

## **CHAPTER 2: DEFINITIONS AND RULES OF CONSTRUCTION**

**SECTION 201: DEFINITIONS.** (General Definitions, Flood Plain Management Determinations, Sewer Regulation Definitions, Sign Regulations Definitions). Words as defined herein shall be used to interpret provisions of this Code. Interpretation of any words not herein defined shall be made in accordance with the standards specified below.

A. **Interpretation:**

1. All interpretations of words not herein defined shall be reviewed in the context of the purpose or intent Sections of this Code and the Official Plan as adopted.
2. Words shall be interpreted through consultation with standard planning textbooks. Words with a unique planning definition shall be interpreted to include that definition.
3. Words which have a unique definition in state or federal law shall be deemed to include that meaning.
4. Words without a unique planning definition shall be deemed to be common usage as defined in standard dictionaries.

B. **Official Plan.** The Village Comprehensive Plan as adopted by the Village Trustees and filed with the Village Clerk is the Official Plan of the Village of Essex Junction. It is the clear intent of this Code to implement the provisions of the Comprehensive Plan and the Comprehensive Plan shall be consulted to determine the intent of any provisions of this Code. Ordinances, bylaws, or regulations enacted which are in clear conflict with the Comprehensive Plan shall not be adopted until and unless the Comprehensive Plan is amended.

C. **General Definitions:**

1. "*Abandonment*" shall mean to cease or discontinue a use or activity for a period of twelve (12) months, but excluding temporary or short-term interruption to use or activity during periods of remodeling, maintaining, or otherwise improving a facility, or during normal periods of vacation or seasonal closure.
2. "*Accessible Parking*" shall mean parking space designed to comply with standards of the American with Disabilities Act.
3. "*Accessory Apartment*" shall mean a small apartment created within an existing single family dwelling unit, as defined by state statute.
4. "*Accessory Structure*" shall mean a structure, the use of which is incidental and subordinate in size (50% or less) to the principal structure located on the same lot.
5. "*Accessory Use*" shall mean any use or structure which clearly meets the following conditions:
  - (a) It is clearly incidental and customarily found in association with the principal use; and
  - (b) It is subordinate in area, purpose and extent to the primary structure and use of the lot; and
  - (c) It is not identified in the zoning district as a permitted or conditional principal use.
6. "*Additions*" shall mean any development activity which increases floor area or height of a building or structure.
7. "*Administrative Determination*" shall mean a written statement by Staff which approves or disapproves any request as provided herein or interprets a provision of this Code.

8. *"Adult Day Care Facility"* shall mean a facility which includes programs, services, and facilities designed to assist physically or mentally impaired adults to remain in their communities. These are persons who might otherwise require institutional or long-term care and rehabilitation.
9. *"Adverse Impact"* shall mean any addition or effect of a proposed use or structure which may be harmful or injurious to public health, safety or property; any addition or use which does not meet specific review criteria as established herein; or any proposed uses or structures which cumulatively may be harmful or injurious to public health, safety, or property.
10. *"Agent"* shall mean any individual, group, or corporation specifically authorized in writing to act on behalf of any party to a proceeding covered by this Code.
11. *"Agriculture"* or *"Agriculture Sales-Related Activity"* shall mean the use of property or structures for common farming-related activities necessary for crop and animal production. A plant or tree nursery shall be deemed an agricultural related activity. The sale of agricultural products or byproducts on agricultural property is deemed an "agriculture sales-related activity".
12. *"Agriculture PUD"* shall mean a Planned Unit Development (PUD) located in the Planned Agriculture District.
13. *"Alteration"* shall mean any change or modification to a structure.
14. *"Animal Boarding Facility"* or *"Kennel"* shall mean any land, structure, or facility designed and used for the temporary storage or housing of five (5) or more domesticated animals at any time; the housing, storage or raising of any animals as part of an active farm is not deemed to be an animal boarding facility.
15. *"Animal Exhibits"* shall mean any structure or property where animals are kept in captivity for public display with or without charge.
16. *"Animal Shelter"* shall mean any accessory structure or property which is used for housing or sheltering four (4) or fewer common household pets over three (3) months of age, outside of the principal permitted structure.
17. *"Antenna, Tower,"* or *"Satellite Dish"* shall mean any device erected and designed to transmit or accept any type of radio, television, telephone or other electronic signals.
18. *"Application"* shall mean a written request for approval of a proposed use, building or activity as regulated herein.
19. *"Average Grade Building Height Allowance"* shall mean the building height shall be no higher than that permitted in the district above preconstruction grade unless approved by the Planning Commission.
20. *"Bank"* shall mean any financial institution involved in the direct deposit or withdrawal of funds or a structure which houses facilities to deposit or withdraw funds electronically.
21. *"Bed and Breakfast"* shall mean any building, or portion thereof, of residential character which contains no more than four (4) sleeping rooms for rent for transient occupancy not exceeding (2) weeks, and where food is served family style.
22. *"Berm"* shall mean a mound of soil used for screening or landscaping which includes trees, shrubs or ground cover.
23. *"Bike Path"* shall mean any sidewalk, lane, or path designated and clearly marked by the Village for use by bicycles. Nothing shall prevent a bike path from being utilized by pedestrians or other non-motorized conveyances.
24. *"Boarding House"* shall mean any establishment or charitable organization which

provides meals and beds for pay for four (4) or more individuals for thirty (30) or more days in a single family or multi-family dwelling.

25. *"Boundary Line Adjustment"* shall mean adjusting the line between two adjacent lots when the adjustment does not change the nature of any previous subdivision, does not create any new lots, and does not make any existing lot non-conforming.

26. *"Buffer"* shall mean an area required to separate low intensity land uses from more intensive land uses, or a mandated setback from a wetland, stream, river or utility.

27. *"Building"* shall mean any structure that encloses a space for sheltering any occupancy or use including the above ground placement of any type of fuel or oil tank; any structure, vehicle or preassembled building which is permanently attached to the ground or is located on the property for thirty (30) or more days shall be deemed a building. Recreational vehicles as defined herein shall not be deemed a building.

28. *"Building Height"* shall mean the vertical distance from the average finished grade elevation to the highest point of a parapet surrounding a flat roof, the mean height between eave and the highest ridge line of a pitched roof or the highest point of a roof of any other shape (Mansard, Gambrel, Etc), excluding chimneys and decorative cupolas, provided that they do not extend more than five feet above the highest point of the rest of the structure.

29. *"Building Line"* shall mean a line defining the nearest points to adjacent streets or property lines to which a building may be constructed or placed.

30. *"Building Materials Establishment"* shall mean any facility whose principal business is the sale of products to be used off site for construction and installation purposes.

31. *"Building, Principal"* shall mean a building in which the main or primary use of the lot is conducted.

32. *"Business Service"* shall mean a business which offers services to other businesses or individuals, including but not limited to, photocopying, blueprinting, insurance sales, financial management, computer and data processing, security services, interior cleaning and similar uses whose principal business is not the sale of goods or materials.

33. *"Caliper"* shall mean the measurement of the diameter of a tree measured as follows:

(a) A tree less than four (4) inches in diameter shall be measured six (6) inches above grade.

(b) A tree four (4) or more inches in diameter shall be measured twelve (12) inches above grade.

34. *"Cannabis Retail Establishment"* shall mean an establishment licensed by the Vermont Cannabis Control Board and the Local Control Commission to sell cannabis and cannabis products to adults 21 years of age and older for off-site consumption in accordance with 7 V.S.A Chapter 33 [or current state definition at time of application].

35. *"Cannabis Wholesale Establishment"* shall mean an establishment licensed by the Vermont Cannabis Control Board and the Local Control Commission to purchase, process, transport, and sell cannabis products in accordance with 7 V.S.A Chapter 33 [or current state definition at time of application].

