

## **CHAPTER 7: GENERAL DEVELOPMENT STANDARDS**

**SECTION 701: PURPOSE.** The purpose of this Chapter is to provide development standards related to specific land uses and/or development standards for any use permitted by any provision of this Code. The regulations as established by this Chapter supplement and do not supersede other requirements of this Code.

**SECTION 702: APPLICABILITY.** The regulations and standards of this Chapter shall apply to all applications for development approval as required by this Code.

### **SECTION 703: PARKING AND LOADING**

A. **Purpose of Parking and Loading Provisions.** To ensure the adequate provision of parking and loading facilities for all development within the Village.

B. **Loading Requirements.** All uses shall provide off-street loading spaces except residential uses or other uses specifically waived by the Commission in accordance with Subsection 7 below.

1. **Location.** All loading spaces shall be located on the same lot as the principal use. Loading spaces shall minimize circulation conflicts on the lot. Loading areas shall not be calculated to include required off-street parking spaces.

2. **Size.** All loading spaces shall be of sufficient size to allow necessary maneuvering for deliveries without encroaching upon the public right-of-way, parking spaces, or internal parking lot circulation unless a specific waiver is approved by the Commission. Loading spaces shall be fifteen (15) feet wide by twenty-five (25) feet in length. The Commission may require greater dimensions if deemed necessary to handle projected truck traffic volumes.

3. **Surfaces.** All loading areas shall be hard-surfaced and clearly marked with painting to designate the loading area. This requirement may be waived by Staff or the Planning Commission.

4. **Combination of uses.** Loading spaces may be designed to serve one or more businesses located in the same building or on the same lot. The Commission may approve joint usage on adjacent lots provided a written agreement is submitted and filed with a deed.

5. **Ratios.** One (1) space for the first five thousand (5000) square feet of gross floor area. One (1) additional space for each additional thirty thousand (30000) square feet of gross floor area.

6. **Other standards.** Loading areas shall meet screening, landscaping, lighting, and other development standards as specified herein.

7. **Waivers.** All waiver requests shall be submitted in writing. Staff may approve a waiver request for a change in use which does not increase loading requirements or any building expansion which does not exceed five hundred (500) square feet of gross floor area. The Commission may approve waiver requests under the following circumstances.

(a) The proposed use will require minimal deliveries which will not interfere with the traffic circulation on the lot.

(b) Deliveries are made during non-business hours.

(c) Existing development makes it impossible to meet loading standards.

The Commission may require that waivers be filed with Town Land records and that a statement be attached that any change in use may require the construction of loading facilities.

C. Off-Street Parking Requirements.

1. All required parking spaces, with the exception of parallel parking spaces, shall have a minimum width of nine (9) feet and a minimum length of eighteen (18) feet. Parallel parking spaces shall have a minimum width of eight (8) feet and minimum length of twenty-two (22) feet.
2. Parking lot aisles shall meet the following minimum dimensional standards:

PARKING PATTERN	MINIMUM ONE-WAY AISLE WIDTH	MINIMUM TWO-WAY AISLE WIDTH
90° PERPENDICULAR	TWENTY'	TWENTY- FOUR
60° ANGLE	EIGHTEEN'	TWENTY- FOUR
45° ANGLE	SIXTEEN'	TWENTY- FOUR
30° ANGLE	FOURTEEN'	TWENTY- FOUR
PARALLEL	TWELVE'	TWENTY- FOUR

The following is a list of parking requirements. Based on the calculations below, fractions of a space shall be rounded up when the fraction of a space is one half (0.5) or above and rounded down when the fraction is below one half (0.5). The required number of off-street parking spaces shall be as follows:

LAND USE\BUILDING TYPE	REQUIRED PARKING SPACES
AUTO REPAIR\PAINTING	2.0 PER 1,000 SFGFA*
BANK	3.3 PER 1,000 SFGFA*
BANK WITH DRIVE-THROUGH TELLER	3.0 PER 1,000 SFGFA*
BOWLING ALLEY	4.5 PER LANE
CHURCH\SYNAGOGUE	.5 PER SEAT OR 22 LINEAR INCHES OF BENCH
CLEANERS	1.5 PER 1,000 SFGFA
CONSTRUCTION SERVICES ESTABLISHMENT	2.5 PER 1,000 SFGFA*
CONVENIENCE STORE	7.5 PER 1,000 SFGFA*
DEPARTMENT/DISCOUNT STORE	4.5 PER 1,000 SFGFA*
DRIVE-THROUGH FACILITY	3 SPACES PER DRIVE-THROUGH WINDOW
EATING AND DRINKING ESTABLISHMENT	1 PER 100 SQUARE FEET OF CUSTOMER SERVICE AREA
FAST FOOD RESTAURANT	MINIMUM – 6 SPACES PER 1,000 SQUARE FEET OF CUSTOMER AREA MAXIMUM – 10 SPACES PER 1,000 SQUARE FEET OF CUSTOMER AREA
FUNERAL HOME	MINIMUM – 1 PER 150 SFGFA* MAXIMUM – 1 PER 75 SFGFA*
FURNITURE STORE	2 PER 1,000 SFGFA*
HARDWARE STORE	3 PER 1,000 SFGFA*

