - d. other provisions of ordinances, regulations, and bylaws of the town applicable thereto;
  - e. utilization of renewable energy resources.
2. In particular, the Board should consider the following standards in making such findings:
  - a. That it will not emit undue noise, odor, smoke, dust, or in other ways be detrimental to the value of neighboring property.
  - b. That it will not create dangerous traffic conditions or unduly increase vehicular traffic in the neighborhood.
  - c. That it is in architectural harmony with neighboring structures.
  - d. That it is appropriately located with respect to water supply, fire protection, waste disposal, and similar facilities, and that such facilities and installations comply with State regulations with respect to the individual building or use.
3. All applications for a Conditional Use Permit shall be accompanied by a Site Development Plan prepared in conformance with the requirements of Subsection 8.5 of this Bylaw. Failure of the development to conform to the Site Plan shall constitute a violation of this Bylaw.
4. Thirty (30) days before the public hearing, the Board shall refer the application and Site Plan to the Planning Commission for review and approval of the site plan for technical compliance. The report of the Planning Commission shall be made a part of the record of the hearing. In granting a permit for a Conditional Use, the Zoning Board of Adjustment may impose such conditions as it feels necessary to make certain that the project, when completed, will meet all applicable requirements and standards set forth in this Section. Once a permit is issued for a particular conditional use, no other use may be established in the building or on the land without the issuance of a new permit covering the newly-proposed use.

### 7.2 VARIANCE

1. On an appeal from a decision by the Land Use Administrator, when a variance from the strict requirements of this Bylaw is requested, the Zoning Board of Adjustment may render a

decision in favor of the appellant only if it makes a positive finding for all of the following reasons:

- a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
  - b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
  - c. That such unnecessary hardship has not been created by the appellant;
  - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor reduce access to renewable energy resources, nor be detrimental to the public welfare; and
  - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible of the zoning regulation and of the plan.
2. In rendering a decision in favor of a variance, the Zoning Board of Adjustment may attach such conditions as it may deem necessary and appropriate under the circumstances, to implement the purpose of this Bylaw and the Town Plan, as duly adopted or amended, to safeguard the public welfare and to maintain property values in the Town.
  3. On an appeal from a decision of the Land Use Administrator in which a variance from the provisions of this Bylaw is requested for a structure that is primarily a renewable energy resource structure, the Zoning Board of Adjustment may grant a variance if all the following facts are found:
    - a. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the Bylaw;
    - b. The hardship was not created by the appellant;
    - c. 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
    - d. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Bylaw and the Town Plan.

4. In rendering a decision in favor of an appellant under this section, the Zoning Board of Adjustment may attach such conditions to variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this chapter and the Town Plan.

### 7.3 NONCONFORMING USES AND NONCOMPLYING STRUCTURES

1. Nonconforming Uses:
  - a. Any nonconforming use of a building or premise which was lawfully existing at the time of adoption of this bylaw, or any pertinent amendment thereto, may be continued, and any building so existing, which was designed, arranged, intended for, or devoted to a nonconforming use, may be reconstructed and structurally altered, and the nonconforming use therein changed, subject to the following regulations:
    - 1) A nonconforming use may not be changed, except to a conforming use, or with the approval of the Zoning Board of Adjustment, to another nonconforming use not more objectionable in character.
    - 2) If a nonconforming use is changed into a conforming use, it shall not be changed back into a nonconforming use.
    - 3) No nonconforming use shall be extended or expanded, except with the approval of the Zoning Board of Adjustment, provided that said Board shall have found that such extension or expansion will have no adverse effect upon the public health, safety, convenience, and upon property values in the vicinity; and, in judging the application, the Zoning Board of Adjustment should consider the criteria that would apply to the use if it were in a zone in which the use is permitted.
    - 4) A nonconforming use, which has been discontinued for a continuous period of 18 months, shall not be resumed thereafter.
2. Noncomplying Structures:
  - a. Any building which does not conform to the requirements of this bylaw regarding building height limit, area and width of lot, percentage of coverage, and required yards and parking facilities, shall not be enlarged or substantially altered, unless such enlarged or altered portion conforms to the regulations, including use regulations, applying to the district in which it is located.

### 7.4 RECONSTRUCTION AND DEMOLITION

1. Except in the Special Flood Hazard Area, nothing in this Bylaw shall prevent the restoration or reconstruction within 12 months of a building or use damaged by fire or other natural catastrophe to its condition prior to such damage. Any other construction on the site or reconstruction after one year will be subject to the permit requirement of this Bylaw.
2. Buildings found to be in dangerous condition and liable to collapse, or presenting hazardous conditions dangerous to the public health or safety, or that might result in serious accident or loss of life, shall be demolished and the debris removed within six weeks of the issuance of an order for such demolition by the Land Use Administrator.

## 7.5 OFF-STREET PARKING

### 1. Number of Parking Spaces:

- a. In all districts, any new structure, any increase in total floor area in an existing building, and any enlargement or addition to an existing building, shall require sufficient parking for all existing structures and any such new structure, increase in floor area, enlargement or addition, in accordance with the following table:

<u>USE</u>	<u>NUMBER OF OFF-STREET PARKING SPACES*</u>
Residential	Two spaces per dwelling unit, except for housing for the elderly, in which case it shall be one space for each two dwelling units.
Tourist Home/ Bed and Breakfast	Two spaces, plus one additional space for each rooming unit.
Hotel or Motel	One space for each sleeping room, plus one space for each 400 square feet of public meeting area and restaurant space.
Restaurant	One space for each 50 square feet of gross floor area.
Retail Stores, Personal Service Establishments, & Professional Offices	One space for each 200 square feet of gross floor area.
Theater, Church, Auditorium, or similar place of public assembly with seating facilities	One space for each three seats of total seating capacity.
Manufacturing or Industrial establishment	The parking space for the number of employees on the largest shift x 1.2.
School	One space for each 200 square feet of gross floor area in classrooms and other teaching stations, including space for the gymnasium or auditorium whichever has the larger capacity.
Automobile Service/ Filling Station	Four spaces for each bay or one space for each 75 square feet of gross floor area, whichever provides the greater number of parking spaces.
Warehouse or Storage Facility	One space for each 5,000 square feet of gross floor area.

\* When determination of the number of parking spaces required by this exhibit results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

- b. In the event that a use is proposed that is not specifically included in the above table of off-street parking requirements, the Planning Commission shall maintain the authority to prescribe for all permitted or conditionally permitted uses, adequate parking spaces to accommodate under all normal conditions, the automobiles of occupants, employees, members, customers, clients, and visitors to the premises.
- 2. Existing Parking Spaces:
  - a. Parking spaces being maintained in any district in connection with any existing use on the effective date of this bylaw, or any spaces subsequently provided in accordance with this bylaw, shall not be decreased or in any way removed from service to the use originally intended to be served, so long as said use remains, unless a number of parking spaces is constructed elsewhere, such that the total number of spaces conforms to the requirements of this section; this regulation shall not require the maintenance of more parking spaces than required according to this section.
- 3. Location of Parking Spaces:
  - a. Required off-street parking spaces shall be provided on the same lot as the principal use which they serve. When practical difficulties exist which prevent their establishment on the same lot, the Planning Commission may allow spaces to be on a lot, the closest point of which is no further than 200 feet from the building to which they are appurtenant.
  - b. Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to approval by the Planning Commission, where it is evident that such facilities will continue to be available for the several buildings or uses.
- 4. Allocation of Parking Spaces:
  - a. Parking spaces for one use shall not be considered as providing the required facilities for any other use; however, the Planning Commission may allow the reduction of parking space requirements where joint use of the same spaces by two or more uses or establishments is justifiable by virtue of the fact that the uses or establishments generate peak demand at substantially different times.
- 5. Dimensions of Parking Spaces:
  - a. The following are minimum dimensions required for off-street parking spaces:
    - 1) Parking spaces shall measure not less than 9 feet in width by 18 feet in length.
    - 2) The width of aisles providing direct access to individual parking stalls shall be in accordance with the following table:

Parking Angle (degrees)	Aisle Width (feet)	
	One-Way	Two-Way
0	10	22
30	12	22
45	14	22
60	16	24
90	22	24

6. Parking Area Standards:

- a. Access to parking areas shall be designed so as not to obstruct free flow of traffic. There shall be adequate provision for ingress to and egress from all parking spaces to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians.
- b. Parking and loading spaces other than those required for single and two family dwellings shall be arranged so as to prohibit backing of vehicles onto any street.
- c. The layout of parking areas shall allow sufficient space for the storage of plowed snow unless removal by some other means is provided.
- d. Parking areas shall be suitably landscaped to minimize noise, glare, and other nuisance characteristics as well as to improve the aesthetic quality of the site and surrounding area. Large parking areas shall be subdivided with landscaped islands.

7.6 SUBDIVISION and PLANNED UNIT DEVELOPMENT STANDARDS

SECTION 1.00 GENERAL PROVISIONS

- 1.01 Purpose: The purpose of these regulations is to carry out the development goals of the residents of Arlington as articulated in the Town Plan, to provide for moderate and orderly growth, to assure the safety, health, and welfare of the people, to facilitate the efficient maintenance and delivery of municipal services, and to regulate the approval and filing of subdivision plats.
- 1.02 Applicability: All subdivision of land must conform to the standards of this section. Subdivisions shall include the division of a lot into two or more lots and Planned Unit Developments. No subdivision of land shall be made, no land shall be sold or offered for lease or sale as a subdivided lot, and no construction shall be initiated until a final plat has been approved by the Planning Commission (hereinafter, "Commission").  
  
Boundary line adjustments are not subject to subdivision application protocol. They are covered under Section 5.00 of this section of the bylaw.
- 1.03 Subdivision Categories: For the purposes of efficiently processing subdivision applications that have a minor impact on the town, two categories of subdivision applications and review processes are established generally as follows, though the Commission may classify applications as minor or major based on unique circumstances of the proposal:



Minor subdivision is any subdivision of 4 lots or less lots that have frontage on an existing public street, and which does not require any new street, street extension, or extension of municipal services.

Major subdivision is any subdivision containing 5 or more lots, or that requires an Act 250 permit, or that consists of parcels in two or more towns or zoning districts, or that is not considered to be a minor subdivision. Re-division of one or more lots of a minor subdivision within ten years of the approval date of the original subdivision shall be considered a major subdivision if the total number of lots created from the original parcel equals or exceeds five lots.

## SECTION 2.00 - GENERAL STANDARDS

- 2.01 Character of Land for Subdivision: All land to be developed shall be, in the judgement of the Commission, of such a character that it can be used for its intended purpose(s), as stated in the application, without danger to public health or safety and without undue adverse impacts to the environment, neighboring properties, or the character of the area as described in the purpose of the zoning district(s) in which it is located in the Arlington Town Plan.
- 2.02 Compatibility with Existing Settlement Patterns: Subdivisions shall be designed and laid out to achieve the purpose and desired settlement pattern of the district in which they are located. To the extent feasible, new subdivisions of land shall:
- a) Maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations, for the neighborhood or district in which they are located;
  - b) Maintain contiguous tracts of open land with adjoining parcels; and
  - c) Connect to, and extend where appropriate, existing road, path, utility and open space corridors.
- 2.03 Lot Layout and Density: Density, lot size, and layout shall conform to zoning district standards, and general standards pertaining to frontage, lot and yard requirements, unless modified or waived by the Commission under the PUD provisions below. In addition:
- a) Lower densities of development and/or a reduction in the number of total lots allowed may be required by the Commission based on site limitations.
  - b) Lots with frontage on more than one road must have sufficient width to permit a front yard setback from each road.
  - c) Side lot lines shall generally be at right angles to straight roads, or radial to curved roads.
  - d) Lots with irregular shapes (curves, flag lots, etc.) shall not be created unless warranted by conditions of topography, the location of natural features, or existing roads.
  - e) All lots must front on a public road or, with the approval of the Planning Commission, have access to such a road by a private street, permanent easement, or right-of-way of not less than 50 feet in width for lots in a major subdivision and not less than 20 feet in width for lots in a minor subdivision.
  - f) Subdivision shall be designed to allow further subdivision on any remaining undeveloped land, lots with further potential, or adjoining undeveloped parcels in a manner that would result in a logical and coordinated development pattern.
  - g) Lot layout shall facilitate the positive drainage of stormwater away from building sites via a coordinated stormwater drainage pattern for the subdivision that does not concentrate stormwater drainage from each lot to adjacent lots.
- 2.04 Establishment of Building Envelopes: All newly created lots shall have a designated development envelope. Development envelopes shall be designated to identify and limit the location of principal

and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements, and water and wastewater systems) on one or more portions of a lot. The size and shape of development envelopes shall at a minimum be determined by district setback requirements, unless otherwise specified in these regulations or established by the Commission.