36. *"Cannabis Medical Dispensary"* shall mean a business organization licensed under 18 V.S.A chapter 86, 7 V.S.A chapter 37 to dispense cannabis products for medical purposes [or current state definition at time of application].

37. *"Cannabis Cultivator Establishment"* shall mean an establishment licensed by the Vermont Cannabis Control Board and the Local Control Commission to engage in the

cultivation of cannabis in accordance with 7 V.S.A Chapter 33 [or current state definition at time of application].

38. *"Cannabis Manufacturing Establishment, Tier 1"* shall mean an establishment licensed by the Vermont Cannabis Control Board and the Local Control Commission to manufacture cannabis products in accordance with 7 V.S.A Chapter 33 [or current state definition at time of application]. A tier 1 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 1 manufacturer may produce Cannabis Products using the same methods as a tier 2 manufacturer, but not a tier 3 manufacturer. A tier 1 manufacturer must be a home occupancy business with no more than one employee, and under \$10,000 in gross revenue each year.

39. *"Cannabis Manufacturing Establishment, Tier 2"* shall mean an establishment licensed by the Vermont Cannabis Control Board and the Local Control Commission to manufacture cannabis products in accordance with 7 V.S.A Chapter 33 [or current state definition at time of application]. A tier 2 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 2 manufacturer may produce Cannabis Products using the following methods but may not utilize unapproved flammable solvent chemical extraction or flammable solvent chemical synthesis: i. Water-Based Extraction: extraction using only water, ice, or other freezing substrate or process as approved by the Board. ii. Food-Based Extraction: extraction using propylene glycol, glycerin, butter, coconut or olive oil, other typical cooking fats, or alcohol as approved by the Board. iii. Heat/Pressure-Based Extraction: extraction using heat and/or pressure as approved by the Board.

40. *"Cannabis Manufacturing Establishment, Tier 3"* shall mean an establishment licensed by the Vermont Cannabis Control Board and the Local Control Commission to manufacture cannabis products in accordance with 7 V.S.A Chapter 33 [or current state definition at time of application]. A tier 3 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 3 manufacturer may produce Cannabis Products using all lawful methods of extraction.

41. *"Cannabis Testing Laboratory Establishment"* shall mean an establishment licensed by the Vermont Cannabis Control Board and the Local Control Commission to test cannabis and cannabis products in accordance with 7 V.S.A Chapter 33 [or current state definition at time of application].

42. *"Capital Improvement"* shall mean any public facility or infrastructure including, but not limited to, streets, sewers, water mains, lights, traffic control devices, public buildings and other public facilities.

43. *"Capital Improvement, Off-site"* shall mean the construction or placement of public infrastructure including, but not limited to, streets, sewers, water mains, lights, traffic control devices and other public facilities which is determined necessary upon review of a development proposal.

44. *"Car wash, Incidental"* shall mean any facility whose principal business is the provision of other automobile services but provides one bay for the washing of vehicles, clearly incidental to the other automobile services provided.

45. *"Car wash,"* shall mean any facility whose principal business is the cleaning and washing of vehicles of any type, or a facility which provides two (2) or more bays for the washing of vehicles by the customer or for hire by the business.

46. *"Catering Services"* shall mean any facility which prepares food for delivery and consumption off the premises.
47. *"Cemetery"* shall mean a parcel of land use for the burial of the dead for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries.
48. *"Change in Intensity of Use"* shall mean any change in the use of a structure or land that results in an increase or decrease in any standard established in Chapters 6 or 7 of this Code as applied to the subject use.
49. *"Church,"* or *"Other Place of Worship"* shall mean any premises used and operated as a non-profit operation principally as a place of worship and religious education.
50. *"Circus,"* or *"Carnival"* shall mean any temporary entertainment facility open to the general public with or without a fee which provides rides, shows, food booths, animal entertainment or other shows.
51. *"Clinic, Medical"* shall mean any facility which provides medical services by licensed professionals to individuals on an out-patient basis and which does not provide facilities for the care of patients on an overnight basis.
52. *"Clinic, Veterinary"* shall mean any facility which provides medical care to animals which may include facilities for keeping animals overnight as part of veterinary care. Facilities which provide for the overnight boarding or caring of animals which are not part of veterinary care are deemed to be animal boarding facilities.
53. *Commercial PUD* shall mean a Planned Unit Development (PUD) located in the Village Center, Highway Arterial, or Transit Oriented Development Districts.
54. *"Commercial Vehicle"* shall mean any vehicle designed (or modified) for business purposes for an individual or business; any vehicle which is used primarily to transport tools of a trade or supplies; any vehicle which has attached advertising materials.
55. *"Common Household Pet"* shall mean any domesticated animal commonly associated with and cared for in individual homes. Wild animals, livestock or other domesticated farm animals are not common household pets.
56. *"Common Improvements"* shall mean all streets, driveways, parking bays, or other vehicle use areas, and all uses, facilities, structures, buildings and other improvements or portions thereof, which are designed and provided for the common use, benefits and enjoyment of all residents or occupants of a development or portion thereof.
57. *"Common Ownership"* shall mean ownership of common open space or common improvements which grants at least some undivided and common rights in such lands or improvements to the residents or occupants of a development or a neighborhood, either directly or indirectly, through shares or other interests in the property.
58. *"Common Open Space"* shall mean all open space, or portions thereof, including landscaping, screening, and buffering, which is designated and provided for the common use, benefit and enjoyment of all residents or occupants of all or a designated portion of a development or neighborhood, or which is required as a buffer to protect adjacent property.
59. *"Comprehensive Plan," "Village Plan" or "Plan"* shall mean the Village Comprehensive Plan for the Village of Essex Junction as adopted pursuant to Title 24, Chapter 119, Section 4385 of Vermont Statutes and filed with the Village Clerk.
60. *"Conditional Use"* shall mean a use, as designated on the Use Chart, which may be appropriate at a particular location following specific standards of review and approval as specified in this Code.
61. *"Congregate Housing"* shall mean a facility containing two or more dwelling

units for long term residence exclusively by persons 55 years or older, and their spouses, and which shall include, without limitation, common dining and social recreation features, special safety and convenience features designed for the needs of the elderly. Social services for the residents must include at least two of following: meal services, transportation, housekeeping, linen, and organized social activities.

62. *"Construction"* shall mean any earthmoving activity or grading activity; the erection, placement or assembly of any building or structure or additions thereto on any lot or parcel; the moving and placement of any building, structure or materials onto any lot or parcel.

63. *"Construction Service Establishment"* shall mean any facility which provides off-site services for the construction or building of any development and which stores construction materials or equipment used by business on the property.

64. *"Contiguous"* shall mean adjoining or separated by no more than a street, railroad, property line, brook, stream, easement or other feature.

65. *"Cul-de-sac"* shall mean a dead-end street designed to provide a vehicular turnaround at the end of the street.

66. *"Cultural Facility"* shall mean the use of land, buildings, or structures to provide educational and informational services to the general public, which shall include, but not be limited to, children's museums, schools, art galleries, libraries, or similar facilities.

67. *"Dark Sky Compliant"* shall mean hooded or shielded outdoor lighting fixtures that allows no light emission above a horizontal plane.

68. *"Day Care Facility"* shall mean a facility in which care is provided on a regular basis for seven (7) or more children under twelve (12) years of age, at one time. Such facilities include those commonly known as "day care center", "day nurseries", "play groups", and "preschool".

69. *"Day Care Home"* shall mean a facility which provides care in the owner's residence on a regular basis for six (6) or fewer children at any time, excluding children of the owner.

70. *"Dead-end Street"* shall mean a street open at one end only without provision for a turnaround and which may be extended into adjoining property.

71. *"Density Bonus"* shall mean an increase in the number of residential units, lot size or the size of a non-residential structure specifically granted to a single development.