LAND USE\BUILDING TYPE	REQUIRED PARKING SPACES
HOSPITAL/CLINIC	1.5 PER BED
HOTEL/MOTEL EXTENDED STAY	1 PER ROOM
INDUSTRIAL PARK	1.6 PER 1,000 SFGFA**
LANDSCAPE SERVICE	1.5 PER 2 EMPLOYEES + 1 PER BUSINESS VEHICLE
LAUNDROMAT	5.0 PER 1,000 SFGFA
MANUFACTURING (LIGHT AND HEAVY	1 PER 1,000 SFGFA *UP TO 20,000 SQUARE FEET 1 PER 2,000 SFGFA ABOVE 20,000 SQUARE FEET
MEDICAL CLINIC	3.5 PER 1,000 SFGFA*
MEDICAL AND DENTAL LAB	1.5 PER EMPLOYEE
MUSEUM/CULTURAL FACILITY	3.3 PER 1,000 SFGFA**
NURSING HOME	.33 PER ROOM
PERSONAL SERVICES ESTABLISHMENT	2.0 PER 1,000 SFGFA +1 PER CUSTOMER SERVICE STATION
PRINT/COPY SHOP	2.5 PER 1,000 SFGFA*
PROFESSIONAL OFFICE	3.5 PER 1,000 SFGFA*
RECREATION CENTER	4 PER 1,000 SFGFA*
RESIDENTIAL: ACCESSORY APARTMENT BED AND BREAKFAST  BOARDING HOUSE DORMITORY DUPLEX ELDERLY HOUSING FRATERNITY/SORORITY GROUP HOME MULTI-FAMILY  SINGLE FAMILY TRIPLEX	1 PER UNIT 1 PER SLEEPING ROOM +2 PER DWELLING 1 PER ROOM 1 PER ROOM 2 PER DWELLING UNIT .5 PER DWELLING UNIT 1.5 PER 1,000 SFGFA* .3 PER SLEEPING ROOM 2 PER DWELLING UNIT PLUS 1 GUEST SPACE FOR EACH 10 UNITS 2 PER DWELLING UNIT 2 PER DWELLING UNIT
RETAIL SALES ESTABLISHMENT	2.5 PER 1,000 SFGFA*
SERVICE STATION	5.5 PER 1,000 SFGFA*
SHOPPING CENTER	PARKING REQUIREMENT SHALL BE BASED ON THE NET USES OF THE SHOPPING CENTER.
SPORTS CLUB/HEALTH SPA	5 per 1,000 SFGFA*
WAREHOUSE, MINI	.25 PER 1,000 SFGFA*
WAREHOUSE	.25 PER 1,000 SFGFA*
VETERINARY CLINIC	2.5 PER 1,000 SFGFA*
* SFGFA=Square feet of gross floor area. ** SFGRA=Square feet of retail floor area	

D. Drive-through Facilities.

1. Location. Drive-through facilities shall not utilize required parking spaces to meet stacking requirements. Facilities shall be designed to minimize conflicts with other

on-site vehicular and pedestrian traffic.

2. Stacking requirements. A minimum of six (6) vehicles shall be accommodated in each stacking lane.

E. Parking or storage of junk vehicles. The parking or storage of any unregistered or junk vehicle is prohibited except as provided in a vehicle repair facility unless screened from view from the adjoining street and property line. No junk vehicle may be parked or stored within any required setback. No such vehicle parked, or stored on any lot shall decrease the required number of parking spaces. In no instance may junk vehicles be parked and stored in any Residential District except for one personally owned vehicle which is totally screened from view.

F. Parking of Commercial Vehicles in Residential Areas. The parking or storage of commercial vehicles shall not exceed one commercial automobile, pick-up or van at a residence.

G. Parking of Recreational Vehicles. Recreational vehicles shall meet the following requirements:

1. No more than one such vehicle may be parked in a driveway or front yard. Vehicle must be parked outside of the required setbacks.
2. No such vehicle, parked or stored, on any lot shall decrease the required number of parking spaces.
3. The parking of a recreation vehicle owned by visitors may be temporarily parked for a period of time not to exceed three (3) consecutive weeks.
4. Any recreational vehicle parked or stored on any residential lot for a period exceeding one (1) month shall be located in an enclosed garage, a carport, or a rear yard, except one (1) vehicle may be placed in a side yard to the rear of the front setback.

H. Parking of Recreational Vehicles on Public Property.

The Planning Commission may allow for the temporary off-site parking of recreational vehicles on public property provided it is reviewed and approved as part of a major event taking place within the Planned Exposition District. The Planning Commission may place conditions upon any approval in the following areas:

1. Time limits may be established for the use;
2. Maximum number of vehicles allowed;
3. Traffic safety measures; and
4. Conditions to ensure conformance with performance standards set forth in Section 718 and other applicable standards of the Code.

I. Vehicles For Sale. Any vehicle advertised for sale within any District and not in an approved car lot shall obtain a Temporary Use Permit except as specified below and shall meet the following standards:

1. Within any residentially zoned District, one (1) personal vehicle, which is properly registered to an occupant of the property, may be offered for sale at one time without a Temporary Use Permit.
2. Vehicles for sale may be parked only in designated drive-ways or parking areas and shall not be parked within any required setbacks.
3. No vehicle for sale may be parked in any public right-of-way in any district for more than twenty-four hours.
4. Vehicles for sale and parked in any parking lot for more than four (4) hours shall obtain written permission from the property owner. No more than two (2) Temporary Use Permits shall be granted for any parking lot at any time.

5. Nothing in this Section shall allow the sale of one or more vehicles within any District, or within the public right-of-way, for commercial purposes without full compliance with all provisions of this Code.

J. Parking of Storage Trailers, Storage Boxes and Similar Structures. The parking of storage trailers, storage boxes, railroad cars, or similar structures for storage of personal or business property is expressly prohibited in all districts unless a Temporary Use Permit has been granted. Temporary structures for construction purposes shall be allowed only during the time of construction. Temporary structures for storage of personal or business property shall be allowed for a period not to exceed three (3) months with a Temporary Use Permit. Temporary storage structures shall be located in a side or rear yard outside of the front setback.

K. Other Parking Standards and Applicability

1. Location. All parking lots shall require Site Plan Review. All parking lots shall be located on the lot for which the parking requirement was generated unless specific alternatives are approved by the Commission. The Commission may waive the required number of off-street spaces for a proposed development only if sufficient alternative parking is available or if a waiver is granted in accordance with Section 703.K.15.

2. Parking Lot Fund. The Commission may accept payment in lieu of construction of on-site parking spaces. The cash payment shall be placed in a public parking lot improvements fund. The value of any payments in lieu of construction shall be calculated by multiplying the required number of parking spaces times an average parking space cost. The applicant shall provide an average construction cost which shall be reviewed by the Village. The Commission may authorize payments in lieu of parking only within the Village Center District or within any commercial district where the Capital Budget includes the construction of public parking facilities which would serve the proposed business as well as the surrounding commercial area.