- 2.05 Allowable Uses: Any permitted use or conditional use allowed in the zoning district(s) in which the subdivision is located will be allowed in the subdivision.
- 2.06 Protection of Natural Resources: Subdivision boundaries, lot layouts, the location of roads, driveways and infrastructure, and development envelopes shall be located and configured to avoid undue adverse impact to natural features, scenic points, large trees, and other natural community assets as identified in the Arlington Town Plan and in field evaluations by natural resource professionals.
- a) Design Process: All subdivisions shall be prepared with a process that first identifies natural and scenic resources and then lays out the subdivision to preserve the identified resources to the greatest extent feasible.
  - b) Field Evaluations: The Commission may require an applicant to conduct independent evaluations and mapping where the Commission finds there are likely important natural resource features, habitat or scenic vistas that would be affected by a project and need to be delineated and evaluated to properly include these in the design of a project.
  - c) Development Envelopes: Development envelopes shall be located and configured to avoid or minimize impact on natural resource features and highly scenic vistas, ridgelines, and knolls that are visible from public vantage points.
  - d) Clearing Limits: The Commission may establish clearing limits to minimize forest fragmentation, maintain contiguous forest cover, preserve wildlife habitat and travel corridors, and limit the visibility of new development.
  - e) Resource Fragmentation: Lot lines, infrastructure and road, driveway and utility corridors shall be located to avoid and minimize the fragmentation or destruction of resource features and natural scenic beauty. The design and layout of the project shall complement adjacent preserved lands, conservation easements, and private deed restricted areas.
  - f) Existing Site Features: Where sites include features such as existing roads, tree lines, mature specimen trees, stone walls, fence lines, trails or paths, streams and wildlife corridors, the design shall work around, conserve or utilize those as appropriate to minimize impacts and preserve desirable elements.
  - g) Infrastructure: Roads, driveways and utility corridors shall be laid out to minimize impact and shall be shared where practical.
- 2.07 Water Supply and Wastewater Disposal: Design of the subdivision shall provide for adequate potable water supply and for wastewater disposal in accordance with all State laws and regulations and either have an approved system design or the appropriate deed notice in place as a condition of approval.
- 2.08 Reserved Strips: No privately owned reserved strip shall be permitted which controls access to any land dedicated to public use, or which may be so dedicated.
- 2.09 Trees and Plantings: An appropriate landscaping plan shall accompany the application. The plan should show areas where vegetation will be cleared, where vegetation will be retained, and plantings of new vegetation. Efforts should be made to screen developed areas from off-site views using existing vegetation and/or new plantings when such development would adversely impact scenic vistas. No plantings that would obstruct motorists' vision or otherwise impair traffic safety shall be permitted in the street right-of-way.

- 2.10 Energy Conservation: Design of subdivisions shall attempt to promote solar access through the locations of lot lines that would enable buildings to take advantage of natural light and solar heating/electrical generation.

### SECTION 3.00 - STREET STANDARDS

- 3.01 Streets: Applicants must design and construct all new streets within a subdivision in accordance with this subsection.
- 3.02 General Provisions: Applicants must design and construct all new streets to:
- a) Safely accommodate all users (including vehicular, bicycle, and pedestrian traffic).
  - b) Provide efficient access to property and avoid congestion.
  - c) Logically extend and improve connectivity of existing road network.
  - d) Follow the landscape and natural terrain to the greatest extent feasible.
  - e) Provide for livable neighborhoods and attractive streetscapes.
  - f) Not be excessively wide in order to calm traffic and minimize impervious surface.
- 3.03 Design and Construction Standards: Applicants must design and construct new streets to the *VTrans A-76 Standards for Town and Development Roads* and *VTrans B-71 Standards for Residential and Commercial Drives* except as otherwise specified in this section.
- 3.04 Drainage: New streets must be designed:
- a) With drainage facilities to divert run-off to vegetated areas or other designed water catchment areas. In addition, design and construction of new roads must conform with Municipal Road General Permit standards.
  - b) To establish or maintain a buffer of natural woody vegetation between streets and surface waters at least 50 feet wide. The Commission may waive or modify this requirement due to site-specific conditions.
  - c) With culverts where needed that are sized to convey peak volume stormwater flows. Culverts shall be no less than 18 inches in diameter and extend at least 2 feet from the edge of the street.
- 3.05 Grade: New roads must generally conform to existing topography and must not exceed a maximum grade of 9% for gravel roads and 12% for paved roads as measured over any 100-foot section. The Commission may modify this requirement for short segments that exceed allowable grade due to site conditions.
- 3.06 Street Amenities: The Commission may require the applicant to provide the following street amenities in the subdivision:
- a) Street lights: In the Village-Residential and Commercial-Residential Districts, the applicant may be required to provide street lighting as deemed necessary for safety and security, in particular at intersections and crosswalks; the applicant shall install LED lamps or fixtures of comparable or greater efficiency that do not exceed 25 feet in height.
  - b) Street trees: Applicant shall plant trees of mixed species along new roads when possible to enhance street aesthetic;
  - c) Sidewalks and Pathways: The Commission may require an applicant to install sidewalks or pathways within any proposed subdivision to connect to existing public sidewalk along a public street or any other type of municipally-maintained pathway.
- 3.07 Street Names: No new street shall be named in a manner that will duplicate or be confused with the name of an existing street, except for extensions of an existing street. All street names are subject to approval by the Board of Selectmen.

- 3.08 Private Streets: Any new or improved private streets must meet the requirements in the Town's policies and specifications for town highways as established by the Board of Selectmen and implemented by the Road Foreman. In addition, all new or improved private streets constructed in conjunction with a subdivision shall be continuously maintained so as not to fall out of conformance with these standards. A road maintenance agreement designed to guarantee that this condition is satisfied must be provided as part of the application
- 3.09 Public Streets: If the access road to a proposed subdivision is less than the class standard for the class of road to be designated, the Commission may require the applicant to improve the access road to the required standards for that classification. The Commission may also require that the applicant make arrangements for maintenance of the access road satisfactory to the Commission until such a time as the Board of Selectmen may reclassify the road. Where a subdivision requires undue expenditures to improve existing town streets to conform to minimum requirements, the Commission may disapprove such subdivision until the Board of Selectmen shall certify that funds for the improvements have been assured.
- 3.10 Dedication to the Town: Any street intended for dedication to the Town shall be constructed to meet the requirements in the Town's policies and specifications for town highways as established by the Board of Selectmen and implemented by the Road Foreman. Acceptance of such streets shall be at the discretion of the Board of Selectmen.

#### SECTION 4.00 – PLANNED UNIT DEVELOPMENT (PUD)

- 4.01 Purpose: The purpose of Planned Unit Development subdivision is to enable and encourage, by providing an incentive through a lot density bonus, flexibility of design and development of tracts of land so as to promote the most appropriate use of land, to enhance the environmental quality of the area through maximum preservation of open space and protection of sensitive natural or productive lands, and to facilitate the economical provision of streets and utilities.
- 4.02 Lot Density Bonus: A plan for development that incorporates Planned Unit Development design and includes at least 20% of net developable land area of the subdivision as dedicated open land shall be eligible for a lot density bonus up to 15%. The maximum number of lots permitted shall be calculated using the following formula:

Maximum number of lots = [Net developable land area / Minimum lot size for underlying district] x 1.15

Fractions greater than or equal to .50 shall be rounded up to the next whole number, and fractions less than .50 shall be rounded down to the next whole number.

Example 1: A 30 acre parcel, which would require a minimum of 6 acres of preserved open developable land to be eligible for a density bonus, located in a non-Forest and Recreation zone with a minimum lot size of one acre, could be divided into a maximum of 35 lots.

*$[(30 \text{ acres} - 6 \text{ acres}) / 1 \text{ acre per lot}] \times 1.15 = 34.5 = 35 \text{ lots maximum}$*

Example 2: A 50 acre parcel, which would require a minimum of 10 acres of preserved open developable land to be eligible for a density bonus, 25 acres of which is located in the undevelopable Forest and Recreation zone with the remaining area in a zone with a minimum lot size of one acre, could be divided into a maximum of 29 lots.

*$[(50 \text{ acres} - 25 \text{ acres}) / 1 \text{ acre per lot}] \times 1.15 = 28.75 = 29 \text{ lots maximum}$*

- 4.03 Applicability: Planned Unit Development (PUD) may be permitted in all zoning districts except the Forest and Recreation District. The PUD provisions may be applied to any subdivision. The

Commission may require that a subdivision adhere to PUD standards when failure to do so would result in one or more of the following:

- a) A significant reduction in the agricultural use potential of the land;
- b) Degradation of the natural visual appeal of a hillside, ridgeline, or open field;
- c) Encroachment upon a natural or historic area, wildlife habitat, or a stream, wetland, or other water resource;
- d) Elimination of access to an important recreational resource or open space;
- e) Cause excessive erosion, ground or surface water contamination, or otherwise endanger environmental quality.

4.04 Permitted Uses: Any permitted use or conditional use allowed in the zoning district in which the Planned Unit Development is located will be allowed in the PUD.

4.05 Allowable Lot Density: In a Planned Unit Development, the Commission may permit densities that exceed those allowed in the underlying district.

4.06 Lot Dimensional Requirements: Individual lots in a Planned Unit Development may be reduced in required area, width, and yard dimensions in conformance with local and state regulations and subject to approval by the Commission.

4.07 Objectives: The following objectives shall be used to guide the design of Planned Unit Development (PUD) subdivisions and location of conserved open lands:

- a) Conservation and improvement of natural features and green areas, including areas along roads, the banks of rivers, streams, ponds and wetlands, hillsides, ridgelines, and fields.
- b) Retention of important fish and wildlife habitat, and nature observation areas; protection of the quality of water resources.
- c) Protection of natural drainage ways and flood water retention areas, and groundwater recharge areas.
- d) Provision, in appropriate areas of population concentration, of areas of land for recreational use.
- e) The provision of adequate controls to assure the permanence of open space use in areas so designated, through public acquisition of easement or other suitable type of agreement.
- f) PUD plans shall be designed to take the greatest possible advantage of all existing natural features noted above, and to make such open land easily available, if not adjacent to all of the lots in the subdivision.
- g) Locate wastewater disposal systems on most suitable soils.
- h) Concentrate site development on least fertile soils and maximize the usable area remaining for agriculture.
- i) Locate building sites within wooded areas or along the edges of open fields rather than in highly visible open tracts of land.
- j) Avoid loss or degradation of scenic vistas.
- k) Protect important historic sites.
- l) Configure lots so as not to preclude access to recreational resources.
- m) Minimize potential for environmental pollution.

4.08 Public/Commonly Owned Open Land: The Commission may require that the plat show one or more designated areas of character, size, shape, and location suitable to be used as conservation land or park; such land shall be at least 20 percent of the net developable land area of the subdivision.

Such land shall be offered for dedication to the Town for park or conservation purposes or shall be dedicated to a community association or other entity, as herein provided. As a condition of approval of a plan of development which includes community open land, the applicant shall provide for a non-profit community association or cooperative, organized under the laws of the State of Vermont,

composed of all present and future owners of lots in such subdivision or project. Each lot shall be entitled to one vote, to be cast by the owner thereof, and membership shall be mandatory for all owners. Each owner shall be liable for his proportionate share of assessments for maintenance, upkeep, and other cost of operations, on the basis of their respective assessed valuations in the grand list of the Town. The open land and other properties and facilities of such association or cooperative shall be held for the benefit of the owners of all lots therein. The charter of such association or cooperative shall be subject to the approval of the Planning commission.

Open land dedicated to the Town shall abut a public street or have direct access to a public street through a right-of-way dedicated to public use. Open land owned by a community association shall be freely accessible to all lot owners within the subdivision. Required rights-of-way shall not be included in any playground area, shall be at least 20 feet wide, and shall be constructed and maintained in a manner suitable for pedestrian or vehicular traffic, with maximum grade of 10 percent. When a property line of a subdivision abuts existing open land, the Commission may require the new public open land to form a continuation of the existing area to provide a single unified area.

Land to be used as public open land shall be maintained in a condition for the purpose intended. Undesirable growth and debris shall be removed from all such areas. Wooded areas and those in proximity to watercourses shall be left in a natural state. Open space with agricultural soils may be kept clear and dedicated to community gardening or other agricultural activity. There shall be no depositing, dumping, or storage of waste, or other natural or man-made material, supplies, or equipment, on any subdivision area designated as open land. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from its original condition, until a site plan, prepared in accordance with final plat procedures, shall have been approved by the Commission.

- 4.09 Designated Open Land Privately Owned: Instead of requiring that designated open land be dedicated to the Town or a community association, the Planning Commission may approve an open space design that includes designated open land located on one or more individual privately owned lots. Such open land must be clearly depicted on the plat, include at least 20 percent of the net developable land area of the subdivision, be of a character, size, and location consistent with the objectives of this section, and be approved by the Planning Commission.

To ensure that designated open land remains undeveloped, each lot shown on the plat as containing any portion of the designated open land shall include a building envelope. All primary and accessory structures shall be located within the building envelope and no portion of the building envelope shall lie within the designated open land.

An easement, deed restriction, or other appropriate legal vehicle shall be applied to the designated open land on each lot containing said open land. Such easement or restriction shall provide for land conservation, agricultural use, recreational access, or other purpose deemed appropriate by the Planning Commission.