72. *"Design Storm"* shall mean the maximum storm expected to occur once during the interval specified in this Code.

73. *"Development"* shall mean the carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, a change in the intensity or use of land, or the filling of land or the dividing of land into two or more parcels.

74. *"Development Standards"* shall mean the engineering, construction, and design standards, procedures and practices necessary for approval and review of development proposals.

75. *"Discharge, Storm Water"* shall mean any stormwater which leaves a site and subsequently enters any artificial or natural drainage system or drainage way.

76. *"Domestic Vehicle"* shall mean an automobile or non-commercial vehicle designed and used for personal purposes.

77. *"Dormitory"* shall mean a building that is owned and/or operated by an educational institution whose primary purpose is to provide living accommodations for individuals associated with the institution.

78. *"Double Frontage Lot"* shall mean a lot with street frontage on two boundaries.
79. *"Drainage Facilities"* shall mean any drainage way or facility designed and constructed to control the surface flow of water and may include surface and sub-surface components.
80. *"Driveway"* shall mean the portion of a lot and right of way used for vehicular access between an abutting street and a vehicular parking area. A driveway serving multiple units on one lot shall not be considered a private drive or private street.
81. *"Dry Cleaner"* shall mean an establishment which provides laundry, dyeing or dry cleaning services to individual customers. Drop-off facilities for cleaning off-the-premises shall be deemed "personal service establishments".
82. *"Dumpster"* shall mean an enclosed container or a container with a lid used to temporarily store waste. A container used for domestic waste for single family shall not be deemed a dumpster.
83. *"Dwelling, Mobile Home or Manufactured Home"* shall mean a dwelling unit constructed off site on a chassis or frame and moved or placed on a lot and connected to utilities.
84. *"Dwelling, Multi-Family"* shall mean a building or structure designed to contain three or more dwelling units.
85. *"Dwelling, Single-Family"* shall mean a building or structure designed to contain no more than one dwelling unit.
86. *"Dwelling, Two-Family or Duplex"* shall mean a building or structure designed to contain no more than two dwelling units. *"Dwelling Unit"* shall mean a dwelling structure, or portion thereof, designed, constructed or used as living quarters for one family, and which includes facilities for food preparation, sleeping and sanitation.
87. *"Easement"* shall mean a grant by a property owner of one or more of the rights associated with the property for use by the public, a corporation or another person or entity. Easements shall not be subtracted from the total lot area.
88. *"Eating and Drinking Establishment"* shall mean any establishment which provides, for compensation, food or drinks primarily for consumption on the premises. This term does not include establishments which provide drive-through facilities or whose primary business is the preparation of food to be consumed off the premises.
89. *"Eating Establishment, Drive-Through"* shall mean any facility which provides one or more windows which allow patrons to buy and pick up food from their vehicle for consumption off premises.
90. *"Emergency Shelter"* shall mean any building, structure, residence or place for the temporary housing or care of individuals or families (including limited counseling) for a period not to exceed thirty (30) days. This term shall not be deemed to include day care facilities, day care homes, family care homes, family care facilities, nursing, rest or convalescent homes, halfway houses or similar facilities.
91. *"Existing"* shall mean in existence on or before the effective date of this Code.
92. *"Family"* shall mean one or more persons occupying a dwelling and living as a single housekeeping unit. Family may include a group of not more than five (5) unrelated persons living as a single housekeeping unit or foster children living with one or more unrelated persons.
93. *"Family Care Facility"* shall mean a facility in which care is provided on a regular basis for seven (7) or more adults, including limited counseling and medical care, and commonly known as group care facilities, hospices, half-way houses, and similar facilities.

94. *"Family Care Home"* shall mean a facility which provides for care in the owner's residence on a regular basis, for six (6) or fewer adults at any time, excluding residents of the dwelling.
95. *"Fence"* shall mean a freestanding structure of metal, masonry, stone, wood or any combination, which is attached to the ground and used for confinement, screening, or partitioning purposes.
96. *"Fill"* or *"Filling"* shall mean the placement of material or soil on any property in any manner which increases or alters the flow of stormwater on any adjacent lot. Soil preparation for gardening purposes shall not be deemed "fill".
97. *"Flea Market"* shall mean any premises where the principal use is the sale of new and used household goods, personal effects, tools, art work, handicrafts, and small appliances or equipment in small quantities on a temporary or limited basis. Spaces or booths may be rented or leased to individuals for the sale of products.
98. *"Floor Area"* shall mean the square footage of the horizontal floor area within any building or structure measured from the interior walls.
99. *"Formula-Based Restaurant"* shall mean a restaurant that is required by contractual or other arrangement to offer any of the following: standardized menu, employee uniforms, interior and/or exterior color schemes, architectural design, signage or similar standardized features, or which adopts a name or food presentation format that causes it to be substantially identical to another restaurant regardless of ownership or location.
100. *"Formula-Based Retail"* shall mean a retail use that is required by contractual or other arrangement to offer any of the following: standardized inventory, employee uniforms, interior and/or exterior color schemes, architectural design, signage or similar standardized features, or which adopts a name or product presentation format that causes it to be substantially identical to another store regardless of ownership or location.
101. *"Freight Rail Distribution Center"* shall mean a facility or a group of facilities that perform consolidation, warehousing, packaging, decomposition and other functions linked with handling freight. Their main purpose is to provide value-added services to freight. They can also perform light manufacturing activities such as assembly and labeling. They can accommodate warehouses designed to store goods for longer periods of time.
102. *"Frontage"* shall mean the length of the front lot line for a single parcel of land which runs contiguous to and parallel with public right-of-way or private street or easement which it borders.
103. *"Funeral Home"* shall mean any building or structure, or part thereof used for human funeral services which may include a chapel or facility to be used for funeral services. A funeral home and funeral home services shall not include cremation services.
104. *"Gas Pump"* shall mean any device used for the sale of fuel where no service or repair activity is provided. The sale of fuel may be secondary or incidental to the sale of other goods or products.
105. *"Group Housing"* shall mean any premises where the principal use is the housing of two or more individuals not living as a single housekeeping unit and which does not have individual cooking and eating facilities or separate apartments. This term shall be deemed to specifically include sororities, fraternities, retreat houses, camps, convents or similar uses but does not include hotels, family care facilities, family care homes or boarding houses.
106. *"Hard Surfaced"* shall mean surfaced with asphalt, concrete, paving stones and



similar material. Gravel is not considered hard surfaced.

107. *"Historic Property,"* or *"Historic Resource"* shall mean any property, building, structure, or place identified as having local, state or national historic significance.

108. *"Home Occupation"* shall mean any activity undertaken or intended for financial gain by the occupants of any dwelling unit.

109. *"Home Owners Association"* shall mean a formally constituted nonprofit association or corporation made up of the property owners and/or residents of fixed place and responsible for the costs and upkeep of common facilities.

110. *"Hotel, Motel"* shall mean a facility designed and constructed to provide sleeping facilities for travelers for a fee and for limited periods of time. Common terms include inn, motor inn, motor lodge, tourist cabin, and tourist court. A hotel may have limited cooking facilities in individual rooms provided, however, that no more than fifteen (15) percent of all the units may provide cooking facilities.

111. *"Hotel, Motel – Extended Stay"* shall mean a facility that contains six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation including but not limited to such facilities as refrigerators, stoves, and ovens. Guests primarily stay for periods of one week or more. Extended stay hotels/motels shall not be occupied by children in the local school system. Extended stay hotels/motels shall not be used as permanent residences.

112. *"Impervious Surface"* shall mean that portion of a lot or parcel of land which has been compacted or covered in such a way to resist the infiltration of water. This shall include any building, structure, roof, sidewalk, street, driveway or similar uses.

113. *"Incinerator"* shall mean any facility designed to be used for the disposal by combustion of products or materials.