3. Surfacing. All parking areas shall be hard-surfaced. Residential driveways serving up to five (5) homes may be gravel, but the driveway apron and any portion in the public right-of-way must be paved twenty (20) feet beyond the edge of the public right-of-way. The Commission may waive this requirement for parking lots in accordance with Section 713.

4. Drainage. All parking lots shall be designed to minimize stormwater run-off on adjacent properties and in no case shall the stormwater flow be allowed to increase. To the extent possible, run-off shall be contained on the lot. All drainage facilities shall be constructed in accord with Public Works Specifications contained in Appendix A of this Code. Drainage calculations shall be completed for a base twenty five (25) year storm. Unless specifically approved otherwise, or contained upon the lot, all facilities shall be connected to the Village stormwater system.

5. Accessible provisions. All parking lots shall provide hard-surfaced accessible spaces which are clearly designated, marked, and signed for accessible use only. All accessible spaces shall conform to the American with Disabilities Act. The following number of spaces shall be provided:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4

101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

6. Off-site parking - commuter lots. Commuter lots may be approved by the Commission with Site Plan Review and Approval.
7. Setbacks. All parking spaces shall meet the setback standards for the District in which it is located.
8. Screening. The screening requirements of Section 708 shall apply to the perimeters of all parking lots. In addition, the Commission may require screening for any parking lots located within any front yard. Screening shall emphasize the separation of parking lots from adjoining public streets to minimize glare from vehicle headlights onto public streets. The use of berms and landscape materials is the preferred method of screening. The Commission may approve fencing, if it determines the more preferred methods are impractical.
9. Landscaping. All parking lots shall be landscaped as specified in Section 719 of this Code.
10. Pedestrian access. The design of all parking lots shall incorporate measures to minimize safety hazards to pedestrians. Pedestrian paths shall be designated and clearly marked. Separation of vehicle and pedestrian traffic shall be included in all parking lot plans where possible. The Commission may waive this requirement due to unique characteristics of the lot such as small lots, underground parking or innovative alternative designs.
11. Bicycle access. Parking lots shall be designed to encourage bicycle access. Any parking lot which is required to have fifteen (15) or more parking spaces shall provide bicycle racks at a location convenient to the main entrance to the business. The Commission may waive this requirement if in their judgment the business will not generate bicycle traffic.
12. Striping. Hard surfaced parking spaces shall be clearly striped and maintained and shall meet standard parking dimensional requirements as specified in Section 703.
13. Traffic Control Signs. The Commission may require the use of uniform ingress and egress signs, traffic control signs, and other signs as necessary to direct the flow of traffic.
14. Lighting. Lighting shall be provided in all parking lots and related walkways as specified in Section 704 of this Code.
15. Joint Parking Facilities. Joint parking arrangements may be approved by the Commission, provided that the applicant has submitted legal documentation to guarantee continued long-term availability of said parking. Within any shopping center or other areas where joint parking has been established, the Commission may not approve any site plan and site plan amendments or other use changes which would increase parking needs, or any waivers of parking requirements, until the applicant has submitted proof of notice to all tenants or shared parking participants of the proposed change.
16. Waivers. The Commission may waive some or all parking requirements and may place conditions on a waiver as necessary to guarantee adequate parking. The Commission may require any change in use on any property where a waiver has been granted to be reviewed for parking impacts, and the change shall be prohibited if it is

deemed to generate a parking deficiency. The Commission shall determine that one or more of the following standards are met at a specific location prior to granting a waiver:

- (a) The proposed uses have staggered business hours with minimal overlap in business hours which allow for shared use of parking spaces.
- (b) The applicant presents evidence that the parking requirements are excessive based upon new parking studies, traffic engineering data, or obvious and apparent existing parking demands.
- (c) The applicant demonstrates that the demand for parking is reduced because the type of business proposed generates substantial pedestrian traffic.
- (d) The applicant demonstrates that sufficient off-street parking is available at other locations within two hundred (200) feet which are, or have been approved by the Commission.
- (e) The use of mass transit; or other alternate transportation reduces parking demand.
- (f) Joint parking facilities with abutting businesses are sufficient to meet parking demand.
- (g) The latest edition of the ITE Parking Manual, or other professional source, provides data which demonstrates that the parking demand for a proposed use is less than the standards specified in this Code.

#### **SECTION 704: LIGHTING**

**A. Purpose.** To provide appropriate outdoor lighting adjacent to buildings, streets, sidewalks, and within parking areas for public safety and to minimize glare on streets and adjoining properties while minimizing energy use through the use of efficient fixtures and minimizing the use of lighting during non-business hours or when activity is not occurring on-site.

**B. General Standards.** Lighting is allowed in required yards and shall be subject to the following regulations:

1. Lights shall be used for the purpose of illumination, including security lighting, and not for advertising purposes.
2. The operation of searchlights is prohibited except for public safety purposes.
3. All light fixtures shall be hooded or shielded and directed downward at sixty (60) degrees to horizontal, unless otherwise approved, and shall have concealed light sources.
4. Light sources shall not be visible at property lines.
5. Intermittent lighting, except for holiday lighting, may not be used.
6. Lighting devices may not produce direct or reflected glare on adjoining properties or streets.
7. All private residential exterior light sources shall be Dark Sky Compliant.
8. Lighting for emergency purposes or lighting required on any structure for public safety purposes shall be exempt from the provisions of this section as approved by the Planning Commission.
9. Lighting shall only be used as necessary for the operation of a business or activity. Lights shall be placed on a timer; an operations plan must be approved as part of a development application for the project site. Lighting plans may include the use of some, but not all, of on-site lighting during non-hours of operation.

**C. Review of Lighting Plans**

The installation of or replacement of any outdoor lighting fixtures of new design shall require a

zoning permit with the exception of single and two (2) family dwellings. If the proposed lighting is associated with a project that requires Site Plan Review, the Planning Commission shall review and approve the lighting plan. If site plan is not required, staff shall review the lighting plan to ensure conformance with Section 704.