The Planning Commission may require that provision be made to ensure that designated open land be accessible to all lot owners within the subdivision. The Commission also may require, when a property line of the subdivision abuts existing open land, that the newly designated open land be contiguous to the existing open land.

## SECTION 5.00 - BOUNDARY LINE ADJUSTMENT

- 5.01 Purpose: This bylaw grants the Land Use Administrator of Arlington the authority to administratively review requests for Boundary Line Adjustment between or among legal lots within

town boundaries. A Boundary Line Adjustment is a method of adjusting boundary lines between contiguous lots without creating additional lots and without creating nonconformities in the resultant lots.

- 5.02 Application and Required Information: Any person desiring approval of a Boundary Line Adjustment shall submit an application to the Land Use Administrator. The application shall include the following information:
- a) A legal description of properties subject to the boundary line adjustment application;
  - b) The date of preparation of the maps, an identified north arrow, and the scale of the map;
  - c) The total area of each lot before and after the proposed boundary line adjustment;
  - d) The location and dimensions of all structures, driveways, sewage disposal systems, wells, utilities and other improvements on each lot subject to the proposed boundary line adjustment;
  - e) The names, addresses and telephone numbers of all property owners involved in the proposed boundary line adjustment;
  - f) A signed and notarized authorization from all property owners.
- 5.03 Criteria for Approval: All Boundary Line Adjustments shall be consistent with the following standards:
- a) The Boundary Line Adjustment does not create new lots.
  - b) The Boundary Line Adjustment shall create parcel meeting all dimension and area requirements of all applicable land use regulations found in the Arlington Zoning Bylaws.
  - c) The Boundary Line Adjustment does not increase the nonconformity of any lot or structure which does not currently meet the requirements of any applicable land use regulation, including but not limited to, setbacks to structures from property lines, the area outside a flood hazard area, and the minimum area of parcel.
  - d) The adjustment does not realign lot lines that create directional changes in the orientation of lot(s), such as changing front yards into side yards or rear yards which result in nonconforming setbacks.
- 5.04 Land Use Administrator Review and Action: Based on review of the proposed Boundary Line Adjustment, the Land Use Administrator shall determine if the proposed boundary line adjustment is consistent with the criteria for approval of a boundary line adjustment. If the Land Use Administrator finds that the proposed boundary line adjustment complies with all the above requirements, the adjustment shall be approved. If the Land Use Administrator finds that the proposed boundary line adjustment does not comply with the above requirements, the adjustment shall be denied. The decision by the Land Use Administrator may be appealed to the Zoning Board of Adjustment.
- 5.05 Final Approval and Authorization for Property Owners: Approval of the Boundary Line Adjustment shall constitute authorization for the applicant to prepare appropriate documents to transfer the property being adjusted. A boundary line adjustment shall be completed according to the following:
- a) The owner(s) shall have prepared the appropriate deeds for the transfer of ownership and an accurate map of the lots, along with the new property lines, prepared by a licensed surveyor and done in full compliance. The deed and map shall contain the following language: "This conveyance (or survey) is for the purpose of accomplishing a boundary line adjustment. It shall not create any additional lots, tracts, parcels, or divisions." The map shall contain a signed statement of approval by the Land Use Administrator. The map shall contain a note which references the recording information for the deeds for the actual property transfer.

- 5.06 Final Approval and Recording: Upon securing signed approval by the Land Use Administrator, the applicant shall submit a Boundary Line Adjustment map to the Arlington Town Clerk for recording in the Arlington Land Records within 180 days. Boundary Line Adjustments granted under this provision shall expire if approved surveys are not filed and recorded within this 180 day period.

## SECTION 6.00 - APPLICATION AND APPROVAL PROCEDURE

- 6.01 Applicability: Application and approval is required for the division of a parcel into two or more lots. The subdivider must apply in writing to the Commission for and secure approval of the proposed subdivision.

- 6.02 Submission of Sketch Plan: Prior to submitting an application for subdivision, the applicant shall submit to the Land Use Administrator 9 copies of a sketch plan of the proposed subdivision, which shall include: existing and proposed property lines; type, location, and size of existing and proposed streets, utilities, and existing structures; name and address of owner of record and applicant; and name of owners of record of adjacent properties. The sketch plan shall be presented at a scale which adequately depicts natural features, proposed improvements, and general site conditions.

The applicant or a duly authorized representative shall attend a regular Commission meeting, not less than 15 days from date of sketch plan submission, to discuss the requirements of these regulations. At this meeting, the Commission shall classify the proposed subdivision as a Minor or Major Subdivision.

At or following the initial meeting, the Commission shall study the sketch plan to determine: whether the proposal contains any obvious conflicts with the Town Plan, the Zoning Regulations, the Official Zoning Map, developments proposed by any public agency, existing private and public development, facilities, and services, and whether the preliminary plat should employ a Planned Unit Development (PUD) design as described in Section 4.00. The Commission shall determine whether the Sketch Plan is generally compatible with these Regulations and may make specific written recommendations for changes. Such determination shall be made, and written recommendations mailed to the subdivider, within 45 days of the meeting at which the review of the sketch plan occurs.

The Commission may require, for a subdivision application that leaves a portion of the parcel undeveloped, or has contiguous parcels under common or affiliated ownership, a sketch master plan showing the planned future development of all remaining lands. Such future development shall be consistent with the master plan unless a revised sketch master plan is submitted to, and approved by, the Commission. Review and approval of said sketch master plan shall occur concurrently with the review and approval of the preliminary (if applicable) and final plats.

- 6.03 General Application Procedures: The Land Use Administrator shall provide to any applicant the necessary forms for any municipal permit and will coordinate the municipal effort in administering its development review programs. The Land Use Administrator shall also inform applicants that they should contact the Agency of Natural Resources Permit Specialist for possible requisite state permits.

The applicant shall, within six months of the sketch plan approval and classification, proceed to file application on forms provided by the Land Use Administrator and prepared/approved by the Commission. Upon submission of the application, the applicant shall pay a fee in accordance with the schedule established by the Board of Selectmen for the administration of subdivision review. Included in said fee shall be the anticipated costs of any public hearing and/or warning expenses not otherwise provided for herein. In addition, the applicant, with support from the Land Use Administrator, shall notify all adjacent landowners to the proposed subdivision, in writing, of the



intent of application, including the date, time, and location of the first public hearing to be held by the Commission; such notification to be mailed or delivered not less than 15 days prior to the first public hearing.

Major subdivisions are required to meet procedures for submission and review of preliminary and final phases. The preliminary stage is waived for minor subdivisions, which shall require only the submission of a final plat.

6.04 Submission of Preliminary Plat: The applicant shall submit 4 copies of the preliminary plat no less than 15 days prior to the duly warned public meeting of the Commission the applicant or representative will attend, and shall conform to the layout of the sketch plan plus any recommendations made by the Commission. The official submission date of the preliminary plat will be the next regular meeting of the Commission following receipt of the application. The preliminary plat shall contain, or be accompanied by, the following:

- a) Proposed subdivision name or identifying title;
- b) Name and address of record owner, with deed identification, subdivider, and designer of the preliminary plat, with said designer being qualified to perform such design under applicable regulations of the State;
- c) Location and dimensions of all boundaries and area of entire parcel and/or contiguous parcels in single ownership, whether or not all land therein is to be subdivided, along with location and dimensions of proposed lot lines and areas of proposed lots;
- d) Location of existing and proposed easements, structures, watercourses and wetlands, wooded areas, and other essential existing physical features;
- e) Names of adjacent landowners of record and evidence of notification, such as a certificate of mailing;
- f) Location and details of existing or proposed water mains, culverts, sewer lines, drainage ways, and drainage structures;
- g) Applicable zoning designation and district boundaries;
- h) Existing street(s) names, rights-of-way boundaries and present widths, private ways, curb cuts and intersections;
- i) Proposed street(s) limits, profiles, cross sections and construction specifications/details;
- j) Contours in sufficient detail to clearly indicate existing and proposed grades where proposed change in elevation will be five feet or more, and/or in order for the Commission to properly evaluate specific aspects of the project such as storm water drainage, landscaping, etc.;
- k) Proposed connection with existing municipal water supply or proposed location of on-site water supplies;
- l) Proposed locations of any wastewater disposal systems, including location and results of test pits and percolation tests;
- m) Stormwater management plan, indicating provisions for collection and discharge of storm drainage;
- n) Soil classification, if required by the Commission, taken from USDA Natural Resources Conservation Service (NRCS) delineation/designation;
- o) Landscaping plan, including new plantings and proposed erosion control procedures;
- p) Preliminary designs of any bridges or culverts which may be required.
- q) A statement of the anticipated impacts of the development on local services, including fire, emergency services, schools, police, and local government;
- r) All parcels of land proposed to be dedicated to public use and the conditions of such dedication;

- s) The location of all wooded land open areas and lands currently in agricultural use on the site and all other natural features or site elements to be preserved;
- t) The location of temporary markers adequate to enable the Commission to readily locate and appraise basic site layout in the field.
- u) Vicinity map at a scale not greater than 1" = 1500', showing the area within two thousand (2000) feet of any property line of the proposed subdivision, and including the nearest street intersection, if possible;
- v) Numerical and graphic scale with plan not to exceed a scale of 1"=100', unless a smaller scale is approved by the Commission, original and revision dates, magnetic and true north arrows.

In the case where a subdivision creates only one new lot and said lot comprises not more than 10% of gross land area of the original parcel, the requirements of this section shall apply only to the new lot and a sketch plan of the subdivision with original parcel boundaries shall be required.

6.05 Review and Approval of Preliminary Plat: The Commission shall consider the preliminary plat at a public hearing following a 15-day public notice period, duly advertised and warned. The subdivider, or a duly authorized representative, shall attend the specified meeting of the Commission to discuss the preliminary plat. If the subdivider or representative do not attend this meeting, the plat will not be discussed, and the application will be considered as having been withdrawn. The Commission shall review the impact of each major subdivision and determine that such subdivision meets the standards set forth in Sections 2.00 and 3.00 of these regulations, and:

- a) Will not result in undue water or air pollution. In making this determination, consideration shall be given to: elevation of land in relation to flood plains, nature of soils and their ability to adequately support waste disposal, slope of the land and its effect on effluents, provisions for management of stormwater, potential effects of construction and continued activity on air quality, applicable state and local health and resource regulations.
- b) Does have sufficient water available for reasonably foreseeable needs of the development and will not burden existing water supplies.
- c) Will not cause unreasonable soil erosion or undue reduction in the capacity of the land to hold water.
- d) Will not cause unreasonable highway congestion or unsafe conditions with respect to use of highways existing or proposed.
- e) Will not have undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites, prime agricultural soils, or rare and irreplaceable natural areas.
- f) Maintains efficiency of allocation and distribution of street, facility, and utility installation, construction, and maintenance.
- g) Will not cause unreasonable burden on the ability of the municipality to provide services, including education, fire, rescue and police protection, solid waste disposal, water supply and wastewater disposal, and road maintenance.

In light of findings made on these standards, the Commission may require reasonable modifications, impose conditions, and/or mandate appropriate phasing of the proposed subdivision.

Within 45 days after the meeting on the preliminary plat, the Commission shall take action to approve, with or without modifications, or disapprove said preliminary plat. The Commission shall state in its records any modifications which it will require, or the grounds for disapproval. The records and preliminary plat shall also reflect the amount, surety, and conditions of any bonds which will be required before final approval. Failure of the Commission to act within a 45-day period shall constitute approval of the preliminary plat.

Approval of a preliminary plat shall not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the Commission may require additional modifications as a result of further review of the subdivision or as a result of new information obtained at any public hearing held pursuant to these regulations.

- 6.06 Final Plat Submission: Within 6 months of the preliminary approval for a major subdivision, or sketch plan approval for a minor subdivision, the applicant shall submit 4 copies of the final plat at least 15 days prior to the Commission public hearing, conforming to the layout shown on the preliminary plat and/or sketch plan plus any recommendations made by the Commission. If the final application is not submitted within 6 months after the approval of the preliminary plat for major subdivision, the Commission may refuse without prejudice to act on the final plat and require resubmission of the preliminary plat. If the final application for a minor subdivision is not submitted within 6 months of classification by the Planning Commission of the sketch plan as a minor subdivision, the Commission may refuse without prejudice to act on the final plat and require resubmission of the sketch plan.