114. *"Infrastructure"* shall mean road, water, sewer, storm water, street lights, drainage systems or similar facilities.

115. *"Junk Vehicle"* shall mean any vehicle, trailer, semi-trailer or other motorized conveyance which, for a period exceeding thirty (30) days is inoperable or in a condition that would not be allowed to operate upon public roads in its present condition under the law of the State of Vermont. Vehicles which are used for salvage or parts are specifically deemed to be junk vehicles. Vehicles that are being repaired or restored shall be excluded if the owner demonstrates that efforts to bring the vehicle to an operable condition have been made and will be completed within thirty (30) days. The restoration or repair of one antique vehicle, owned by the resident, and repaired or restored within an enclosed structure, shall not be deemed a junk vehicle.

116. *"Junk Yard"* shall mean any place which is maintained, operated or used in connection with a business for storing, keeping or processing, buying or selling junk for processing or use on or off the premises. Also included is any facility designed or used for the storage or sale of unlicensed vehicles or parts from vehicles. This does not include a garage or service station where wrecked or damaged vehicles are stored for less than thirty (30) days, or a recycling or waste collection center approved under provisions of this Code, or new or used car sales establishments where vehicles for sale are unlicensed.

117. *"Landfill Collection Site"* shall mean any premises, facility, structure, or building designed and utilized for the temporary storage or sorting of materials for later removal to a landfill or recycling center.

118. *"Landscape Service"* shall mean any establishment which provides maintenance,

planting, sodding, seeding, trimming or other care to any plant off-premises. The production and storage of plant materials on the premises for pick-up and delivery is also deemed a landscape service.

119. *"Livestock or Other Domesticated Farm Animals"* shall mean animals typically associated with farm or agricultural practices. Livestock or domesticated animals shall include but not limited to the following: bison, chickens, cows, ducks, geese, goats, horses, ostrich, llamas, sheep, swine, etc.

120. *"Lot"* shall mean a definable parcel of land occupied or capable of being occupied by one or more structures or uses as regulated and approved by this Code.

121. *"Lot Area"* shall mean the area within the property lines of a lot, calculated from dimensions of the boundary lines of the lot, exclusive of any portion of the lot that is within a public or private street.

122. *"Lot Consolidation"* shall mean a procedure used to combine two or more lots into a single lot.

123. *"Lot, Corner"* shall mean a lot abutting two (2) or more intersecting public or private streets.

124. *"Lot Coverage"* shall mean that portion of the area (square footage) which is covered by buildings, structures, parking areas, sidewalks, driveways or other impervious surfaces.

125. *"Lot Depth"* shall mean the distance between the front and rear lot lines.

126. *"Lot Line"* shall mean the boundary which separates the lot from adjoining lots or streets.

127. *"Lot Line, Front"* shall mean a lot line which separates the lot from a public or private street or approved easement.

128. *"Lot Line, Side"* shall mean a lot line which separates a lot from adjoining properties.

129. *"Lot Line, Rear"* shall mean the lot line intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

130. *"Lot, Reverse Frontage"* shall mean any lot, intentionally designed so that the front lot line faces a local street rather than facing a parallel major street and which provides no access to the major street.

131. *"Lot Width"* shall mean the horizontal distance between the side lot lines of a lot measured along a straight line, parallel to the front line at the minimum required building setback line.

132. *"Mail Services"* shall mean any establishment which engages in the distribution of mail or parcels.

133. *"Manufacturing, Heavy"* shall mean any land use where a principal activity is the assembly or creation of products from raw materials. Specifically included are asphalt batch plants, commercial incinerators (not accessory to a permitted use), oil, gas or coal fired facilities used to process raw products, and other similar uses which potentially generate water or air-borne pollutants.

134. *"Manufacturing, Light"* shall mean any business where the principal use is the assembly of materials or parts to be used in the manufacture or assembly of consumer products including small appliances, electronics, computers, and other products. Research and development of new products, or improvements to existing products is permitted.

135. *"Massage Therapy"* shall mean the scientific manipulation of the soft tissues of

the body for the purpose of normalizing those tissues and consists of manual techniques that include applying fixed or moveable pressure, holding, and/or causing movement of, or to, the body to enhance health and healing when undertaken by a Massage Therapist that is certified or registered through the National Certification Board for Therapeutic Massage and Bodywork's certification program, or an approved alternative certification body, for example AMA-VT.

136. *"Material Change in Use"* shall mean a change from:

- (a) One type of use identified in the Use Table set forth in Section 620 to another type of use set forth in such table or a use not set forth in such table; or
- (b) A type of use not set forth in the Use Table at Section 620 to a type of use set forth in such table; or
- (c) A type of use not set forth in the Use Table at Section 620 to another type of use not set forth in such table.

137. *"Medical and Dental Lab"* shall mean any establishment whose principal business is the processing, testing, or analysis of materials for medical purposes and which provides limited direct client service. Clients or patients shall not be examined or treated on the premises.

138. *"Mini Warehouse"* shall mean a storage facility designed and constructed for rent of individual storage spaces to customers where each rented or leased space has an individual door or gate. The storage or lease of spaces for commercial storage shall be deemed a warehouse.

139. *"Motor Vehicle Maintenance Service"* shall mean a facility which provides vehicle maintenance, including oil changes and lubrication, tire sales and replacement, and minimal work while the customer is on the premises. Sale of gasoline, oil, tires or parts for use off premises is not permitted.

140. *"Motor Vehicle Repair Services"* or *"Service Station"* shall mean any facility which provides repair service to individual vehicles including the installation of new or used parts. Repair and installation includes engine repair, transmission repair, body repair, and the installation or replacement of any mechanical parts. Car washing, maintenance services, tire installation and sale of parts may be an incidental or accessory use. The sale of gasoline may be permitted.

141. *"New Unit"* shall mean a dwelling unit approved and constructed pursuant to the Land Development Code without credit or consideration for whether it replaces any pre-existing dwelling unit. With respect to any section of this Code, there shall be no credit or reduction of any kind for an existing dwelling unit that is replaced by a new unit.

142. *"Nursing, Rest, or Convalescent Home"* shall mean an institution other than a hospital for the care of children, the aged, the infirm, or those suffering long-term bodily ailments and whose residents require on-going professional care and assistance.

143. *"Occupancy"* shall mean the use of any structure, premises, or portion thereof which is leased, rented, or owned, for any conditional, permitted, or non-conforming use.

144. *"Office"* shall mean any building, structure, room, suite or portion thereof where the occupant transacts business or carries on a stated occupation. An office shall not include the manufacture, assembly, cleaning, testing, processing, or repair of any product.

145. *"Office, Home"* shall mean any business use of a room, or portion thereof, within a dwelling, which meets the home occupation standards.

146. *"Office, Incidental"* shall mean any suite, room or occupancy within a building used for the purposes of meeting customers or processing paperwork for the permitted business.