Applicants shall submit an exterior lighting plan for the Village's review. The plan shall include the following information:

1. A Site Plan drawn to a maximum scale of one (1) inch to twenty (20) feet, to include building footprint, landscaping, parking areas; and all proposed lighting fixtures, unless another scale is approved by staff;
2. Specifications for all proposed lighting fixtures including a manufacturer's catalog cut and photometric data showing numerical grid of lighting levels, in foot candles, that fixtures will produce on the ground.
3. Proposed mounting height and wattage of all exterior lighting fixtures;
4. For all parking areas, drives, and walkways an analysis and illuminance level diagram showing a numerical grid of lighting levels, in foot candles, and a table of lighting statistics verifying that the proposed installation conforms to the lighting standards in this section; and building elevations with fixtures, portions of wall to be illuminated.

D. Parking Lot Illumination

1. For parking lots of ten (10) spaces or more, pole lighting is required to be used to provide even illumination for parking spaces and interior walkways.
2. Light fixtures shall be located no more than five (5) feet outside the perimeter of the parking area.
3. All light fixtures shall be hooded or shielded and downward directed at sixty (60) degrees to horizontal, unless otherwise approved, and shall have concealed light sources.
4. Wood utility or similar poles may not be used to mount light fixtures unless specifically approved by the Commission. Decorative poles of wood or other materials may be approved by the Commission upon determination that they are visually compatible with the design of the development.
5. Energy saving LED lamps with a correlated color temperature not exceeding four thousand three hundred (4,300) Kelvin (K) shall be used. Special alternatives may be approved by the Commission upon determination that the purposes of this Section are achieved.
6. Light fixtures for parking lot lighting may be mounted on existing utility poles in the public right-of-way. This configuration is allowed only in commercial districts. The luminaries must have extended shields, and be mounted ninety (90) degrees to the roadway. Fixtures shall be mounted at the same height as existing street lighting in the area.
7. All parking lot lighting fixtures shall be cut-off fixtures as defined by the Illuminating Engineers Society of North America (IESNA)
8. Alternatives: The design for an area may suggest the use of parking lot lighting fixtures of a particular "period" or architectural style, as either alternatives or supplements to the lighting described above.
9. Lighting shall conform to the Chittenden County Regional Planning Commission "Outdoor Lighting Manual for Vermont Municipalities" or as otherwise approved by the Village Engineer. The minimum lighting level shall be at least two tenths (0.2) foot candles, but not exceed four tenths (0.4) foot candles and the uniformity ratio (average to minimum) shall be 10:1, unless otherwise approved by the Village Engineer.



10. Light fixtures shall be mounted in accordance with the table below or as otherwise approved by the Village Engineer.

	LI District	HC District	Village Center	MF District	All Other Districts
Max Mounting Height	30ft.	20ft.	15ft.	15ft.	16ft.

\*Notes: For parking areas of fifty (50) or more spaces, light fixtures may be allowed to be mounted up to thirty (30) feet above grade if all fixtures are a minimum of one hundred (100) feet from a residential district.

E. Illumination of Building Facades and Landscaping:

With the exception of structures in the Light Industrial District and structures having symbolic or historic significance, facade lighting for safety and pedestrian access may be approved by the Planning Commission as long as it is not visible from off-site. Building facades having symbolic or historic significance shall be approved by the Planning Commission and the following provisions shall be met:

1. The maximum illumination on any vertical surface or angular roof surface shall not exceed two (2) foot candles.
2. When allowed lighting fixtures shall be located and shielded so the light is directed only on to the building facade. Lighting fixtures shall not be directed towards adjacent streets or properties.

F. Roadway Lighting:

1. New or replacement light fixtures on arterial and non-residential collector streets, shall be of cut-off cobra type fixtures with LED bulbs with a correlated color temperature not exceeding four thousand three hundred (4300) Kelvin, mounted no more than forty (40) feet above grade. Specific alternatives may be approved by the Commission upon determination that the purposes of this Section will be achieved.
2. On other existing Village streets, new or replacement light fixtures, shall match existing styles unless alternatives are approved by the Commission. Fixtures shall have concealed LED bulbs with a correlated color temperature not exceeding four thousand three hundred (4300) Kelvin and the height shall match that of existing street lights in the area.
3. On new residential streets, street lights shall use "shoe box" style fixtures on black or bronze anodized poles up to thirty (30) feet in height with LED bulbs with a correlated color temperature not exceeding four thousand three hundred (4300) Kelvin, unless alternatives are approved by the Commission.
4. The selection and location of roadway and street lights shall achieve the recommended illuminance per the American National Standards Institute (ANSI)/Illuminating Engineering Society of North America (IESNA) RP-8, American National Standard Practice for Roadway Lighting. The standards summarized in the table below shall be utilized unless otherwise approved by the Village Engineer.

Street Type	Average Illuminance	Average to Minimum	Maximum Mounting Height, ft
Major	0.9	3	30

**Commented [JJ1]:** should this section exempt holiday lighting?

**Commented [RM2R1]:** It's difficult to define what a holiday is. Has there been an issue where holidays lights should be expressly exempt? If not, I'd leave it as is.

Collector	0.6	4	30
Residential	0.4	6	25
Pedestrian Areas	0.4	4	to match street

New and replacement fixtures shall be fully cutoff, fully shielded fixtures to minimize glare and light trespass.

New and replacement fixtures shall be light emitting diodes (LEDs) with a maximum correlated color temperature of 4300K.

G. Recreation Facility Lighting:

1. Maximum post and fixture mounting height shall not exceed eighty (80) feet in height.
2. Light fixtures shall not exceed a total cutoff angle of ninety (90) degrees, provided the luminary is shielded to prevent light and glare spill-over to residential property.
3. Recreational lighting may only be used between the hours of 8:00 a.m. and 12:00 midnight.
4. Recreational lighting shall not be permitted within residential districts except for public or private schools, public parks or public open spaces.

H. Review of Lighting Plans: If the project requires Site Plan review, the lighting shall be included in such application for review by the Commission. If Site Plan review is not required, staff shall review the lighting plans.

I. Lighting of Gasoline Station/Convenience Store Aprons and Canopies Where Allowed:

Lighting levels on gasoline station/convenience store aprons and under canopies shall be adequate to facilitate on-site activities. Lighting of such areas shall not be used to attract attention to the business.