The final plat shall be on 18" x 24" Mylar with a margin of 2 inches outside the border lines on the left side for binding, and be submitted as a digital PDF file, and clearly contain, or be accompanied by, the following information:

- a) All requirements for a preliminary plat as delineated in 6.04;
- b) For streets intended for dedication to the Town, evidence of acceptance of location, design, and specifications of proposed driveways, private streets and drainage plans by the Board of Selectmen, together with existing and proposed road profiles and cross sections, construction plans, and specifications;
- c) Copies of all state and federal permits, including but not limited to Vermont Agency of Natural Resources permits regarding the design of water supply and wastewater disposal systems;
- d) Copies of such covenants or deed restrictions as are intended to cover all or part of the parcel, and methods of dedication of proposed easements, rights-of way, and open spaces, which may be required by these regulations. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him/her of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has legally been accepted by the town;
- e) If the subdivision abuts a state highway, or if a proposed street intersects a state highway, a statement from the Vermont Agency of Transportation approving the access;
- f) If a subdivision is to be served by a public water supply or by public sewers, a statement from the municipal department or company involved, attesting to availability of such service and approval of design and connection;
- g) The plat shall contain the following statement: "The subdivision regulations of the Town of Arlington are a part of this plat, and approval of this plat is contingent upon completion of all the requirements of said regulations, excepting only any variances or modifications made in writing by the Planning Commission, and attached hereto.";
- h) The identifying number and date of approval of all applicable state and local permits, including the town subdivision permit number;
- i) Space shall be reserved on the plat for endorsement by all appropriate parties;

- 6.07 Review and Approval of Final Plat: A public hearing on the final plat shall be held by the Commission within 30 days after the time of its submission to the Land Use Administrator. Said hearing shall be advertised and warned in accordance with the 24 V.S.A. §4447. In addition, notice of such hearing shall be forwarded to the Bennington County Regional Commission, and to the clerk

of an adjacent municipality, in the case of a project located within 500 feet of a municipal boundary, at least 15 days prior to the hearing.

Within 45 days following the public hearing, the Commission shall take action to approve, with or without modifications and/or conditions, or disapprove, the final plat. The Commission shall state in its records any modifications and/or conditions which it will require, or the grounds for disapproval. Failure to act within 45 days shall be deemed approval.

- 6.08 Performance Guarantee Requirements: To ensure that all required improvements are undertaken and completed in conformance with the final plat, the Commission may require that no building permit be issued for any structure on any lot within the subdivision until a licensed professional engineer certifies that all such improvements have been completed. For a subdivision that is to be developed in phases, all required improvements for a phase must be certified complete prior to the issuance of a building permit for any structure on any lot within that phase of the subdivision.

Alternatively, the Commission may require that the subdivider follow the procedures set forth in subparagraph (a) and (b) below.

- a) In an amount set by the Commission and based on a construction estimate submitted by the applicant, the subdivider shall file with the Board of Selectmen a certified check, irrevocable letter of credit, performance bond, or other performance guarantee approved by the Board of Selectmen, to cover the full cost of required improvements. Any such performance guarantee shall be satisfactory to the Board of Selectmen and municipal attorney as to form, sufficiency, manner of execution, and surety. The Commission shall fix the term of any bond up to three years. The term of such bond may, with the consent of the owner, be extended for a period of time which may extend to the date of completion of the improvements covered by the bond. For projects to be completed in phases, the provisions of this section may be applied separately to each phase of the project. As improvements are completed, the developer shall be released from all liability except for the portion of the improvements not yet completed. The Commission shall require the subdivider to submit construction cost estimates to establish an appropriate figure for said performance guarantee.
- b) In addition to surety guaranteeing completion of improvements, surety covering maintenance of roads and improvements for a period of two years from completion shall be furnished in an amount not to exceed 10 percent of the cost of the improvement.

- 6.09 Filing of Approved Plat: The applicant shall submit and distribute 3 copies of the approved final plat as follows: one each to the Town Records, Land Use Administrator, and the Board of Listers.

No changes, erasures, modifications, or revisions shall be made in any subdivision plat after approval has been given by the Commission and endorsed in writing on the plat, unless the plat is first resubmitted to the Commission and the Commission approves any modifications.

The express approval or assent by omission of the subdivision plat shall expire in 90 days unless within that period the plat shall have been duly filed and recorded in the office of the Municipal Clerk in accordance with 27 V.S.A. S 1403.

- 6.10 Public Acceptance of Streets, Recreation Areas: Approval of a final plat by the Commission shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, utilities, park, recreational area, or other open space shown on such subdivision plat. The Commission may require the filing of a written agreement between the applicant and the legislative body covering future deed and title, dedication and provision for the cost of grading, development, equipment, and maintenance of such improv

## 7.7 MANUFACTURED HOME AND TRAVEL TRAILER OCCUPANCY

1. A manufactured home may be used as a one-family dwelling provided that it is located on a lot meeting all the requirements of this Bylaw applicable to a one-family dwelling in the district in which it is located and is suitably anchored.
2. Nothing herein shall prevent the recreational use of a travel trailer or camper at a campground operated or licensed by the State of Vermont.
3. A permit may be granted for the use of a trailer, manufactured home, or camper temporarily for not over six (6) months as a field office or for storage, as an accessory use to a construction operation on the premises.
4. A non-renewable permit may be granted for a trailer used for storage purposes for a period not to exceed six (6) months.
5. A permit may be granted for the use of a manufactured home for a period of one year by the owner of a lot provided that such owner is actively constructing a residence thereon for which a valid permit has been received from the Land Use Administrator.
6. A camper may be occupied on any lot by a non-paying guest of the occupant of such lot for a period not exceeding thirty (30) days in any twelve-month period.
7. A permit is required for the replacement of a manufactured home with a larger manufactured home of a greater volume or square footage.

## 7.8 MANUFACTURED HOME PARK

1. Location:
  - a. A manufactured home park may be permitted as a conditional use subject to the provisions of Section 7.1 within the Rural District.
2. Site:
  - a. A manufactured home park shall be located on a lot containing not less than 2 acres. The site shall be planned as a unit and shall be well drained and with soil and land conditions suitable, in the judgement of the Planning Commission, for the purpose intended.
3. Site Development Plan:
  - a. No manufactured home park shall be developed, and no manufactured home shall be placed thereon until a site development plan therefor shall have been approved by the Planning Commission. Such plan shall show the boundaries of the lot, distances to nearest intersecting public streets, existing buildings, including buildings on adjoining lots within 100 feet from the boundaries of the manufactured home park, proposed vehicular and pedestrian circulation, parking spaces, sites for all manufactured homes, open spaces, landscape details, existing and proposed grades, water supply, fire protection, sewage disposal, and storm drainage, together with any other

information which the Planning Commission may require.

4. Design Standards:

- a. The maximum number of manufactured homes in a manufactured home park shall not exceed six (6) manufactured homes per gross acre of the park.
- b. Each individual manufactured home shall be located on a lot containing not less than 5,400 square feet and not less than 45 feet wide. No manufactured home shall be located within 15 feet from the boundary of its individual lot, and no manufactured home shall be located within 50 feet from any boundary of the manufactured home park lot.
- c. Each manufactured home space shall abut an interior road not less than 22 feet in width. Such road shall have at least two connections for vehicular travel to and from a public street or streets, located so as to minimize traffic hazards and congestion.
- d. Parking of any motor vehicle in any part of the 22 foot width of an interior road shall be prohibited, and enforced by the park operator. Parking spaces shall be provided for all vehicles customarily or occasionally in the park, but in no case shall less than three car spaces for each two manufactured home sites be required. Such car spaces shall average 9 feet wide and 18 feet long with free access to the interior road. Such car spaces shall be on the manufactured home lot, in a parking lot, or may be in parking bays contiguous to an interior road, in which case the width of the road and parking space combined shall be not less than 45 feet.
- e. All roads shall be adequately lighted.
- f. A landscaped buffer strip shall be provided along all property and street lines of the manufactured home park, not less than 15 feet in width, suitably screened with evergreen plantings, as approved by the Planning Commission.
- g. Open Space for recreation and playground purposes shall be provided, occupying not less than 10% of the gross manufactured home park area, conveniently located to all individual manufactured home park sites. Such open space shall be suitably landscaped with a protective screen separating such space from roads, parking areas, and service areas, and should be suitably equipped and furnished, in the judgement of the Planning Commission, for recreation and play purpose.

5. Improvements:

- a. All roads and parking areas shall be in conformance with municipal street standards.
- b. Waste collection stations shall be provided, as approved by the Planning Commission, located not more than 150 feet from each manufactured home site. Waste collection stations shall consist of enclosures for rubbish and garbage containers and shall be suitably landscaped.
- c. All roads and parking areas, storm drainage, water supply, and sanitary sewer connections to each manufactured home site, all electric services, and all required landscaping shall be completed before any manufactured home is placed in the manufactured home park, except that where landscaping is not completed, the Commission may approve occupancy if the owner of a manufactured home park shall have filed with the Board of Selectmen a surety bond in form and amount approved by the Planning Commission to guarantee completion of the work.

6. Operation:

- a. The operator of the manufactured home park shall maintain all parts of the manufactured home park in good condition. He shall provide for collection and removal of waste and garbage at least twice every week.
- b. He shall remove snow from all roads, and shall maintain safe conditions on all roads at all times.
- c. The sale of manufactured homes other than those sited on an approved lot within the park or other vehicles in connection with the operation of a manufactured home park is prohibited. No sale of merchandise and no service business shall be carried on within the lot occupied by a manufactured home park, except that the Planning Commission may approve the establishment of a self-service laundry or similar service, or the sale of food or household articles to occupants of the manufactured home park only.

7. Compliance and Penalty:

- a. Compliance with all of the provisions of this subsection, and the operation and maintenance of services and landscaping, shall be construed to be the requirements of lawful occupancy, and failure to comply shall be considered a violation of the Zoning Bylaw, and subject to the penalties provided by law.

## 7.9 SIGNS

1. All outdoor signs or structures advertising any business or industry, or articles sold in the Town shall be in conformance with the Arlington Sign Ordinance and appropriate State Statutes.

## 7.10 PROTECTION OF WATER RESOURCES

1. No structure shall be placed, and no land shall be excavated, filled, or graded in any Use District within a distance of fifty (50) feet from the shoreline of any natural or artificial pond, lake, wetland, stream, or drainageway, except with the approval of the Zoning Board of Adjustment as a conditional use.
2. Application for such approval shall be submitted to the Zoning Board of Adjustment with such surveys, maps, and other data as the Zoning Board of Adjustment may require in order to reach its decision. The Zoning Board of Adjustment shall refer all applications and accompanying surveys, maps, and data to the Town Planning Commission for its report and recommendations.
3. Prior to granting such approval, the Zoning Board of Adjustment shall have found that the proposed construction, excavation, filling, or grading will not contribute to water pollution, impeded drainage, or increased flood hazard, erosion, silting, or other adverse effect on natural conditions, or storm water drainage systems in the Town.

## 7.11 EARTH PRODUCTS REMOVAL

1. Except as otherwise provided in this subsection, there shall be no removal from the premises in any district of earth, sand, gravel, clay, or stone, except as surplus material resulting from a bona-fide construction, landscape, or agricultural or logging operation being executed on the premises, and provided that no permanent damage is done to the landscape.

2. Permit for Removal of Earth Products:

The Zoning Board of Adjustment, after a public hearing, may grant a permit for the removal of earth, sand, gravel, clay, or stone, as a conditional use subject to the provisions of Section 7.1 and the following criteria:

- a. The applicant shall submit a plan showing existing grades in the area from which the above material is to be removed, together with the finished grades at the conclusion of the operation.
- b. The operator shall provide for proper drainage of the area of the operation during and after completion, and no bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance, except in ledge rock. No removal shall take place within twenty (20) feet of a property line, except that where the grade from a property line rises toward the lot where removal is to take place. Material lying above the grade at the property line may be removed.
- c. At the conclusion of the operation, or of any substantial portion thereof, the area where removal has taken place shall be covered with not less than four (4) inches of top soil, and seeded with a suitable cover crop, except where ledge rock is exposed.
- d. If the extraction is wholly or partly from a stream bed, it shall be carried on in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section, there shall be no increase in erosion or flood hazards.
- e. No permit shall be granted for an earth products removal operation, as provided for herein, until it is demonstrated to the satisfaction of the Zoning Board of Adjustment that performance standards 3, 4, 5, 7, 8, and 9 of Section 6.8 will be met by said operation.

3. Existing Sand and Gravel Operations:

- a. Existing sand and gravel or other extractive operations must conform to this Bylaw from its effective date if extraction has not occurred on the site within the previous 20 years, or if the extractive operations are enlarged to exceed the limits of existing property lines.



## 7.12 FLOOD HAZARD AREAS

### 1. Purpose

In addition to the purpose of the zoning district(s) underlying the Flood Hazard Areas, the purpose of this regulation is to protect the public health, safety, persons, and property against the hazards of flood water inundation, and for the protection of the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to flooding.

- a. In accordance with 10 V.S.A. Chapter 32 and 24 V.S.A. Chapter 117 §4424, §4411, and §4414, there is hereby established a bylaw for areas at risk of damage. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117.

### 2. Flood Hazard Area Maps:

- a. These regulations shall apply to the Special Flood Hazard Areas (hereafter called "flood hazard areas"). 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.
- b. The flood hazard area in and on the most current official flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to V.S.A. Chapter 32, §753, which are hereby adopted by reference and declared to be part of these regulations.
- c. 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. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.
- d. If uncertainty exists with respect to the boundaries of the flood hazard area or the floodway, the location of the boundary shall be determined by the Land Use Administrator. If the applicant disagrees with the determination made by the Land Use Administrator, a letter of Map Amendment from FEMA shall constitute proof.
- e. In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review, and reasonably utilize other BFE and floodway data as a basis for elevating residential structures to or above the base flood level, and for flood proofing or elevating non-residential structures to or above the base flood level.