147. *"Office, Professional"* shall mean any building or structure where the principal use is the conduct of business by professionals such as engineers, architects, planners, land surveyors, artists, attorneys, accountants, insurance agents, real estate brokers, and limited dental and medical services. Facilities which provide overnight care to any customer shall not be deemed a professional office.
148. *"Off-Site Improvements"* shall mean improvements to public infrastructure required as a condition of approval of a development which created the need for the improvements.
149. *"Open Space"* shall mean that area within the boundaries of any lot or development that is intended to provide light and air and upon which no improvement which creates impervious surfaces may be installed, erected, or constructed. Open space shall in general be available for entry and use by the occupants of the lot. Ordinarily, open space shall be maintained with vegetative cover.
150. *"Ownership"* or *"Owner of Record"* shall mean the individual, group, or corporation with legal title to the land or with a contract to obtain legal title, or an individual, group, or corporation given specific ownership rights by a lease.
151. *"Parcel"* shall mean a lot or tract of land.
152. *"Parking Area"* shall mean any area outside of any street right-of-way or easement specifically allocated and designed to accommodate the parking or storage of domestic vehicles.
153. *"Parking, Commercial"* shall mean the use of land or structures as a principal use for the parking of vehicles for a fee.
154. *"Parking Space"* shall mean a striped or signed space designed to accommodate one vehicle. Spaces may be marked for handicapped vehicles, small cars, recreational vehicles, or other type of motorized vehicle.
155. *"Personal Service Establishment"* shall mean a facility which provides care to a person or a person's apparel, barber shops, beauty shops, seamstress shops, shoe repair shops, coin-operated laundries, optician shops, diet centers, health clubs, spas, pet grooming shops and similar uses. Sales of products must be clearly incidental to the services provided.
156. *"Planned Unit Development"* or *"PUD"* shall mean one or more parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses in non-residential Districts. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to the area, density or dimensional requirements or allowable number of structures and uses per lot as established in any one or more districts created under the provisions of these regulations. The specific requirements of a PUD and the area, density and dimensional provisions that may be modified are further defined in each district in which PUDs are allowed.
157. *"Planning Commission"* or *"Commission"* shall mean the Planning Commission created under provisions of Title 24, Chapter 117 of Vermont Statutes appointed by the Village Board of Trustees with the responsibilities as specified by Vermont Statutes, the Village Charter and the provisions of this Code.
158. *"Pollution"* shall mean the presence in the air, water, or soils of any substance, contaminants or noise which may be harmful or hazardous to human health or welfare or animal and plant life or property as defined by Federal and State law.
159. *"Principal Building"* shall mean a building or structure in which is conducted the

main or principal use of the lot or parcel upon which said building is located.

160. *"Principal Use"* shall mean the main use which is conducted on a lot or parcel or within a building or structure located on the lot or parcel.

161. *"Private Community Use"* shall mean any structure used, owned or operated by a profit or non-profit organization for the sole benefit of its membership. Food and beverages may be provided on the premises if the facility is so designed and constructed. Membership may be recreational or social.

162. *"Private Street"* shall mean any street which has not been accepted as a public street.

163. *"Private Yard"* (condo, townhouse, etc.) shall mean any yard fenced, screened or walled to provide private space on the lot for the owners or occupants of a dwelling of any type.

164. *"Public"* shall mean any use, land, structure, building, or facility used by any state or local governmental entity for use by the general public regardless of ownership.

165. *"Public Hearing"* shall mean any duly noticed hearing on an application or use as specified by this Code.

166. *"Public Meeting"* shall mean any duly noticed meeting at which a quorum (a majority) is present to conduct business.

167. *"Public Street"* shall mean a street owned by the municipality.

168. *"Public Works Standards"* shall mean the construction and installation standards adopted herein for infrastructure or connection to or use of existing public infrastructure.

169. *"Recreation Use, High Intensity"* shall mean any public, quasi-public or private property where the principal use is a zoo, aquarium, amusement park, stadium, drive-in facility, golf course, exposition center, or similar use or activity.

170. *"Recreation Use, Low Intensity"* shall mean any public, quasi-public or private facility where the principal use is for active or passive recreation in a park, playground, athletic field, tennis court, bike path, or similar facility for indoor and outdoor activities. Indoor recreation structures may have accessory uses or structures such as snack bars, locker rooms, and pro shops that are designed and intended for use by the patrons of the primary use. A private club house restricted to use by development residents may be a low intensity recreation use.

171. *"Recreation Use, Medium Intensity"* shall mean any recreation facility or use such as billiards, bowling, miniature golf course, in-door shooting range, arcade, pool halls, theaters and similar facilities.

172. *"Recreation Use, Temporary"* shall mean any recreation use which is established on a temporary basis including circuses, carnivals, booths, festivals, and similar uses.

173. *"Recreational Vehicle"* shall mean any vehicle built and used primarily for recreation purposes (including boats) and designed to be pulled behind another vehicle or any motorized vehicle which accommodates sleeping and/or eating. Common terms include camper, topper, trailer, motor home, and RV.

174. *"Recreational Vehicle Site"* shall mean any parcel or portion thereof designed and constructed to accommodate the parking of one or more recreational vehicles for a fee.

175. *"Recycling Center"* shall mean a facility designated for the delivery and pick-up of recyclable materials.

176. *"Redevelopment"* shall mean the alteration, conversion, reconstruction, structural alteration or enlargement of any structure or the change in any use.

177. *"Repair Service Establishment"* shall mean a business in an enclosed structure whose principal use is the repair and replacement of common household items such as

appliances, watches, musical instruments, computers, bicycles, radios, televisions, refrigerators, air conditioners and similar uses. Product sales shall be incidental to the repair business.

178. *"Residential Development"* shall mean any subdivision, apartment, cluster home, carriage home, condominium, or townhouse designed and constructed for residential occupancy.

179. *"Re-Subdivision"* shall mean the creation of a new subdivision whose boundaries or lot lines have changed from a previously approved subdivision and excluding "lot division", "lot consolidation" or "boundary adjustment".

180. *"Retail, Convenience"* shall mean an establishment whose principal use is the sale of products in small quantities for the daily use of customers including but not limited to bakeries, food stores, newsstands, tobacco shops, card shops, liquor stores, delicatessens, musical supply stores, pet stores, jewelry stores, camera and photography supplies, ice cream parlors, meat and seafood shops, and florist shops.

181. *"Retail, Sales,"* shall mean an establishment whose principal use is the sale of products for consumption or use by the customer off the premises. This shall include but not be limited to hardware, department, paint, office equipment, sporting goods, trading stamp and redemption outlets, television (including satellite dishes), automotive supply and major household appliance stores (including refrigerators, stoves, ovens, air conditioners, furnaces).

182. *"Right-of-way"* shall mean any parcel of land deeded or for which an easement is granted for the current or future construction of a public or private street. A right of way shall be subtracted from the total lot area.

183. *"Roadside Sale of Agricultural Products"* shall mean the use of any lot or portion thereof for the display or sale of locally grown or produced agricultural products on a temporary or seasonal basis.

184. *"Sales, Outdoor"* shall mean the use of any lot or parcel or portion thereof for the sale and storage of any product or the exchange or swapping of any product among customers.

185. *"Sales, Temporary"* shall mean the use of any structure, lot or parcel for limited sales events which are conducted on private or public property for brief periods of time.

186. *"Salvage"* shall mean the recovery of any product from the waste stream with intent to recycle or sell for any purpose.

187. *"School"* shall mean any establishment certified by the Vermont Department of Education, including parochial, private, public and nursery schools, colleges, universities and accessory uses, but specifically excluding commercially operated schools of beauty, culture, business, dancing, driving, music and other similar establishments.

188. *"Service Bay"* shall mean a space designed and constructed for the placement of any motor vehicle for repair, servicing, or washing. Service bays may be located outside of structures.

189. *"Service Station"* See *"Motor Vehicle Repair Services"*.

190. *"Setback"* shall mean the required minimum horizontal distance from the property line to the nearest point of a structure.

191. *"Sewer Allocation"* shall mean the granting of specific rights to discharge sewage into a sewer for treatment at the Village's Waste Water Treatment Plant.

192. *"Shopping Center"* shall mean a structure or series of structures which contain a variety of commercial outlets for purchasing goods and services.

193. *"Site Plan"* shall mean a plan, prepared to scale, showing accurately and with

complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principle site development features proposed for a specific parcel of land.

194. *"Small Scale Facility"* shall mean any Wireless Telecommunication Facility that is installed on the ground and does not exceed 20 feet in elevation and/ or that is installed on an existing building or structure and does not extend more than 20 feet from the building or structure.

195. *"Solar Collector" "Solar Receptor"* shall mean a device designed and used for collecting solar energy and converting it to heat or electrical energy.