1. Areas on the apron away from the gasoline pump island used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas.
2. The pump islands and under the canopies shall be illuminated so that the minimum horizontal illuminance at grade level is at least one (1) foot candle and no more than five and a half (5.5) foot candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than four to one (4:1), which yields an average illumination level of no more than twenty two (22) foot candles.
3. Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface of the canopy and shielded by the fixture or the edge of the canopy so that light is restrained to no more than eighty-five (85) degrees from vertical.
4. As an alternative (or supplement) to recessed lights, indirect lighting may be used where light is beamed upward reflecting off the underside of the canopy. Fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.
5. Lights shall not be mounted on the top or sides of the canopy, and the sides of the canopy shall not be illuminated.

J. Lighting of Exterior Display/Sales Areas:

Lighting levels on exterior display and sales areas shall not be used to attract attention to the businesses. The applicant shall designate areas to be considered display and sales areas and areas

used as parking or passive vehicle storage areas. The designation must be approved by the Planning Commission.

1. Areas designated as parking or passive display and sales areas shall be illuminated in accordance with the requirements for parking areas in this Section,
2. Areas designated as exterior display and sales shall be illuminated so that the average horizontal illuminance at grade level is no more than five (5) foot candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than four to one (4:1). The average and minimum shall be computed for only that area designated as exterior display sales areas.
3. Light fixtures shall meet the IESNA definition of cut-off fixtures, and shall be located, mounted, aimed and shielded so that direct light is not cast onto adjacent streets or properties.
4. Fixtures shall be mounted no more than twenty-five (25) feet above grade, and mounting poles shall be located either inside the illuminated area or no more than ten (10) feet away from the outside edge of the illuminated area.

#### **SECTION 705: CURB CUT AND ACCESS TO PUBLIC STREETS**

A. Purpose. To promote the smooth and efficient flow of vehicular, pedestrian, and bicycle traffic and to minimize safety hazards.

B. Residential Uses. All curb cuts for single family and two-family dwellings shall be reviewed and approved by Staff through issuance of a zoning permit.

1. Each single family dwelling or two-family lot shall be allowed one curb cut not to exceed twenty (20) feet in width at the street per dwelling. A single family residential lot which exceeds two hundred (200) feet of road frontage may be allowed a second curb cut, provided the curb cuts are at least fifty (50) feet apart. A driveway for single or two-family dwellings may not be greater than twenty (20) in width until beyond the front yard setback for the underlying zoning district.
2. For the purpose of determining curb cuts, all multi-family dwellings shall be reviewed as commercial curb cuts.

C. Commercial and Industrial. All commercial and industrial development shall be designed to meet the following minimum standards.

1. One traffic lane – Twelve (12) to fifteen (15) foot curb-cut
2. Two traffic lanes – Twenty four (24) to thirty (30) foot curb-cut
3. Three traffic lanes – Thirty (30) to forty five (45) foot curb-cut

The Commission shall review proposed curb cuts and the closure or relocation of existing curb-cuts based upon anticipated traffic, turning movements and need to accommodate buses and trucks. The applicant must provide information supporting a request for more than one twelve (12) foot wide entry and one twelve (12) foot wide exit.

D. General Standards

1. No more than one curb cut is allowed for each seventy-five (75) linear feet of frontage. Lots containing one (1) or two (2) family dwellings shall have only one (1) curb cut unless a second is specifically approved by the Commission upon determination that special conditions justify the exception
2. Property under common ownership with separate leased structures shall be allowed the number of curb cuts which would be allowed for a single use.
3. Lots with frontage on both a principal and a secondary roadway shall obtain

access from the secondary roadway unless specifically waived by the Commission. Under special circumstances the Commission may allow corner lots to have curb cuts on both adjoining streets.

4. Curb cuts shall not be less than twenty-five (25) feet from the property line in any Commercial or Industrial District unless joint access is proposed with the adjoining property, or an alternate is approved by the Commission. Curb cuts for any residential property shall meet the setbacks of the District, unless joint access is specifically approved by the Commission.

5. Curb cuts shall be designed to intersect a street at an angle of ninety (90) degrees.

6. Curb cuts shall intersect the pavement at a radius of not less than fifteen (15) feet nor more than forty (40) feet and shall become tangent to the edge of the pavement with the exception of curb cuts for single family dwellings.

7. The Commission may grant exceptions to the curb cut standards due to unique circumstances or superior design. A traffic study may be required to determine the size and number of curb cuts.

8. For the purposes of this Section, a driveway is deemed a curb cut, if curb and gutter is not currently in place or proposed for construction.

E. Alterations Within Public Right-of-way.

The Trustees shall have authority to approve a change within the public right-of-way which is not specifically delegated to the Staff by Section 705.B and to the Commission in Section 705.C.

1. Routine maintenance by the Public Works Department and construction projects approved by the Trustees shall be exempt from further approvals.

2. Closure or relocation of an existing curb cut (with the exception of the closure or relocation of an existing curb-cut as stipulated by the Planning Commission through Site Plan Review) shall require a Public Meeting by the Trustees. Closure or relocation review may be by written request or may be initiated by the Trustees. The Trustees shall notify by mail all property owners abutting the proposed site and all property owners with a legal interest in the curb cut. Notice shall also be published not less than seven (7) days prior to the meeting in a newspaper of general circulation. The Trustees shall consider the following standards:

(a) The use of the curb cut has changed due to an increase or decrease in traffic, and increase or decrease in truck traffic, or a change in use.

(b) Traffic and pedestrian safety hazards have increased due to increased traffic on the adjoining street, or increased usage of the curb cut.

(c) Alteration of the curb cut is necessary due to public improvements of public infrastructure.

(d) Alternate access is immediately available to provide reasonable access to the parcel.

(e) The curb cut was installed or used without approvals as specified in this Code.

(f) The curb cut adversely affects the flow of stormwater within the public right-of-way.

3. Any change, alteration, obstruction, filling, construction or placement of any material within the right-of-way shall require separate review and approval as specified in this Code. No such activity shall occur without prior approval as specified herein.