### 3. Review Procedure Standards:

- a. Except as provided for in Section 7.12.7, all development, including the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any home or other structure (including prefabricated units or manufactured homes), or any mining, excavation, or land fill, and any change in the use of land in the flood hazard area may be permitted

only by the Zoning Board of Adjustment as a conditional use, in accordance with procedures of Section 7.1 of this Bylaw.

- b. A site plan that depicts the proposed development, all bodies of water, flood hazard area, floodway, the shortest horizontal distance from the proposed development to the top of the 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.
  - c. All applications, including subdivisions, require the submission of an Engineer's report indicating the present flood base data information.
  - d. Upon receipt of a complete application for a new construction or improvement, the Land Use Administrator shall submit a copy of the application, comments, 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.
  - e. The Vermont Agency of Natural Resources shall identify all State and Federal agencies from which permit approval is required, and shall be filed as a required attachment with the permit application. The identified permit, or letter indicating that such permits are not required, shall be submitted to the Land Use Administrator and attached to the permit before work begins.
4. Development Standards:
- a. In addition to the district requirements, the Zoning Board of Adjustment shall determine that the proposed development must be reasonably safe from flooding:
    - 1) Designed and anchored to prevent flotation, collapse, lateral movement of the structure, and designed so that adequate drainage is provided so as to reduce exposure to flood hazards.
    - 2) Constructed using materials and utility equipment that are resistant to flood damage.
    - 3) Constructed using methods and practices that will minimize flood damage and be consistent with the need to minimize flood damage.
    - 4) Designed so that public utilities and facilities, such as sewers, gas lines, electrical line conduits, and water lines are located, elevated, and constructed to minimize or eliminate flood damage. Construction shall insure that electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities are designed and/or located so as to prevent water from entering or accumulating within components during condition of flooding.
    - 5) New or replacement water supply systems, and/or sanitary sewage systems,

are designed to minimize infiltration of flood water into the system and discharge from the system into flood water, and that on-site disposal systems are located so as to avoid impairment of them or contamination from them during flooding.

- 6) Base flood elevation and floodway data identified in Section 7.12.2 shall be used to ensure that the lowest floor (including basement) of residential structures is elevated to be one (1) foot or more above the base flood elevation and the floodway be free of obstructions. [60.3(c)(5)], [60.3(c)(14)]
  - a) In AO Zones, require that new and substantially improved structures have their lowest floor (including basement) to or above the highest adjacent grade at least as high as the FIRM's depth number. [60.3(c)(7)]
- 7) Non-residential structures to be substantially improved shall:
  - a) Meet the standards in 7.12.4 a. 6); 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 registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
  - c) Flood proofing is only allowed in pre-existing non-residential structures.
  - d) Require, for all new construction and substantial improvement, that fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access, or storage in an area other than a basement, and which is subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters in accordance with the specifications in 60.3(c)(5). (openings requirement)
- 8) *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited. *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 be clearly 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 registered 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.
- 9) Storage of material or equipment may be permitted if not subject to damage by floodwater and are firmly anchored or secured to prevent flotation.
  - 10) Fill may be permitted in the flood hazard area only when it can be demonstrated that flood flow will not be obstructed or diverted. No fill shall be permitted in the floodway unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
    - a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
    - b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
  - 11) New and replacement manufactured homes shall be elevated on properly compacted fill, such that the top of the fill or pad under the entire manufactured home is one foot above the base flood elevation.
  - 12) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
  - 13) Recreational Vehicles placed on sites within Zones A1 – A30, AH and AE shall either:
    - a) Be on the site for fewer than 180 consecutive days.
    - b) Be fully licensed and ready for highway use. [60.3(c)(14)]
    - c) Anchoring (including manufactured homes) to prevent flotation, collapse, or lateral movement of the structure. [60.3(a)(3)(i)]
    - d) Platform or ground where the Recreational Vehicle is anchored shall be one foot above the base flood elevation.
  - 14) 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 <sup>8</sup> 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 registered professional engineer.

5. Burden of Proof:

- a. In reviewing the proposed land development, the burden of proof shall be on the applicant.

6. Prohibited Uses in Flood Hazard Areas:

- a. Junkyards as defined in 24 V.S.A. 2068.
- b. Solid waste disposal sites.
- c. Storage facilities for floatable material, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.
- d. New fill except as necessary to elevate structure above the base flood elevation.
- e. New residential buildings, non-residential or accessory structures in the floodway.

7. Permitted Uses in Flood Hazard Areas:

- a. The following uses are permitted in flood hazard areas, provided that they do not reduce the flood carrying capacity of the stream, and that a permit is received from the Zoning Board of Adjustment:
  - 1) New residential or non-residential structures;
  - 2) Accessory structures;
  - 3) Development related to on-site septic or water supply systems;
  - 4) Building utilities;
  - 5) At-grade parking;
  - 6) Recreational vehicles.
- b. A permit may be issued for the following uses by the Land Use Administrator, provided that they do not reduce the flood carrying capacity of the stream, and any required State and Federal permit be obtained:
  - 1) Stream bank restoration and stabilization;
  - 2) Necessary improvements by the municipality in case of an emergency;
  - 3) Landscaping that does not involve the erection of any structure;

- 4) Culverts, swales, and drainage ditches;
- 5) Fish and wildlife habitat improvement not requiring structures;
- 6) Agricultural uses;
- 7) A wall or fence provided it does not impede the flow of flood waters.

8. Conditional Uses in the Flood Hazard Areas:

- a. The following are conditional uses in the flood hazard areas, and a permit may be issued by the Zoning Board of Adjustment:
  - 1) Uses permitted or conditionally permitted in the land use district in which the subject property is located, that are not specifically identified in Section 7.12.7.
  - 2) Bridges;
  - 3) Fish and wildlife habitat improvement requiring structures;
  - 4) Ponds, provided that all excavated material is removed from the floodway;
  - 5) Access ramps for canoes, boats, kayaks, tubes, swimmers, and fishermen;
  - 6) Substantial improvement, elevation, relocation, or flood proofing of existing structures;
  - 7) New or replacement storage tanks for existing structures;
  - 8) Improvements to existing structures in the floodway;
  - 9) Any subdivision that meets the standards of this Bylaw and the Town of Arlington's subdivision regulations;
  - 10) See Section 7.12.13 b of this Bylaw regarding the requirements for granting a variance within the Special Flood Hazard Area.

9. Exempted Activities in the Flood Hazard Areas and Floodway:

- a. Removal of a building or other structure in whole or in part;
- b. Maintenance of existing roads and storm water drainage;
- c. Forestry activities conducted in accordance with the Vermont Department of Forests and Parks' Acceptable Management Practices;
- d. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Farm structures are not

allowed in the floodway but may be allowed in the 100-year floodplain when adequately protected from inundation and floodwater damage. Prior to the construction of farm structures, the farmer must notify the Zoning Board of Adjustment in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

10. Development in the Floodway:

- a. No existing building in the floodway may be enlarged to create a greater encroachment on the floodway.
- b. The floodway of the river or other waterways and the adjacent land area 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.
- c. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practices, by a registered professional engineer, certifying that the proposed development will:
  - 1) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
  - 2) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

11. Application Requirements:

- a. Applications shall include, in addition to other requirements of this bylaw, plans drawn to scale, showing the nature, location, dimensions, and elevation of the lot, plat, or parcel, existing and proposed structures, fill and storage of material, flood proofing measures, and the relationship of the above to the location of the channel, flood hazard area, and the elevation of the 100 year flood. A valley cross-section showing the stream channel, and elevation of land adjoining each side of the channel, and area occupied by the proposed development may be required.

12. Precedent of Law:

- a. The provisions of these flood hazard bylaws 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 here shall take precedence.

13. Administration and Enforcement:

- a. The provisions of this regulation shall be administered and enforced as provided for in Section 8 of these bylaws. The Land Use Administrator shall maintain a record of:

- 1) All permits issued for development in areas of special flood hazard.
- 2) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- 3) 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 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.
- 4) All flood proofing certifications required under this regulation;
- 5) An engineer's report indicating compliance with all requirements of this Bylaw is required before occupancy.
- 6) A PROJECT REVIEW SHEET shall be kept by the Land Use Administrator in the project file.
- 7) If an 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 Planning Commission will consider comments from the NFIP Coordinator at ANR.
- 8) In riverine areas, the Land Use Administrator shall notify all adjacent communities of any approved watercourse alterations and relocations.  
[60.3(b)(5)]
- 9) New subdivision developments, planned unit developments, or manufactured home parks of more than 5 acres or 50 lots, whichever is less, shall include base flood elevation data as specified in Section 7.12.3 of this Bylaw.
- 10) In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review, and reasonably utilize other BFE and floodway data as a basis for elevating residential structures to or above the base flood level, and for flood proofing or elevating non-residential structures to or above the base flood level.



- 11) Where BFE data are utilized in Zone A, obtain and maintain records of the lowest floor and flood proofing elevations for new and substantially improved construction.
  - 12) To document the elevation data for new or substantially improved structures, the owner will need a FEMA Elevation Certificate as completed by a surveyor and submitted to the Land Use Administrator.
- b. Variances shall be granted by the Zoning Board of Adjustment only:
- 1) Variances may be granted in writing by the Zoning Board of Adjustment 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.
  - 2) Upon determination that the variance will not result in increased flood heights that pose threats to the public safety, extraordinary public expense, create nuisances or victimization of the public, or conflict with existing local laws or ordinances.
  - 3) Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing of the Land Use Administrator 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.
14. Certificate of Occupancy for all Structures within Flood Hazard Area:
- a. 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 portion thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within the Flood Hazard Area until a certificate of occupancy is issued therefor by the Land Use Administrator, stating that the proposed use of the structure conforms to the requirements of these bylaws.
  - b. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.
  - c. Within 14 days of the receipt of the application for a certificate of occupancy, the Land Use Administrator shall inspect the premises to ensure that all permits identified on the Building Permit have been acquired and that all work has been completed in conformance with the Building Permit and associated approvals.
  - d. If the Land Use Administrator fails to grant or deny the certificate of occupancy within 14 days of submission of the application, the certificate shall be deemed issued on the 15<sup>th</sup> day. If the certificate of occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

15. Disclaimer:

- a. These regulations shall not be construed to imply that areas outside of the Flood Hazard Areas, or land uses permitted hereunder, within such Flood Hazard Areas, will be free from flooding or flood damage. No permit issued hereunder, or development permitted in accordance herewith, shall create any liability on the part of the Town of Arlington, or any officer, agent, or employee thereof.

### 7.13 PONDS

1. A swimming pool or pond with a surface area not in excess of 10,000 square feet may be approved as a permitted use by the Land Use Administrator, provided the front, side, and rear setbacks applicable to the district in which the pond is located are satisfied.
2. A pond with a surface area in excess of 10,000 square feet may be approved as a conditional use by the Zoning Board of Adjustment after a public hearing, provided that there shall be no adverse effect upon the public health and safety, and surrounding use. No water areas shall be closer than 20 feet to any side or rear lot line, except as approved by the Zoning Board of Adjustment.
3. In reviewing such application, the Zoning Board of Adjustment shall require plans and specifications, and other information deemed necessary. Such information shall include:
  - a. Map of entire property, showing location of the pond with respect to present structures, roads, and boundaries.
  - b. The nearest building(s) on adjoining land.
  - c. Specifications for the dam, if one is to be constructed.
  - d. An estimate of the surface area of the pond, and volume of water.
  - e. Natural or proposed drainage, and contours.
  - f. Evaluation and recommendation by the Natural Resource Conservation Service
  - g. Evidence that the pond will not present an unreasonable hazard to neighboring persons or property.

### 7.14 HOME OCCUPATION

1. No provision of this Bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling that is customary in residential areas, which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Home occupations are permitted in all districts where residential uses are permitted subject to satisfying the following criteria:
  - a. customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and
  - b. customarily practiced in the community at home; and

- c. carried on by a member of the family residing in the dwelling unit; and
  - d. clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
  - e. conforms to the following additional conditions:
    - 1) the occupation or profession is carried on wholly within the building or structure;
    - 2) not more than two persons outside the family are working on the premises in the home occupation at any point in time;
    - 3) there is no exterior display or exterior sign except one unlighted identification sign, not more than four (4) square feet in area, no exterior storage of materials, and no other exterior indication of a home occupation or variation from the residential character of the principal building;
    - 4) no offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;
    - 5) there are no retail sales, unless the items sold are products of the owner's own labor, or are incidental to the products of the owner's own labor, or are antiques;
    - 6) the customary home occupation does not affect the residential character of the neighborhood;
    - 7) traffic and parking must satisfy zoning bylaw requirements;
    - 8) utilize an area not to exceed 40% of the floor area of the principal dwelling unit on the property up to a maximum of 1,500 square feet; a home occupation may be in a dwelling unit or an accessory building.
2. In particular, a home occupation includes, but is not limited to, the following: antique shops, dress making, home cooking, teaching, and the skilled practice of an accountant, architect, artist, dentist, photographer, doctor, engineer, insurance agent, lawyer, musician, realtor, barber or beautician, or any other profession or skilled practice carried on within the dwelling occupied by the practitioner.
  3. However, a home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants and tea rooms, garage or shops for repair of motor vehicles.
  4. A site plan must be prepared and approved by the Arlington Planning Commission at a public hearing after public notice.
  5. Where it is determined by the land use administrator that the proposal does not meet the definitions or standards of home occupations above, the applicant may apply for a permit under the broader regulations for a base of operations (see Section 7.15).