196. *"Solid Waste Collection Point"* shall mean an area or facility designated for the temporary collection and transfer of waste to an approved landfill.

197. *"Stable, Public"* shall mean any boarding and grooming facility for horses or other livestock with stalls for rent to the general public. A stable may include riding facilities and trails.

198. *"Staff"* shall mean any Village employee or other personnel retained on a contractual basis to whom is delegated the authority to take specific actions as provided herein.

199. *"Storage, Outdoor"* shall mean any facility whose principal use is the storage of products, equipment, recreation vehicles or supplies and which does not include storage of vehicles for sale to the general public.

200. *"Stormwater Retention Facility"* shall mean any facility designed and constructed to hold stormwater runoff.

201. *"Stormwater Runoff"* shall mean water from precipitation which is not absorbed into the soil, does not evaporate and which runs across the land during periods of precipitation.

202. *"Story"* shall mean a portion of a building between an upper surface of a floor and the upper surface of the floor above, or if there is no floor above it, the space between such floor and ceiling above it. A basement shall be considered as a story when the distance from grade to the finished surface of the floor above the basement is more than six (6) feet for more than 50 percent of the perimeter or more than twelve (12) feet at any point.

203. *"Street"* shall mean any public or private way designed for use by motorized and non-motorized vehicles and pedestrians; and providing access to adjoining lots.

204. *"Structure"* shall mean the assembly or placement of any materials for occupancy or use including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence (except a wall or fence on an operating farm and fences less than six (6) feet in height) and tanks for storage of gas and/or oil consistent with Section 4303 of Title 24, Chapter 117 of Vermont Statutes Annotated.

205. *"Subdivision"* shall mean any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, plots, units or interests for the purpose of offer for sale, lease or development. Multi-Family developments of 5 or less units shall not be considered a subdivision.

206. *"Substantial Improvement"* shall mean any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started (b) if the structure has been damaged and is being restored, the value of the structure before the damage occurred. The term does not, however, include (1) any improvement to comply with existing State or local health, safety or sanitary code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the

National Register of Historic Places or a State Inventory of Historic Places

207. *"Taxi-cab and Limousine Service"* shall mean a parcel, building or space designated for use by any company providing transportation for a fee. Incidental office space, structures designed for the storage of vehicles and the outdoor storage of vehicles not currently in service may be included.

208. *"Temporary Permit, Champlain Valley Exposition"* shall mean any permit authorized herein and issued for specific events at the Champlain Valley Exposition Fairgrounds.

209. *"Temporary Structure"* shall mean any structure in place greater than six months in any 12 month period shall not be considered a temporary structure.

210. *"Temporary Use"* shall mean an identified use permitted on an occasional basis for a specific length of time.

211. *"Temporary Use Permit"* shall mean a permit authorizing the establishment of a specific temporary use.

212. *"Traffic Impact Study"* shall mean a study which analyzes the traffic generated by a specific development proposal and describes the impact of the traffic generated on adjacent streets, intersections and driveways. A traffic impact study may also include a study of impact on streets or intersections not immediately adjacent to the proposed development.

213. *"Transfer of Development Rights"* shall mean a process by which the right to develop one portion of a parcel of land (sending area) is transferred to another portion of the same parcel (receiving area). The right to develop the sending area of land is eliminated.

*"Trustees"* or *"Board of Trustees"* shall mean the legislative body of the Village of Essex Junction elected pursuant to the provisions of the Village Charter.

214. *"Utility Uses, Utilities"* shall mean any public regulated company or governmental entity which provides specific public services including electricity, natural gas, telephone, cable television, water, sewer, storm sewer and similar facilities.

215. *"Variance"* shall mean a procedure by which a waiver of Code requirements may be obtained from the Zoning Board when the strict application of the Code to a specific parcel will cause undue hardship.

216. *"Vehicle Sales"* shall mean the sale of cars, sport utility vehicles and light trucks.

217. *"Visibility Triangle"* shall mean a designated area located adjacent to the intersection of two or more streets or driveways which shall be kept free from visual obstruction.

218. *"Warehouse"* shall mean a facility where the principle use is the storage of merchandise, products, or materials for a fee or for distribution or sale to other businesses. Storage of materials incidental to a permitted use is not a warehouse.

219. *"Wild Animals"* shall mean any non domesticated animals.

220. *"Wireless Telecommunication Facility"* shall mean any tower or other support structure, including antennae, that will extend 20 or more feet vertically, and any accompanying structure, building, access road, service utility or equipment that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services.

221. *"Wireless Telecommunication Service"* shall mean any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.



222. *"Wireless Telecommunication Service Provider"* shall mean any person or entity providing Wireless Telecommunication Services.

223. *"Yard"* shall mean the required open space area located on the same lot with a building or structure, unoccupied and unobstructed from the ground up. The minimum depth or width of a yard shall be the horizontal distance between the lot line and the nearest point of the structure.

224. *"Yard, Special"* shall mean the required front, side or rear lot area normally required for setbacks which, due to unusual lot configurations, cannot meet the standard side, front, or rear yard definitions.

225. *"Zero Lot Line"* shall mean a piece of real estate in which the structure comes up to, or very near to the edge of the property line.

226. *"Zoning Board of Adjustment," "Zoning Board," "Board of Adjustment,"* or *"Board"* shall mean the Board as appointed by the Village Trustees which has the specific authority to act on variances, conditional uses, and Code interpretations as specifically delegated by this Code and provisions of the State of Vermont Statutes.

D. Transit Oriented Development. For the purposes of Section 608 of this Code, the following definitions shall apply:

1. *"Affordable Housing"* shall mean housing, either rental or for sale, that is affordable to households earning eighty (80) percent of the median income for the Burlington Metropolitan Statistical Area (MSA) as established by the US Census Bureau and for which they pay no more than thirty (30) percent of their gross income for housing, which includes utilities for rental properties.

2. *"Alley"* shall mean a vehicular driveway located to the rear of lots providing access to service areas and parking, and containing utility easements. Alleys should be paved from building face to building face, with drainage by inverted crown at the center or with roll curbs at the edges.

3. *"Block"* shall mean an aggregate of private lots, passages, rear lanes and alleys, circumscribed by thoroughfares.

4. *"Façade"* shall mean the exterior wall of a building that is set along a frontage line.

5. *"Frontage Line"* shall mean lot lines that coincide with a public frontage. Facades along frontage lines define the public realm and are therefore more regulated than the elevations that coincide with other lot lines.

6. *"Liner Building"* shall mean a building specifically designed to mask a parking lot or a parking garage from a frontage.

7. *"Parking Structure"* shall mean a building containing two or more stories of parking. Parking structures shall have liner buildings for the full height of the parking structure.

8. *"Pedestrian Oriented Design"* shall mean the design of community neighborhoods, streetscapes, sites, and buildings that emphasizes pedestrian access, comfort, and visual interest. Transit-Oriented Design that includes design and intensity of land use to support transit in addition to pedestrians.

9. *"Plaza"* shall mean a public open space at ground level wholly or partly enclosed by a building or buildings. It is continuously accessible to the public and has openings to the sky.

10. *"Rowhouse"* shall mean a single-family dwelling that shares a party wall with another of the same type and occupies the full frontage line.

11. "*Square*" shall mean an open space available for unstructured recreation and civic purposes. A square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important thoroughfares. The minimum size shall be 1 acre and the maximum shall be 5 acres.

12. "*Streetscape*" shall mean the urban element that establishes the major part of the public realm. The streetscape is composed of thoroughfares (travel lanes for vehicles and bicycles, parking lanes for cars, and sidewalks or paths for pedestrians) as well as the visible private frontages (building facades and elevations, porches, yards, fences, awnings, etc.) and the amenities of the public frontages (street trees and plantings, benches, streetlights, etc.).