4. Any change, alteration, obstruction, filling, construction, or placement of any material adjacent to a public right-of-way which drains, diverts, or alters the flow of water within the right-of-way shall be prohibited, unless specifically approved or permitted as authorized herein.

5. Appeal of any decision or permit granted under the provisions of this Section shall

be to the Trustees.

## **SECTION 706: ACCESSORY USES AND STRUCTURES**

A. **Purpose.** To establish criteria for Accessory Uses and Accessory Structures and to establish certain limitations and standards for these uses and structures. Except as specifically provided elsewhere in this Code, no accessory use or structure may be approved, constructed or used before the principal structure is approved, constructed or used.

### B. **General Requirements**

1. All accessory uses or structures shall be designed primarily to serve the principal use or structure.
2. No accessory structure shall be constructed, placed, or moved within any required setback except as provided herein.
3. No accessory structure may be located within any **right-of-way**, Visibility Triangle, utility easement or drainage easement.
4. No accessory structure shall be occupied unless the principal structure is occupied or used for a use as permitted within the District.
5. All accessory uses or structures shall comply with the use, density, and lot coverage requirements of the District within which it is located.
6. All accessory uses or structures shall obtain permits as specified in this Code unless specifically exempted.
7. All detached and semi-attached accessory structures shall not exceed fifty (50) percent of the above grade floor area of the principle structure. Driveways, walks, decks, patios and similar structures are excluded from this provision.

Commented [JJ3]: spelling: Right-of-way

Commented [RM4R3]: fixed

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### C. **Set-back Exceptions**

1. **Driveways.** Driveways may be located within any District pursuant to the regulations established herein. Personal vehicles may be parked in the paved area of any residential driveway so long as they are not parked closer than six (6) feet to any sidewalk or bicycle/pedestrian path. Driveways shall meet the rear setback requirements and must be at least two (2) feet from the side property line. No driveway shall be closer than two (2) feet from any side and rear property line.
2. **Utilities.** Public utilities and infrastructure may be located within any setback, provided that above ground structures are not located within any required Visibility Triangle. Above-ground utility structures shall be screened with vegetation when said screening does not interfere with the functional characteristics of the structure. To the extent possible above ground structures shall be designed and painted to match the characteristics of adjacent development. New and redevelopment projects shall install utilities underground.
3. **Roof Overhangs.** Roof overhangs or eaves on any structure may encroach into any setback for a distance not to exceed eighteen (18) inches.
4. **Heating, ventilation and air conditioning equipment.** Equipment for heating, ventilation or air conditioning which encroaches into a setback by not more than twelve (12) inches shall not be deemed to violate this Code. Equipment placed upon the roof of any commercial or residential structure shall not be deemed a violation of this Code if:
  - (a) It extends less than two (2) feet above the roof;
  - (b) It occupies no more than eight (8) square feet of area; and
  - (c) It generates no additional sound discernable at the adjoining property line.
5. **Porches and decks.** Porches and decks shall be deemed structures and shall meet the setback requirements.

6. Flagpoles, mailboxes, water fountains, bicycle racks, swing sets, bird houses, telephone booths, benches, and bus shelters may be allowed within a required setback if they meet the standards below:
  - (a) None of these uses may encroach upon the Visibility Triangle as established in Section 710 of this Code.
  - (b) Bus shelters shall be reviewed by the Planning Commission and meet Site Plan standards.
  - (c) Mail boxes are limited to the residents or occupants of the principal structure.
  - (d) Flagpoles within any residential district shall not exceed fifteen (15) feet in height and shall be limited to one pole per residential lot. In no instance may a flag encroach on the right-of-way or adjoining property.
  - (e) Flagpoles in commercial or industrial districts shall require Site Plan Approval and shall not exceed forty-five (45) feet in height. In no case shall a flag encroach on public right-of-way or adjoining property.
  - (f) Water fountains, lawn ornamentations, and benches shall not substantially alter the character of any residential neighborhood. Water fountains located on any commercial or industrial property shall not encroach on setbacks and shall require Site Plan approval.
7. Accessible ramps constructed to accommodate disabilities are exempt from setback provisions provided that no reasonable alternative is available and the encroachment is the minimum necessary to provide access. Covered or enclosed ramps shall meet all setback requirements.
8. A non-complying structure may be enlarged or expanded provided that the following conditions are met:
  - (a) The enlargement or expansion, itself, conforms to all provisions of this Code except setbacks.
  - (b) The structure, as enlarged, does not diminish any required yard or setback areas except a setback line encroachment equal to the existing building line.
  - (c) The expansion does not exceed any maximum density, lot coverage, intensity or height limitations.

D. Satellite Dish Antenna. No satellite dish or other antenna may be erected or placed within any District except in compliance with this Section and with Conditional Use approval.

1. All antenna located within any commercial, industrial, or multi-family District shall be located in a rear yard, or be screened from view from adjacent streets and properties. If the applicant clearly demonstrates that said conditions interfere with the receipt of signals, the Board may reduce the conditions as necessary to obtain a signal. The Board may permit the installation of satellite dishes on a roof, if provisions are made to minimize visual impact.
2. Within any residential District, the structure shall be located within the rear yard. If the applicant clearly demonstrates that a signal can not be received at this location, the dish may be located in the side yard. In no instance shall required setbacks be encroached upon.
3. Within any residential District, landscaping and berming shall be placed at the base of the structure to screen the dish to the extent possible from the neighboring property.
4. All antenna dishes shall be permanently ground-mounted unless specifically approved otherwise by the Zoning Board of Adjustment.
5. If the Board determines that the above standards cannot be met, the Board may alter the requirements of this Section but only to the extent necessary to obtain satellite

signals. The Board may place reasonable conditions on its approval to minimize visual or other impacts at adjoining property lines.

6. Satellite dishes less than one (1) meter in diameter are exempt from the provisions of this section and do not require a zoning permit. However, satellite dishes shall be screened from view from the street unless necessary to receive a signal.

E. Residential Garages. No garage shall be located within any residential District except as follows:

1. Residential garages for any single-family or two (2) family dwellings in combination with all other detached or semi-attached accessory structures (excluding driveways, decks walks, patios and similar structures) shall not exceed fifty (50) percent of the total above grade floor area of the principal structure unless Conditional Use approval is granted.