## 7.15 BASE OF OPERATIONS

1. A base of operations may be permitted as a conditional use, provided that said base of operations is located on the same lot as the business owner's principal residence, and subject to the provisions of Section 7.1 and applicable requirements of the district in which it is located, and further provided that the following criteria are satisfied:

- a. Dimensional Requirements:
    - Minimum lot size.....2 acres
    - Front yard setback.....50 feet
    - Rear yard setback.....50 feet
    - Side yard setback.....50 feet
  - b. Existing buildings that do not conform to these dimensional requirements may be approved for this use provided that such buildings may only be enlarged in accordance with the provisions of Sections 7.2 and 7.3, as appropriate, and that all other requirements of this Section are satisfied.
2. Open Space Required:
    - a. At least 30% of the lot area shall be reserved as open green space; such green space shall include a continuous greenbelt along front, side, and rear property lines, not less than 25 feet in depth. The front yard greenbelt may be broken by access roads making up not more than 25% of the total road frontage.
3. Parking Required:
    - a. Parking and access shall always be maintained to avoid backing out onto town or state highways. Two parking spaces for every three employees shall be required. Sufficient loading areas shall be provided to accommodate all anticipated truck maneuvers on the lot. Parking of the following vehicles shall be screened from the road and adjacent residential uses by buildings or landscaping: Vehicles exceeding 10,000 pounds g.v.w.; and all but two commercial fleet vehicles.
4. Additional Standards:
    - a. Lighting:
      - 1) Buildings may be lit at the eaves with downward pointing fixtures. Lighting shall be timed to operate no later than 10 P.M.
    - b. Noise:
      - 1) Limited assembly or manufacturing may be permitted at a base of operations with the approval of a conditional use permit. The Zoning Board shall consider the nature of equipment and volume of the business, in addition to the provisions of Section 7.1.
    - c. Visibility:
      - 1) Screening of buildings and parking areas shall be provided as deemed appropriate by the Zoning Board of Adjustment.

- d. Landscaping:
  - 1) Natural vegetation shall be retained whenever possible. Existing and proposed landscaping shall be shown and identified by type and size on the site plan.
- e. Buildings:
  - 1) The character of existing residential and agricultural buildings shall be retained. The design of new buildings shall be compatible with the architectural character of the neighborhood.
- f. Traffic:
  - 1) The base of operations shall not cause unreasonable congestion or unsafe conditions with respect to the use of transportation facilities existing or proposed.
- g. Hours of Operation:
  - 1) The Zoning Board may limit the hours of operation of the business -- including the hours during which employee and/or business-related vehicles and equipment may enter, leave, or be operated on the site -- as necessary to ensure that nearby residential areas are not disturbed.

#### 7.16 ACCESSORY DWELLING UNITS

- 1. Pursuant to 24 V.S.A. Section 4412(1)(E) and (F), an accessory dwelling unit, as defined in this bylaw, is permitted as a use subordinate to a one-family dwelling, provided such accessory dwelling unit meets all applicable setback, coverage, wastewater, and parking requirements. The accessory dwelling unit may be located in the one-family dwelling structure or in an existing or new accessory structure.

#### 7.17 FAMILY CHILD CARE FACILITY

- 1. Pursuant to 24 V.S.A. Section 4413(5), a state licensed or registered family childcare home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family childcare home serving no more than six full-time and four part-time children, as defined in 33 V.S.A. Section 4902(3)(A), shall be considered to constitute a permitted single-family residential use of property, but shall be subject to site plan approval pursuant to Section 8.5 of this Bylaw. A family childcare home serving in excess of six full-time and four part-time children may be permitted as a conditional use in the Village-Residential and Rural Districts only.

## SECTION 8 ADMINISTRATION AND ENFORCEMENT

### 8.1 EFFECTIVE DATE

This Bylaw shall become effective immediately upon adoption as provided by law.

### 8.2 PLANNING COMMISSION

1. The Planning Commission is principally responsible for preparing municipal plans, bylaws and related reports, and for conducting public outreach, including public hearings. The Planning Commission is also responsible for site plan, subdivision, and planned development review.

### 8.3 LAND USE ADMINISTRATOR

1. The Town Planning Commission shall appoint a Land Use Administrator for a term of 3 years with the approval of the Board of Selectmen. It shall be his duty to enforce this Bylaw, and he is hereby given the power and authority to do so, as provided by law. He may request and shall receive in so far as it may be necessary in the discharge of his duties, the assistance and cooperation of all Town Officials. He shall maintain files of all applications for building permits in the Land Use Administrator's office, which files shall be open to public inspection. A copy of each permit issued or denied by him, including those granted or denied as a result of a decision by the Planning Commission or Zoning Board of Adjustment, shall be filed with the Listers of the Town of Arlington.
2. He shall administer the Bylaw literally and shall have no power to permit any land development which is not in conformance with this Bylaw. He may be removed at any time, for cause by the Town Planning Commission.

### 8.4 PERMITS

1. No structure, or part thereof, shall be created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, nor shall any land or structure be devoted to a new or changed use, without a permit issued by the Land Use Administrator. No permit may be issued by the Land Use Administrator except in conformance with the Bylaws.
2. Before issuing a permit, the Land Use Administrator shall inspect the site and certify that the proposed building and use comply with all of the applicable provisions of this Bylaw. The Land Use Administrator shall act upon valid permit applications within ten working days of their receipt. In cases where the Land Use Administrator is unable to act or requires extensive examination of the application, the applicant shall be notified in writing by the Land Use Administrator within the ten working day period; such extension shall not exceed 30 days. Failure of the Land Use Administrator to notify the applicant within ten working days of the approval, disapproval, or need for extension shall constitute approval. The Land Use Administrator shall follow the provisions of this Bylaw and Sections 4448 and 4449 of the Vermont Planning and Development Act when issuing permits. A permit shall expire if the permitted use or construction has not substantially commenced within one year after the issuance of the permit.

3. Adequate water supply and sanitary waste disposal facilities complying with the standards of the Vermont Agency of Natural Resources, and applicable municipal ordinances, shall be provided for residential, commercial, industrial, and public buildings of all types. The Land Use Administrator may withhold the issuance of a municipal permit and construction or other activities authorized by the municipal zoning permit may not commence until such other local, state, or federal approvals and permits as may be required are obtained.
4. Upon receipt of a complete application for new construction or substantial improvements in the Special Flood Hazard Area, the Land Use Administrator must act by referring the complete flood hazard area proposal application to the Vermont Agency of Natural Resources.

## 8.5 FEES

1. The Selectmen shall authorize a schedule of fees which shall be designed to cover the cost of processing applications. Fees shall be paid by the applicant at the time of filing his application. A separate fee may be established by the Selectmen for the filing of an appeal before the Zoning Board of Adjustment. All fees shall be made payable to the Town of Arlington.

## 8.6 SITE DEVELOPMENT PLAN

1. All permit applications for commercial uses, industrial uses, customary home occupations, bases of operations, multi-family dwellings having more than two dwelling units, or subdivisions or developments, development in flood hazard area or wetland shall be accompanied by a site development plan conforming to the guidelines of this section. No permits shall be issued for the aforementioned uses until a site development plan, prepared in accordance with this section, has been approved by the Planning Commission, following a review of the site development plan and application at a public hearing after public notice.
2. Applications for uses requiring submission of a site development plan shall not be considered complete and shall not be accepted or scheduled for review at a Planning Commission meeting, until said site development plan has been submitted to the Land Use Administrator. Once a complete application, including a site development plan prepared in accordance with this section, has been submitted to the Planning Commission, the Commission shall act within 60 days to approve or disapprove the application, and failure to so act within such period shall be deemed approval.
3. Site development plans shall contain:
  - a. Boundaries, dimensions, and area of the lot.
  - b. Existing and proposed site conditions, including contours, water courses, floodplain areas, wetlands, important natural features, and forest cover.
  - c. Location, ground coverage, floor area size, and maximum height of all existing and proposed buildings and structures, types of dwelling units and nonresidential structures, and density per type. Also, location of buildings on adjacent lots within a distance of 200 feet of the subject lot.
  - d. Existing and proposed pedestrian and vehicular circulation systems, including off-street parking areas, service areas, loading areas, and points of access to public rights-

- of-way. Include curb cuts and driveways within 200 feet of the property boundaries.
- e. Location and size of all land areas to be reserved as open space, open space linkages, etc.
- f. Landscaping details and proposed grading.
- g. The proposed treatment to the perimeter of the parcel, including materials and techniques used for buffers and scenery, and integration with adjacent properties, as appropriate.
- h. Existing and proposed utility systems, including water supply and fire protection, sanitary sewage, storm drainage, and natural drainage and water courses. Also, wells, springs, and on-site wastewater disposal systems within 300 feet of the property boundaries.
- i. Any additional information required to evaluate the character and impact of the proposed development.

## 8.7 PENALTIES

1. Any person who violates the provisions of this Bylaw shall be subject to the penalties prescribed in 24 V.S.A. Section 4451 and 4452 or appropriate civil action. It shall be the responsibility of the Land Use Administrator to serve notice of violations and to initiate legal action where necessary.

## 8.8 ZONING BOARD OF ADJUSTMENT

1. The Zoning Board of Adjustment, which shall be appointed by the Board of Selectmen in accordance with the requirements of 24 V.S.A. Section 4460, shall follow the procedures outlined in 24 V.S.A. Section 4461, shall hear and decide all appeals for variances and conditional uses under the terms of this Bylaw. It shall keep a complete record of all its deliberations and acts.

## 8.9 APPEALS

1. Any interested person may appeal a decision of the Land Use Administrator by filing a notice of appeal with the Secretary of the Zoning Board of Adjustment, or with the Town Clerk, as provided for in 24 V.S.A. Sections 4465 - 4470.
2. Any interested person may appeal a decision of the Planning Commission or Zoning Board of Adjustment to the Environmental Court, as provided for in 24 V.S.A. Sections 4471 and 4472.

## 8.10 AMENDMENTS

1. This Bylaw or the boundaries of zone districts established herein may be amended from time to time as provided by 24 V.S.A. Sections 4441 through 4444.

## 8.11 PUBLIC HEARINGS

1. All hearings held under this Bylaw shall be duly warned in accordance with 24 V.S.A. Section 4464. In all cases coming before the Planning Commission or Zoning Board of Adjustment for hearing, the applicant for a permit shall furnish the Land Use Administrator with names and addresses of all owners of property adjoining the subject lot. The Land Use



Administrator shall send notice of the hearing, verified by a certificate of mailing, to the adjoining property owners.

#### 8.12 SEVERABILITY

1. If any section, paragraph, subdivision, clause, phrase, or other part of this Bylaw shall be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Bylaw as a whole or any part or provision thereof other than that part so decided to be invalid or unconstitutional.

## APPENDIX A

### DEFINITIONS

For the purposes of this Bylaw, certain words and terms used herein are defined as follows:

All words used in the present tense include the future tense.

All words used in the plural number include the singular unless the natural construction of the wording indicates otherwise.

The word "lot" includes the word "plot," the word "building" includes the word "structure."

The word "shall" is mandatory, not directory or permissive.

The word "used" shall be deemed to include "designated," "intended," "arranged," or "designed to be used."

Unless otherwise specifically stated, all distances shall be measured horizontally.

The word "Town" means the Town of Arlington, Vermont, the terms "Selectmen," "Board of Selectmen," "Planning Commission," and "Zoning Board of Adjustment" mean those bodies and officials of the Town of Arlington, Vermont.

Words not herein specifically defined shall have their ordinary dictionary meaning as in Webster's New International Dictionary.

**Accessory Apartment:** See **Accessory Dwelling Unit (ADU)**

**Accessory Dwelling Unit (ADU):** Efficiency or one bedroom dwelling unit located within or appurtenant to an owner-occupied one-family dwelling that is clearly subordinate to the one-family dwelling, which has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided that the property has sufficient wastewater capacity.

**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 use subordinate to and incidental to the principal use of a **building** or property.

**Adult Daycare:** Professional care that supports the general health and nutritional, social, and daily living needs of adults in group settings outside of their homes for periods of less than 24 hours per day in a **daycare** facility.

**Agriculture** (also **agricultural activities, practices** or **use**, see also **farm**): For the purposes of this ordinance, agriculture shall mean:

- a) The cultivation or other use of land for growing food, fiber, trees, or horticultural and orchard crops; or
- b) The raising, feeding or management of livestock, poultry, equines, fish or bees; or
- c) The operation of greenhouses; or
- d) The production of maple syrup; or
- e) The onsite storage, preparation and sale o agricultural products principally produced onsite; or
- f) The onsite production of fuel or power from agricultural products or wastes produced onsite.