13. "*Transit Oriented Development*" shall mean a development pattern characterized by a mix of uses surrounding a transit platform where streets have a high level of connectivity, blocks are small, and streetscape, buildings, and uses cater to the pedestrian.

14. "*Transit Park and Ride*" shall mean a facility designed for the temporary parking of automobiles, the occupants of which transfer to public transit or other automobiles to continue their trips.

E. Flood Plain Management Definitions. For the purposes of Section 614 of this Code, the following definitions shall apply:

1. "*Base Flood*" shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

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

3. "*Basement*" shall mean any area of the building having its floor elevation subgrade (below ground level) on all sides.

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

5. "*Expansion to an Existing Manufactured Home Park or Subdivision*" shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

6. "*Flood*" shall mean either:

(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; or

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water

exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

7. *"Flood Insurance Rate Map (FIRM)"* shall mean an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
8. *"Flood Insurance Study"* shall mean an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.
9. *"Floodplain or Flood-Prone Area"* shall mean any land area susceptible to being inundated by water from any source (see definition of "flood").
10. *"Flood Proofing"* shall mean 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.
11. *"Floodway"* shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
12. *"Historic Structure"* shall mean 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; or
  - (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; or
  - (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.
13. *"Legislative Body"* shall mean the selectboard in the case of a town, the trustees in the case of an incorporated village, and the mayor, alderpersons, and city council members in the case of a city, and the supervisor in the case of an unorganized town or gore.
14. *"Lowest Floor"* shall mean the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

15. *"Manufactured Home"* shall mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
16. *"Manufactured Home Park or Subdivision"* shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
17. *"New Construction"* shall mean, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
18. *"New Manufactured Home Park or Subdivision"* shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.
19. *"Recreational Vehicle"* shall mean a vehicle which is:
- (a) Built on a single chassis; or
  - (b) Four hundred (400) square feet or less when measured at the largest horizontal projection; or
  - (c) Designed to be self-propelled or permanently towable by a light duty truck; or
  - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
20. *"Special Flood Hazard Area"* shall mean the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".
21. *"Start of Construction"* includes substantial improvement, and shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration

affects the external dimensions of the building.

22. *"Structure"* shall mean, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means:

- (a) A building with two or more outside rigid walls and a fully secured roof, which is affixed to a permanent site;
- (b) A manufactured home; or
- (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

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

24. *"Substantial Improvement"* shall mean any reconstruction, rehabilitation, addition, alteration or other improvement of a structure, during any 5 year period, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the state or local code enforcement official and which are the minimum necessary to ensure safe conditions, or any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

F. Sewer Regulation Definitions. For the purpose of Chapter 11 of the Code, the following special definitions shall apply:

1. *"Biochemical Oxygen Demand (BOD)"* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) Celsius, expressed in milligrams per liter.
2. *"Building Drain"* shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. *"Building Sewer"* shall mean the extension from the building drain to the public sewer or private sewer or other place of disposal. Each building sewer is a private line and must be maintained by the property owner.
4. *"Combined Sewer"* shall mean a sewer receiving both surface runoff and sewage.
5. *"Garbage"* shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of

produce.

6. *"Industrial Wastes"* shall mean liquid or gaseous wastes from industrial manufacturing processes, trade, or businesses as distinct from sanitary sewage.
7. *"Natural Outlet"* shall mean an outlet into a water-course, pond, ditch, lake, or other body of surface or ground water.
8. *"Person"* shall mean any individual, firm, company, association, society, corporation, or group.
9. *"pH"* shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
10. *"Properly Shredded Garbage"* shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension.
11. *"Public Sewer"* shall mean a sewer in which all owners have equal rights which is controlled by public authority.
12. *"Sanitary Sewer"* shall mean a sewer which carries sewage not including storm, surface, and ground waters.
13. *"Sewage"* shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
14. *"Sewage Treatment Plant"* shall mean any arrangement of devices and structures used for treating sewage.
15. *"Sewage Works"* shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
16. *"Sewer"* shall mean a pipe or conduit for carrying sewage.
17. *"Slug"* shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
18. *"Storm Drain or Storm Sewer"* shall mean a sewer which carries storm and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
19. *"Superintendent"* shall mean the manager of the Sewage Department or his authorized deputy, agent or representative.
20. *"Suspended Solids"* shall mean solids that either float on the surface of, or are suspended in water, sewage, or other liquids, and which are removable by laboratory filtering.
21. *"Water-Course"* shall mean a channel in which a flow of water occurs, either continuously or intermittently.
22. *"Secretary"* shall mean the Secretary of the Agency of Natural Resources, State of Vermont, or his representatives.

G. Sign Regulation Definitions. For the purposes of Section 714 of this Code, the following special definitions shall apply:

1. *"Billboard"* shall mean an off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.
2. *"Directional sign"* shall mean a free-standing sign used at driveway entrances to

direct traffic flow which includes no advertising or logos.

3. *"Electronic Message Board"* shall mean a sign with a message copy or other display that is produced and periodically changed electronically or electrically that is attached to another sign, or to the support structure. The message copy or display shall be limited to public service announcements, time and temperature, and goods or services available on the premises, and shall consist of words, letters, numbers and punctuation only. Illumination shall be of a constant intensity, and shall not blink, flash or give the appearance of movement.

4. *"Facade"* shall mean the principal face of a building, usually facing the street and/or containing a public entrance.

5. *"Natural Causes"* shall mean those causes which occur naturally in nature, such as wind, rain or earthquakes. Natural deterioration caused by rot or rust or damage caused by human actions shall not be considered a natural cause.

6. *"Replacement Cost"* shall mean the estimated total cost of replacement, at fair market rates, with the same or similar materials, by a professional contractor.

7. *"Sign"* shall mean any device that is visible to persons not located on the lot where such device is located and designed to attract the attention of such persons or to communicate information to them.

8. *"Sign, Alteration"* shall mean any repairs or replacement of any part of a sign including its support structure except for repainting. Changing messages on a permanent display area of a sign designed for periodic changing of messages is not regarded as an alteration.

9. *"Sign, Facing or Face"* shall mean the surface of a sign board, background area, and structural trim through which a message is displayed or illustrated.

10. *"Sign, Free-Standing"* shall mean a sign that is permanently attached to, erected on, or supported by an independent structure which is not an integral part of or attached to a building or other structure. If the message is removed from a structure originally designed and used as a freestanding sign, this structure shall be considered a sign.

11. *"Sign, Government"* shall mean any traffic control, directional, or informational sign placed on any parcel or in the right-of-way for the purpose of protecting the general public health, safety, or welfare.

12. *"Sign, Grand-Opening"* shall mean a temporary sign used to announce the opening of new businesses which have been closed more than seven (7) days and are re-opening. Changes in management or ownership do not qualify under this definition.

13. *"Sign, Ground"* shall mean a permanent, free-standing sign located on or close to the ground.

14. *"Signs, Internally Illuminated"* shall mean signs where the source of the illumination is inside the sign and light emanates through the message of the sign. Signs which are filled with neon or other gas that glows shall be considered internally illuminated signs.

15. *"Sign, Off-Premises"* shall mean a sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises on which the sign is located. Signs which draw attention to causes or proclaim political, religious, or other non-commercial messages shall also be an off-premises sign.

16. *"Sign Permit"* shall mean a permit issued which authorizes the recipient to erect, move, enlarge or alter a sign.