2. Any detached garage which contains a second story or exceeds the fifty (50) percent requirement shall require Conditional Use approval by the Board.

3. No space in any garage may be rented or used for commercial or business, except that one or more parking stalls may be rented or used for the parking of motor vehicles, provided that all other provisions of this Code are met.

F. Storage sheds. Other Structures. Within any residentially zoned District, storage sheds must be located a minimum of eight (8) feet from the property line within any side or rear yard. The total square footage of all storage sheds and detached garages shall not exceed fifty (50) percent of the floor area of the principal structure. Storage sheds within any Commercial or Industrial District shall meet Site Plan standards. Within any residential district the construction of a tree house, play house or an animal shelter (dog house) shall be exempt from permitting requirements if it meets set-backs and does not exceed fifty (50) sq. ft. in floor area.

G. Outdoor Business Activities:

1. No sale or display of any product shall be allowed within any public right-of-way or upon any public sidewalk without first obtaining a Temporary Use Permit, except a business in the Village Center District that abuts the sidewalk may display merchandise or make seating available for dining, from April 1<sup>st</sup> through October 31<sup>st</sup>, provided the merchandise or seating does not block entrances, sidewalks (a minimum of five feet of clear passage must be maintained), or obstruct Visibility Triangles.

2. In any commercial district, an outdoor display or sale which is located entirely upon a private sidewalk shall not require a Temporary Use Permit.

3. The use of stands or tents in parking areas may be approved as part of a Temporary Use Permit if the applicant clearly demonstrates that sufficient parking will be available for the use and the outdoor activity.

4. The display of newspapers in a newspaper stand shall not be deemed an outdoor business activity.

H. Recycling Centers. The location of a recycling center shall require approval of a Conditional Use permit and Site Plan. Any proposal shall include screening, landscaping, and circulation plans. Recycling Centers shall serve as drop off areas for general household recycling purposes. The use of trucks, or commercial haulers, to drop recyclables at recycling centers shall be prohibited. The Board may place conditions necessary to meet the purposes of this Section, including restrictions on the size of the facility and operating hours. Recycling centers shall only be approved in Commercial, Industrial or Planned Exposition Districts.

I. Solid Waste Collection Point. Any proposal for a solid waste collection point or transfer

station shall require approval of a Conditional Use permit and a Site Plan. The proposal shall include screening, landscaping, and circulation plans. At a minimum, these centers shall be landscaped and screened from view from public streets and adjoining properties. Solid Waste Collection Points shall not be directly connected to storm drainage systems, or directly run off into storm drainage systems. Conditions may be placed upon any application including, but not limited to, restrictions on the hours of operation, access, limitations on the numbers and types of trucks and commercial vehicles, and increased setbacks from business and residential areas. The Board may require that storing and sorting occur in entirely enclosed structures. Garbage pickup centers shall be approved only in Commercial, Industrial, or Planned Exposition Districts.

**J. Dumpsters or Other Trash Containers:**

No dumpster or trash container shall be located or used in any District except in conformance with these standards or approval of a Site Plan.

1. All dumpsters or trash containers located within any District shall be screened from view from the public right-of-way by a nontransparent fence and/or landscaping materials to a height of six (6) feet.
2. Dumpsters shall be covered and drainage plugs shall be installed. Covers may only be opened for depositing refuse or for emptying of dumpster. Open top temporary use dumpsters are exempted.
3. All dumpsters or trash containers shall be made of non-combustible materials, with solid sides and a cover suitable in design and construction for the deposit of trash.
4. All trash containers or dumpsters shall comply with the following requirements for separation from structures:
  - (a) No less than five (5) feet from a non-combustible structure with a flat roof.
  - (b) No less than five (5) feet from a non-combustible structure with a wall height of twenty (20) feet or more.
  - (c) No less than fifteen (15) feet from any structure built of combustible material.
5. The provisions of this Section shall not apply to any single-family or two family dwellings unless one or more trash container(s) is provided for the use of two or more dwellings.

**Commented [JJ5]:** in this case, dumpsters appears to mean refuse dumpsters. Not noted is construction debris dumpsters that are not covered. Is this an area of concern for long term storage on sites?

**Commented [RM6R5]:** PC? I think the last sentence of J.2. that describes "open top temporary use dumpsters" are where construction dumpsters are exempted. They are typically temporary and wouldn't make sense to subject them to site plan standards.

**K. Tennis, Basketball or Volleyball Court.** These facilities, or similar private recreation facilities, such as outdoor skating rink facilities, may be located in rear or side yard setbacks within five (5) feet of any property line; provided, however, they may not be located in any drainage or utility easement. A single basketball hoop may be located within a front yard, provided that it is located on or adjacent to a driveway and that it is located no closer than ten (10) feet to any public sidewalk, bicycle, pedestrian lane, or right-of-way.

**L. Swimming Pools.** No swimming pool shall be used or located within any District without conformance to the following standards:

1. Lighting shall be located to prevent direct glare at the lot line.
2. All in-ground pools shall be completely enclosed by a wall, fence or other structure not less than four (4) feet in height. Entrance to a swimming pool shall be from a self-latching and self-closing gate except that the door of any residence forming any part of the enclosure need not be so equipped. The use of hedges or natural barrier may be allowed if it is of sufficient density to bar entry to the pool.
3. No overhead electrical wires shall cross the pool area, or be installed within fifteen (15) feet of the pool surface.
4. Above-ground pools need not meet the fencing requirement of Section L.2 above, if evidence is submitted that entrance to the pool is possible only through the use of steps



or stairs, which are portable, and removed when the pool is not in use, or unless accessible from the house.

M. Garage Sales, Yard Sales. Within any Residential Zoning District, garage sales or yard sales of common household goods and appliances may be approved upon submittal of a Temporary Use Permit application pursuant to Section 502(d). Temporary sales for the above purposes shall be permitted for a period of three (3) days. No more than four (4) permits for any one location may be issued in any calendar year.