**Automobile Service Station:** A service **business** and/or retail **establishment**, designed and operated for the sale of gasoline and other allied products, for the servicing of motor vehicles, and similar activities. The term does not include mechanical car washes, nor facilities for the storage of automobiles, nor used car lots.

**Base Flood:** 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):** The elevation of the water surface elevation resulting from a **flood** that has a one 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.

**Base of Operations:** The use of land or a **structure** for the storage of tools, vehicles, equipment, and materials used in the conduct of a professional service business, where work is performed principally off the premises. Such uses may include: lawn and driveway maintenance contractors, refuse haulers, excavation and construction contractors, electrical contractors, and similar uses deemed appropriate by the **Planning Commission**. Such use may include facilities for the congregation and dispatch of employees.

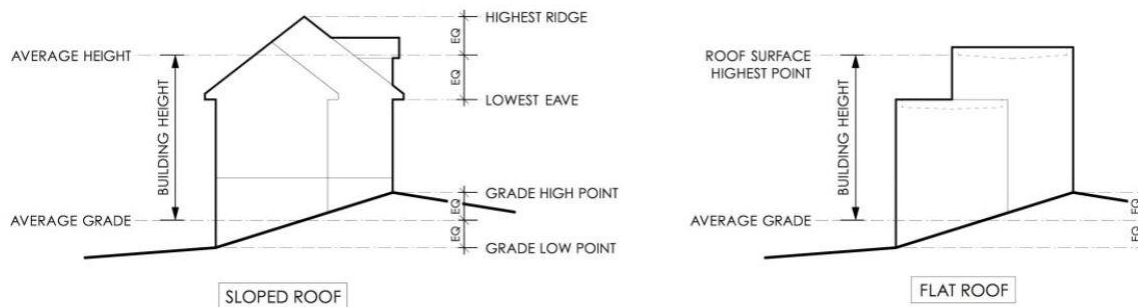
**Boundary Line Adjustment:** The relocation of a common property boundary where an additional **lot** is not created and where an existing **lot** reduced in size by the adjustment complies with the dimensional requirements of this ordinance.

**Building:** Any **structure** having a roof and intended for the housing or enclosure of persons, animals, or materials. Also any **structure** more than eight feet high; excluding an electric light, utility pole, highway or railroad bridge, or flagpole. A building also means a walled or roofed **structure**, including a gas or liquid storage tank that is principally above ground.

**Building Coverage:** The ground area enclosed by the walls of a **building**, together with the area of all covered porches, and other roofed portions. **Building coverage** may be expressed as a percentage which the total area of a **building** bears to the area of a **lot**.

**Building Envelope:** Defined areas in which clearing for construction and **development** may occur.

**Building Height:** The vertical distance of a **building** or **structure** as measured from the average of the highest and lowest elevations of the finished grade at the foundation or base to the highest point of the roof surface for flat roofs or to the average height between eaves and the highest ridge for other types of roofs.



**Business:** A legally-permitted occupant of land or premises engaged in commercial, industrial or professional activities. A **business** can be a for-profit entity, a non-profit organization, such as a charity, a not-for-profit organization, such as a credit union, or a social purpose **business** in which profits are invested into the community or to alleviate a social problem.

**Bylaw (also ordinance):** A provision of this ordinance, a regulation.

**Camp:** A seasonal fixed **structure** not used as a primary or secondary residence, but used occasionally or seasonally for a temporary shelter in connection with a residential activity.

**Camper:** A mobile unit intended for over-night **camping**, but not for permanent residential occupancy. Examples include a **travel trailer**, tent trailer, pick-up truck camper, or motor home.

**Campground:** A facility, area or place that is used for **camping**; a place where people can put up a tent or park a **camper** and that often has toilets, sinks, and showers.

**Camping:** Overnight transient lodging within or under temporary or mobile **structures** such as tents, tarps, lean-tos, **campers** or **recreational vehicles**.

**Cemetery:** Land used for the burial or interment of the remains of deceased people or pets and open to use by a community of people or the general public. Conversely, a family burying ground is one in which no lots are sold to the public and in which interments are restricted to a group of persons related to each other by blood or marriage.

**Certificate of Occupancy:** For the purposes of floodplain management, a certificate issued by the **Land Use Administrator** allowing occupancy or use of a **building, structure** or premises after it has been determined that all requirements of applicable permits and ordinances have been met.

**Change of Use:** The modification of a use of an existing **building** or **parcel** of land, or the replacement of a use of a **building** or land with another use or uses, or the addition of a use or uses to a **building** or land, or the cessation of a use or uses of a **building** or land.

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

**Child Care** (also **early childhood facility** or **daycare**): Developmentally appropriate care, protection, and supervision designed to ensure wholesome growth and educational experiences for children outside of their homes for periods of less than 24 hours per day in a **daycare** facility.

**Clubhouse:** Building or use catering exclusively to the members of an organization and their guests for recreational purposes and not operated primarily for profit.

**Commercial Use:** **Nonresidential** use of property for commerce or for the activity of buying and selling.

**Commission** (also **Planning Commission**): The Planning **Commission** of the Town of Arlington.

**Common Plan of Development:** The scheduled plan for refurbishing a **structure** over a period of time. Such work might be planned unit by unit.

**Community Care Home:** A residential facility traditionally utilized by the elderly, which provides custodial care and includes room and board, plus additional personal services and supervision for the residents' protection. Five Community Care Home **residents** shall constitute one **family** unit.

**Conditional Use:** Certain uses which may be permitted in any **district** only by approval of the **Zoning Board of Adjustment** (ZBA) upon a determination that the general and specific standards enumerated in this **bylaw** are satisfied.

**Condominium:** Privately owned units as defined in the **condominium** ownership act of the State of Vermont.

**Critical Facilities:** Services that 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.

**Customary Home Occupation:** see **home occupation**.

**Daycare:** A facility operated as a **business** or service on a regular or continuous basis that provides care for children, the elderly, or individuals with special needs.

**Development:** **Development** shall include the following: 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**; any mining, excavation or **land fill**; or any **change of use** of any building or other **structure**, or land, or extension of use of land.

**District:** The term shall be deemed to mean all the land within the boundaries of a particular use district as established by this **bylaw**.

**Driveway:** A private access-way over privately owned land or by permanent easement.

**Dwelling, Multi-family:** A **building** containing separate residential units for three or more **families**.

**Dwelling, Single-family:** A **building** designed for, or occupied, or customarily intended to be occupied solely as a residence by one **family**, except other uses that shall be considered single-family uses of homes as defined throughout this **bylaw**.

**Dwelling, Two-family:** A **building** designed for, or occupied, or customarily intended to be occupied as a residence by two **families**.

**Dwelling Unit:** Any **structure** or part of a **structure** designed for permanent residency by one **family**, having complete living facilities with private entrance for the exclusive use of the occupants.

**Early Childhood Facility:** Any place, operated as a **business** or service on a regular or continuous basis whether for compensation or not, which provides early care and education to children.

**Easement:** An acquired right of or upon the property of another for a specified purpose.

**Establishment:** A legally-permitted occupant of land or premises (see also **business**).

**FAA:** Federal Aviation Administration

**Fall Zone:** The additional **setback**, equal to the height of the **tower**, required for wireless **telecommunications** towers.

**Family:** Any number of individuals related by blood, marriage, or adoption, or not more than five unrelated individuals living together as a single housekeeping unit.

**Family Child Care Facility:** A state licensed home-based **daycare** serving six or fewer children in the residence of the licensee where the licensee is one of the primary caregivers.

**Farm:** Any tract of land used for dairying or for the raising of agricultural products, horticultural or agroeconomic products, forest or **silvicultural** products, livestock, poultry, or carrying out other practices associated with accepted **silvicultural** practices or **agricultural practices**, and which may include **accessory structures** for the sale of such products from the premises where produced, and which may include **farm structures**.

**Farm Stand:** A temporary or seasonally used **structure** for the display and sale of locally grown agricultural products. May also include the accessory sales of other unprocessed foodstuffs, homemade crafts, and home processed food products (e.g. jams, jellies, pickles, sauces, baked goods, etc.).

**Farm Structure:** A **building**, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted **agricultural practices**, including a silo, but excluding a **dwelling** for human habitation.

**FCC:** Federal Communications Commission.

**FEMA:** Federal Emergency Management Agency

**Fence:** Any material or combination of materials erected to enclose, screen, separate, or demarcate areas of land. Fences may be of an open (e.g. picket), semi-open, or closed (e.g. brick or stone) style.

**Fill:** 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:** **Flood** can mean one of two possibilities:

- 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 that results in flooding.

**Flood Insurance Rate Map (FIRM):** 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:** 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:** Any land area susceptible to being inundated by water from any source (see **flood**). Also referred to as flood-prone area.

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

**Floodway:** The channel of a river or other watercourse and 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 separate map panels.

**Forestry:** The science and craft of creating, managing, using, conserving, and repairing forests, forest products such as timber. See **silviculture** and **forestry operations**.

**Forestry Operations:** Woodlot and off-woodlot processing of trees and logs and the manufacture, assembly, drying, storage, sale and distribution of forest products such as maple syrup, lumber, pulpwood, mulch, veneer, bolt wood, stud wood, poles, pilings, wood chips, fire wood, fuel wood, wood pellets, biomass, Christmas trees, wreaths, bough material and cones.

**Frontage:** A width of a **lot** along its front bordering on and parallel to a private road or public **right-of-way**.

**Funeral Home:** An establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funeral services.

**Green Space** (also **open land** and **open space**): That portion of a **lot** that does not include **buildings, structures**, driveways, parking facilities or other paved areas and that is vegetated and landscaped. The word greenbelt shall be synonymous with the term **green space**. Pedestrian paths or walkways and normal, approved provision for vehicular ingress/egress from a public highway may be allowed in **green space** areas. Pedestrian walkways and outdoor furniture areas designed as part of the landscaping and not serving a direct commercial purpose shall be counted in calculations of required **green space** area.

**Group Home:** A place providing room, board and personal care to three or more **residents** unrelated to the homeowner or caregiver. **Group homes** are also referred to as residential care homes and must be licensed by the Vermont Department of Aging and Disabilities.

**Guest House:** A **single family dwelling** on the same **lot** as another dwelling, but designed to be used by the occupant of the principal dwelling for the housing of guests.

**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.

**Home Occupation:** An occupation, carried on within a principal or accessory residential structure, which is customarily incidental and secondary to the use of the premises for dwelling purposes, and which does not substantially alter the character thereof.

**Hotel:** A building, group of **buildings**, or a part of a **building** designed to provide lodging for persons, with or without meals, on a transient basis, with access and egress controlled, and having more than 10 rentable rooms. Not a **dwelling unit**, boarding house, tourist home, **motel**, nor **lodging house**.

**Industry:** The processing of raw materials and the manufacture of marketable goods.

**Interested Person:** An interested person is either (1) a person having status to appeal a decision of the **Land Use Administrator** as defined in 24 VSA §4465(b) or (2) a person who has participated in a municipal regulatory proceeding who may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court pursuant to 24 VSA §4471. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

**Land Fill:** Land approved by the State of Vermont for the sanitary disposal of garbage, refuse, debris, and other solid and liquid wastes in accordance with State laws.

**Land Use Administrator:** Any person duly appointed pursuant to 24 VSA §4448 with the authority to administer the provisions of this ordinance by the issuance of **zoning permits**, certificates of compliance, administrative opinions, notices or citations of **violation**, or any other actions necessary to administer the provisions of the ordinance.

**Letter of Map Amendment (LOMA):** Is a letter issued by **FEMA** officially removing a **structure** or **lot** from the **flood** hazard zone based on information provided by a certified 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**.

**Lodging House:** A **building** in which rooms are rented with or without meals to three or more, but not exceeding 20 persons. A **lodging house** shall have no more than one kitchen facility whether shared or not.

**Lot:** A plot or **parcel** of land under single ownership occupied or designed to be occupied by a **building** and its **accessory buildings**, including such **open spaces** as required by this ordinance. In the case of multiple **dwelling**s and public, institutional, commercial, industrial, or **agricultural** buildings, a group of **buildings** on the same or contiguous premises, all under the same ownership, may be considered as occupying the same **lot**. For purposes of this ordinance, the term does not include any portion of a dedicated **right-of-way**.

**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:** Means a dwelling unit, transportable in one or more sections, which is built by a certified manufacturing plant on a permanent chassis, is at least 320 square feet floor area and is designed for use with or without a permanent foundation when connected to the required facilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles

**Manufacturing:** Shall include fabricating, assembling, treating, processing, and similar operations performed on any materials permitted to be worked upon by the terms of this **bylaw**.

**Manufactured Home Park (or mobile home park):** A parcel (or contiguous **parcels**) of land divided into two or more **manufactured home lots** for rent or sale, operated under the requirements of the laws of the State of Vermont governing **mobile home parks** (see 10 V.S.A., Chapter 153).