17. *"Sign, Permanent"* shall mean any sign as defined herein, permanently affixed to a building or the ground.
18. *"Sign, Portable"* shall mean a free-standing sign not permanently affixed, anchored or secured to the ground or structure on the lot it occupies, including trailered signs.
19. *"Sign, Projecting"* shall mean any sign which is attached to a building or other structure and which projects from the wall or roof surface of that portion of the building or structure to which the sign is attached.
20. *"Sign, Roof"* shall mean a sign on a roof that has a pitch of less than one-to-four. Signs on a roof with a pitch of greater than one-to-four shall be considered a wall sign.
21. *"Sign, Wall"* shall mean a permanent sign securely affixed to and parallel to the face of a wall of a building.
22. *"Sign, Window"* shall mean signs painted or posted on any glass or translucent surfaces.
23. *"Sign, On-Premises"* shall mean a sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, enterprise or activity that exists or is conducted, offered, sold, maintained, or provided on the lot where the sign is located.
24. *"Sign, Temporary"* shall mean a sign which is used in connection with an event that is designed, intended, or expected to take place or to be completed within a short or definite period. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary

H. Stormwater Regulation Definitions. For the purposes of Section 713 of the Code, the following special definitions shall apply:

1. *"Alter"* shall mean any site activity that measurably changes the ability of the ground surface area to absorb water or will change existing surface drainage patterns. Alter may also be represented as the alteration of drainage characteristics or conducting any activity that disturbs the land.
2. *"Best Management Practices" (BMP)* shall mean any structural or non-structural site improvements that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point and non-point source pollution and promote stormwater quality improvement with protection to the environment. *"Structural"* BMPs are devices engineered and constructed to provide treatment and temporary storage of stormwater runoff. *"Non- Structural"* BMPs use natural measures involving site characteristics to reduce the volume of stormwater or eliminating the source of the pollutant. Non-structural BMPs do not require extensive construction effort in order to promote pollutant reduction.
3. *"Erosion and Sediment Control Plan"* shall mean a plan that indicates the specific measures and their sequencing for use to control sediment and erosion on a development site during and after construction.  
*"Existing Development"* shall mean a development that was built prior to the effective date of the adoption of this Code.
4. *"Illicit Connection"* shall mean either of the following:
  - (a) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any



connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency.

(b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized state agency or by the Village of Essex Junction.

5. "*Illicit Discharge*" shall mean any direct or indirect non-stormwater discharge to the storm drain system, except as may be exempted under Section 713 of the Code.

6. "*Impervious Cover*" shall mean human-made surfaces including, but not limited to, paved and unpaved roads, parking areas, building roofs, driveways (paved and unpaved) walkways and compacted surfaces, including lawn areas compacted by heavy vehicle or pedestrian traffic, from which precipitation and run off rather than infiltrates. For purposes of this section, decks that allow water through to the ground below shall not be considered impervious cover. Pervious pavement designed per this Code and manufacturer's specifications for cold northeastern regions shall be acceptable and will not be exempt.

"*Infiltration*" shall mean the process through which stormwater runoff penetrates into soil from the ground surface.

7. "*Maintenance Agreement*" shall mean a legally recorded document that acts as a property deed restriction and provides for long-term maintenance of stormwater management practices.

8. "*MS4*" shall mean the Municipal Separate Storm Sewer System.

9. "*New Development*" shall mean the construction of new impervious surfaces on a tract or tracts of land occurring after the effective date of this Code.

10. "*Non-Stormwater Discharge*" shall mean any discharge to the storm drain system that is not composed entirely of storm water.

11. "*Pollutant*" shall mean anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, or other wastes containing fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

12. "*Redevelopment*" shall mean in the context of stormwater, any construction, alteration, or improvement exceeding ten thousand (10,000) square feet on previously developed land.

13. "*Riparian Buffer*" shall mean the width of land adjacent to lakes or streams between the top of the bank or top of slope for streams and the edge of allowed project activity. Riparian buffer zones are typically undisturbed areas consisting of trees, shrubs, groundcover plants, duff layer, and naturally vegetated uneven ground surfaces, that protect the water body, the shoreline and the adjacent riparian corridor ecosystem from the impact of land development. See Section 516 of this Code.

14. "*Runoff*" shall mean drainage or flood discharge that leaves an area as surface flow or as pipeline flow that has reached a channel or pipeline by either surface or sub-surface routes.

15. "*Sediment*" shall mean soil, sand, and minerals washed from land into water, usually after rain. Sediment can destroy fish nesting areas, clog animal habitats, and cloud water so that sunlight does not reach aquatic plants.
16. "*Stormwater*" shall mean any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
17. "*Stormwater Management*" shall mean the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
18. "*Stormwater System*" shall mean storm sewers; outfall sewers; surface drains; natural and manmade wetlands; channels; ditches; wet and dry bottom basins; rain gardens; and other control equipment necessary and appurtenant to the collection, transportation, conveyance, pumping, treatment, disposal, and discharge of regulated stormwater runoff.
19. "*TMDL*" shall mean Total Maximum Daily Limit as established by the State of Vermont Water Quality Division for management and restoration of impaired waterways. TMDLs are contained within applicable impaired watersheds that have been determined to not meet water quality criteria under Section 303d of the Clean Water Act.
20. "*Vermont Stormwater Management Manual – Volumes I and II (as amended)*" shall mean the guidance manual referenced in this Code that includes regulatory requirements for the management of stormwater and technical guidance to assist in the design of stormwater treatment systems.

I. Riparian Buffer District Definitions. For the purposes of Section 516 of the Code, the following special definitions shall apply:

1. "*Riparian Buffer*" shall mean a vegetated area, including trees, shrubs and herbaceous vegetation, which exists or is established to protect a stream or wetland. Alteration of this natural area is strictly limited. The buffer setback is defined as the horizontal distance from a stream bank or channel, shoreline or wetland area, to the nearest part of a building, structure or impervious surface on the property.
2. "*Non-Point Source Pollution*" shall mean pollution which is generated by various land use activities rather than from an identifiable or discrete source, and is conveyed to waterways through natural processes, such as rainfall, stormwater runoff, or ground water seepage rather than direct discharge. This may include surface run off from individual sites or properties.
3. "*Stream*" shall mean the full length and width, including the bed and banks, of any moving watercourse including creeks, brooks, rivers, branches, and kills. A stream has a channel, whether natural or artificial, that periodically or continuously contains moving water, has a defined bed, and has banks that serve to confine water at low to moderate flows. Streams include intermittent streams that have a defined channel and evidence of sediment transport, even if such streams do not have surface water flow throughout the year and/or throughout the channel.
4. "*Stream Banks*" shall mean the physiographic features that normally contain streams within a channel. The bank is distinct from the streambed, which is normally wetted and provides a substrate that supports aquatic organisms.
5. "*Top of Bank*" shall mean the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

6. "*Top of Slope*" shall mean a break in slopes adjacent to steep-banked streams that have little or no floodplain.

7. "*Wetlands*" shall mean lands that are inundated or saturated by surface water or groundwater with a frequency sufficient to support significant 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, river and lake overflows, mud flats, fens, bogs, and ponds. These areas are directly regulated under the State of Vermont and Federal regulations directly relating to wetland classification and delineation.

**SECTION 202: GENERAL RULES.** The rules as set forth in this Section shall apply to any interpretation of this Code unless specifically limited or altered by a specific provision of this Code or a Court of competent jurisdiction.

A. Generally. All provisions, terms, phrases or expressions shall be liberally construed in order that the true intent and meaning of the Commission and Trustees is met.

B. Gender. Words which are in the masculine gender shall be construed to include the feminine and neuter.

C. Number. Words used in the singular may include the plural and words in the plural may include the singular. All interpretations shall include the context in which the words are used.

D. Tense. Words in the past or present tense include the future as well as the past or present.

E. Year. The word year shall mean a calendar year unless otherwise indicated.

F. Shall; Should; May; Will; Includes. The word "shall" is mandatory; the word "may" is authorized but not required, the word "should" is desirable, but not mandatory; the word "includes" shall not limit a term to a specific example or series of examples, but is intended to extend its meaning to all other circumstances or examples of like kind or character.