**Mobile Home:** A **structure** or type of **manufactured home**, transportable in one or more sections, that is built on a permanent

chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

**Motel:** A **building** or group of separate **buildings**, designed for overnight occupancy by tourists and travelers, consisting of sleeping rooms each having its own separate entrance and sanitary facilities. Kitchen equipment may be included, but permanent occupancy for more than two weeks shall not be permitted.

**Motor Vehicle:** Any conveyance propelled by engine or other self-propelled device, typically used to transport passengers and their cargo along the ground, including but not limited to passenger cars, trucks, buses, **recreational vehicles**, motorcycles, snowmobiles, and all-terrain vehicles. For the purposes of these **bylaws**, a motor vehicle shall not include tractors or any other farm or forestry related equipment, boats, or aircraft. The chassis, cab, or detached body of a motor vehicle shall be considered an entire vehicle.

**Net Developable Land Area:** For the purposes of **Planned Unit Development (PUD) subdivision**, net developable land area refers to total land area to be subdivided minus total land area in the Forest and Recreation zoning **district** and the **special flood hazard areas**.

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

**Nonconforming Lot** (or **parcel** or setbacks): A **lot** or **parcel** that does not conform to the present **bylaws** covering dimensional requirements but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present **bylaws**. This includes a **structure** improperly authorized as a result of error by the **Land Use Administrator** or **Zoning Board of Adjustment**.

**Nonconforming Structure:** A **structure**, or part thereof, that does not conform to the present **bylaws** but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present **bylaws**. This includes a **structure** improperly authorized as a result of error by the **Land Use Administrator** or **Zoning Board of Adjustment**.

**Nonconforming Use:** The use of land or a **structure** that does not conform to the present **bylaws** but did comply with all applicable laws, ordinances, and regulations prior to the enactment of the present **bylaws**. This includes a **structure** improperly authorized as a result of error by the **Land Use Administrator** or **Zoning Board of Adjustment**.

**Nonconformity:** A **nonconforming use, structure, lot** or **parcel**.

**Non-Residential:** Use of a **structure** or land that is not residential in nature including, but is not limited to, **agricultural**, commercial, educational, governmental, health care, industrial, recreational, religious, **silvicultural**, or social services use.

**Nuisance:** An annoying, unpleasant, or obnoxious noise, odor, thing, or practice.

**Nursery** (also **tree farm**): Establishment or use of land for the growing of woody or herbaceous plants for sale. A stand for the sale of products produced on the premises only shall be considered a part of this use.

**Nursing Home:** A facility in which highly skilled nursing and residential care is provided to people with chronic physical or mental impairments.

**Open Land:** See **green space**.

**Open Space:** See **green space**.

**Outdoor hydronic heaters** (formerly referred to as outdoor wood boilers or OWBs): Residential or small commercial wood-fired water heaters that are located outdoors or are separated from the space being heated. The wood burned in the large fire boxes heats water that is circulated into the home through underground pipes. The energy may be used to heat houses, shops, domestic hot water, greenhouses, swimming pools and spas.

**Parcel:** See **lot**.

**Park:** Any land owned by the public or open for use by the general public for active or passive recreational uses or as a refuge for wildlife.



**Planned Unit Development (PUD):** **Development** of a site in which **buildings** or **lots** may not conform to the dimensional standards of the underlying zoning district in exchange for provision of a public good such as open space protection, affordable housing, recreational amenities, or others. A PUD allows for creativity in site design not possible with conventional **subdivision** and land **development** practices. A PUD may have a mix of residential and **nonresidential** land uses. In exchange for design flexibility, developers are better able to provide amenities and infrastructure improvements and to accommodate environmental and scenic attributes of the site.

**Planning Commission:** See **Commission**

**Plat:** The final map or representation, prepared by a licensed surveyor, indicating the manner in which property is to be subdivided, or in which a **lot** line is to be adjusted, or in which **lots** are shown as merged.

**Pond:** A relatively small body of water that exists in a declivity that is the result of glaciation or created by a dam, dike, barrier or other artificial impoundment, or resulting from excavation, which retains water year-round.

**Preliminary Plat:** The preliminary drawings indicating the proposed layout of a **subdivision** to be submitted to the **Commission** for its consideration.

**Principal Building:** A **building** on a **lot**, designed for the specific use for which a **zoning permit** may be issued, as distinguished from an **accessory building**.

**Public Building:** For the purposes of this Bylaw, places of assembly such as theaters (either indoor or outdoor), gymnasiums, public assembly halls, town halls and offices, and community houses shall be considered to be **public buildings**.

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

**Resident:** A part-time or full-time occupant of a rented or owned **dwelling unit**.

**Restaurant:** Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served for consumption; and where the service of alcoholic beverages is incidental to the consumption of food (less than 50% of the gross sales receipts from the **business**).

**Retail:** A **building**, property, or activity where the principal use or purpose of which is the sale of goods, products, wares, or merchandise directly to the consumer.

**Right of way:** The legal right, established by usage or grant, to pass through the grounds of property belonging to another.

**Rooming House:** Any **building** or portion thereof containing more than two, but less than ten, rooms that are used, rented, or hired for sleeping purposes for compensation. A rooming house shall have no more than one kitchen facility, whether shared or not.

**Sawmill:** A facility for the sawing and other processing of logs, including the sale of lumber or cord wood in excess of 20 cords a year. Portable or temporary sawmills are exempt for 40 days.

**Scenic Vista:** An open vista, within view of one or more public vantage points, which includes natural and/or cultural features that are considered visually significant.

**Septic System:** An underground **wastewater** treatment system.

**Setback:** The distance between a **building** or **structure** and any **lot** line, measured from the furthest projection of that **building** or **structure** on each side. Setbacks are also referred to as the yard or open space required between a **building** or **structure** and the front, side, and rear property lines.

**Sewage:** Water-carried waste that is intended to be removed from a community. Also known as **wastewater**, it consists mostly of greywater (from sinks, tubs, showers, dishwashers, and clothes washers), blackwater (the water used to flush toilets, combined with the human waste that it flushes away), soaps and detergents, and toilet paper.

**Sewer:** A conduit, usually underground, for carrying waste matter and used water from sinks and toilets away from a **building** to a treatment facility.

**Sign:** Any **structure**, wall display, device or representation designed or used to advertise or call attention to or direct a person to a **business**, association, profession, commodity product, institution, service, entertainment, person, place or thing, or activity of any kind, and is visible or audible to the public. It does not include the flag of any nation or state on a single pole.

**Silviculture:** The practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.

**Site Plan:** A scaled map of a **lot** or site that indicates all significant features including, but not limited to, site improvements, **structures**, boundaries, parking, drives, walkways, and landscaping.

**Solid Waste:** As defined in Vermont Solid Waste Management Rules, any discarded garbage, refuse, septage, sludge from a **wastewater** treatment plant, water supply plant, or pollution control facility and other discarded material including solid, liquid, semi-solid or contained gaseous materials resulting from industrial, commercial, mining, or **agricultural** operations and from community activities, but does not include animal manure and absorbent bedding used for soil enrichment or dissolved materials in industrial discharges that are point sources regulated under 10 VSA Chapter 47.

**Special Flood Hazard Area (SFHA):** The **floodplain** within a community subject to a one 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, AO, ZA, AH, AE, or A1-A30 in the most current **flood insurance studies** and from 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.

**Special Flood Zone Map Definitions:**

A Special Flood Hazard Area ("SFHA") shown on a community's Flood Insurance Rate Map ("FIRM"). There are five types of A Zones:

A: SFHA where no base flood elevation is provided.

A#: Numbered A Zones (e.g. A7 or A14), SFHA where the FIRM shows a base flood elevation in relation to National Geodetic Vertical Datum ("NGVD").

AE: SFHA where base flood elevations are provided. AE Zone delineations are now used on new FIRMs instead of A# Zones.

AO: SFHA with sheet flow, ponding, or shallow flooding. Base flood depths (feet above grade) are provided.

AH: Shallow flooding SFHA. Base flood elevations in relation to NGVD are provided.

National Geodetic Vertical Datum ("NGVD") The national datum of 1929 used by the National Flood Insurance Program based on mean sea level.

**Start of Construction:** For purposes of **floodplain** management, start of construction determines the effective map or **bylaw** that regulated **development** in the **Special Flood Hazard Area**. The "start of construction" includes **substantial improvement** and means the date the **building** permit 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**.

**Storage Container:** A structure generally of metal construction and rectangular in shape, which may or may not have wheels or a roof and which is typically used for storage and/or transport of goods and waste materials. Storage Containers shall not be used for habitation. Storage containers are conditional use except for temporary storage or waste removal purposes, not to exceed 6 months.

**Storage Facility:** A **structure** used for the placement and retrieval of goods by persons other than the owner of the property upon which such facility is located.

**Stormwater:** The portion of rainfall, melted snow, or irrigation water that flows across ground surfaces and is eventually returned to a water body such as a river, stream, **pond**, or reservoir.

**Street:** Any road, highway, avenue, **street**, land, or other way between **right-of-way** lines whether publicly or privately owned, used, or to be used for vehicular traffic.

**Structure:** An assembly of materials for occupancy or use including, but not limited to, a **building**, **mobile home** or **manufactured home**, driveway, trailer, storage container or tank, **sign**, wall, or **fence**.

**Structural Alteration:** Any exterior structural change, rearrangement, change of location, or addition to a **building**, **structure**, or **sign**, other than repairs to **building** equipment and general maintenance. Includes any interior alteration when new **conditional use**, or expansion of usable floor area of a permitted use, is involved.

**Subdivider:** Any person, firm, corporation, partnership, or association having an interest in land who shall lay out for the purpose of sale, lease, or **development** any interest, **lot**, unit, or **plat** in a **subdivision**.

**Subdivision:** The division of a **parcel** of land into two or more **lots**, or other divisions of a **parcel**.

**Subdivision, Major:** Any **subdivision** containing 5 or more **lots**, or that requires an Act 250 permit, or that consists of **parcels** in two or more towns or zoning districts, or that is not considered to be a **minor subdivision**. Re-division of one or more **lots** of a **minor subdivision** within ten years of the approval date of the original **subdivision** shall be considered a **major subdivision** if the total number of **lots** created from the original **parcel** equals or exceeds five **lots**.

**Subdivision, Minor:** Any **subdivision** of 4 **lots** or less lots that have **frontage** on an existing public **street**, and which does not require any new **street**, **street** extension, or extension of municipal services.

**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 this **Bylaw**, 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. The 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 specifications which have been identified by the local code enforcement official and which are the minimum necessary to 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**."

**Telecommunications Facility:** A tower, pole, antenna, or other **structure** intended for receipt or transmission of radio, telephone, or television signals or other electromagnetic signals by a telecommunications or wireless service provider. This includes all appurtenant equipment and infrastructure, including but not limited to access trails or roads, guy wires, **buildings**, or other equipment or **structures**.

**Temporary:** Unless otherwise defined by law, shall mean up to but not exceeding 90 days.

**Tourist Home/Bed and Breakfast:** A residential **structure** designed and intended primarily for the accommodation of not more than ten transients at one time. A tourist home may or may not serve meals, but shall have a dining capacity equivalent to not more than one-and-one-half times the number of guest sleeping accommodations.

**Tower:** A **structure** more than 20 feet in height above the ground elevation built for the purpose of support, elevation, or placement of antennae for broadcast services or wireless services.

**Travel Trailer:** See **recreational vehicle**.

**Tree Farm:** See **nursery**.

**Variance:** The relaxation or deviation of the terms of this ordinance in compliance with 24 VSA §4469, whereby, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulation would result in unnecessary and undue hardship.

**Violation:** The failure of a **structure** or other **development** to be fully compliant with this **bylaw**. For the purposes of the Flood Hazard Area Regulations of this **bylaw**, a structure or other development without 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.

**Warehouse:** A **building** where raw materials or manufactured goods may be stored before distribution for sale or use.

**Wastewater:** Any water that has been adversely affected in quality by human activities. **Wastewater** can originate from a combination of residential, industrial, commercial, **agriculture** or **forestry** activities, surface runoff or **stormwater**, and from **sewer** inflow or infiltration.

**Wetland:** Those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and **ponds**, but excluding such areas that grow food or crops in connection with **farming** activities.

**Zoning Board of Adjustment:** A quasi-judicial decision-making board created pursuant to 24 VSA Chapter 117 §4460 to review and issue decisions on **development** proposals or to hear appeals to decisions by the **Land Use Administrator**. Appeals of decisions made by the **Zoning Board of Adjustment** are heard by Vermont Superior Court Environmental Division.

**Zoning Permit:** A document signed and issued by the **Land Use Administrator** authorizing land use or **development** pursuant to the requirements of this ordinance.

## MAPS OF LAND USE DISTRICTS

**Map produced December 9, 2019 by**  
**Bennington County Regional Commission**  
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**This map intended for planning purposes only**

**Land Use Districts**

- Rural
- Village Residential
- Commercial Residential Rural
- Commercial Residential
- Commercial Industrial
- Planned Industrial
- Forest and Recreation

**BCRC**

**Miles**  
 0 0.5 1 2 3 4

BCRC

# Map 16. Arlington Land and Zoning Urban Compact and Environs