### **SECTION 707: FENCES**

A. Purpose. To provide standards for the construction or placement of fences.

B. Standards. Any fences placed or located on any property shall meet the following standards:

1. A fence which does not exceed six (6) feet in height may be located at the property line in any side or rear yard and shall not require a zoning permit. Any fence which exceeds six (6) feet in height shall be deemed a structure.
2. No fence may be erected or constructed in such a manner to interfere with any required Visibility Triangle.
3. Any fence located adjacent to a publicly owned or maintained sidewalk, bikepath or pedestrian way shall not be located closer than two (2) feet to such public facility.
4. Any nontransparent fence located in a front yard shall not exceed twenty-nine (29) inches in height unless it meets the front yard setback for the Zoning District in which it is located.
5. A chain link fence, not to exceed six (6) feet in height, may be located along the side or front property lines within Commercial or Industrial Districts after Site Plan approval. The fence shall be located and maintained in such a manner that it does not interfere with pedestrian or vehicular vision. The Commission may require landscaping.
6. The use of barbed wire fencing is prohibited except as specified under exceptions below.

**Commented [JJ7]:** Where a parcel contains a utility easement, fence shall have a removable panel for access to the infrastructure which the easement is granted for.

**Commented [RM8R7]:** Is this coming up in stormwater drainage situations? We can add this standard, but typically you wouldn't want a fence in an easement that keeps people from accessing the utility infrastructure. And by writing this in, you are allowing that to happen.

C. Exceptions.

1. Property located in a Planned Agriculture District may use barbed wire for fencing purposes, provided that said fencing is utilized strictly for agricultural purposes. Properties in the Light Industrial District may also use barbed wire fencing. However conditions may be imposed upon approval to provide minimal impacts on neighboring properties.
2. The Commission may authorize the use of fences which exceed the six (6) foot requirement for non-commercial, Industrial, or Planned Exposition Districts. The Commission may authorize exceptions only for security or safety purposes and may require landscaping to mitigate visual impacts.
3. In accordance with the standards for Planned Development approval, the Commission may approve alternative standards which are designed specifically as a part of an overall development plan including perimeter walls around the development or other effective visual treatments.

**Commented [JJ9]:** note the Whitcomb farm may have barbed wire fencing. exclude large scale commercial agriculture (livestock)?

**Commented [RM10R9]:** I believe C.1 as written does exempt – aka allow – the Whitcomb Farm to have a barbed wire fence.

### **SECTION 708: SCREENING/BUFFERING**

A. Purpose. To provide sufficient screening and buffering to mitigate the potential negative

impact of adjoining incompatible land uses.

B. Standards.

1. Any Industrial District located adjacent to a residential District shall provide a buffer not less than fifty (50) feet. The buffer shall be landscaped and fenced in such a manner as to minimize impact on the adjoining Residential District.
2. Any Commercial use located adjacent to a residential use shall provide a buffer zone of not less than twenty (20) feet. The buffer zone shall be landscaped in such a manner as to minimize impact on the adjoining residential District. A fence and/or hedge not less than six (6) feet in height may be required. Any fence and /or hedge erected for this purpose shall be of sufficient size and density to block vision at eye level within two (2) years of planting. The use of berms is encouraged and may be required by the Commission as a Site Plan condition.
3. Any multi-family use located adjacent to a single-family use shall provide a buffer zone of not less than fifteen (15) feet. The buffer zone shall be landscaped in such a manner as to minimize impact on the adjoining single-family Districts. The Commission may require the placement of an opaque fence and/or hedge to screen the multi-family structure from adjoining single family dwellings.
4. Parking lots located adjacent to public streets shall be screened to minimize glare and vehicle light encroachment on the street. Screening may include berms and landscaping.
5. Waivers. The Planning Commission may waive the screening and buffering requirement in the Village Center District if it determines that the encroachment will not have an undue adverse impact on adjacent properties.

**SECTION 709: PRIVATE STREETS**

A. Standards. The Commission may approve a Private Street only as a part of a Planned Development application. The following conditions shall apply to any private street:

1. The applicant shall submit documentation common to all properties to ensure the continued maintenance of the Private Street.
2. The applicant shall submit documentation to ensure snow removal on the Private Street, as well as include the snow storage area on the plans.
3. Private streets shall meet the requirements of Chapter 9 and Appendix A. Private Streets shall be built with the same cross section as a Public Street as outlined in Detail 2 of Appendix A.
4. No new private street shall be accepted by the Village for maintenance or snow removal without conforming to all street standards specified in Chapter 9.
5. The Village shall not be responsible for snow removal or maintenance on any sidewalk located on a private street.
6. The following streets must be provided as public streets and dedicated to the Village, unless waived by the Planning Commission upon determination the waiver would be consistent with the provisions of Section 917 of the Land Development Code:
  - (a) The principal entry to a planned unit development.
  - (b) Roads servicing or planned to service adjacent properties.
  - (c) Internal roads which will carry daily traffic in excess of seven hundred and fifty (750) vehicles based on current trip generation rates published by the Institute of Transportation Engineers.
  - (d) Other streets as determined by the Planning Commission.

Commented [JJ11]: and show snow storage areas...

Commented [RM12R11]: This is likely in another section; but good idea to add it here too.

B. Existing Private Streets. The Village shall not accept any existing Private Street or sidewalk for snow removal or maintenance until the facilities meet the standards specified in Chapter 9.

### **SECTION 710: VISIBILITY TRIANGLES**

A. Purpose. To provide clear and unobstructed vision for pedestrian and vehicular traffic at all intersections and driveways.

B. Intersections. On any corner lot, no fence, wall, screen, sign, structure or foliage shall be erected, placed, constructed, planted, or allowed to grow in such a manner as to encroach upon the Visibility Triangle.

1. The Visibility Triangle shall be determined as follows: starting at the intersection of the property lines along the intersecting streets, measure away from the point of intersection a distance of twenty (20) feet along both property lines. Connect these points with an imaginary line. The visibility triangle shall be the triangle defined by the two property lines and the imaginary line.

2. Within this Visibility Triangle, nothing shall encroach upon lines of vision between the heights of thirty (30) inches and eight (8) feet.

C. Driveways. At a point where any driveway intersects with a public street, no fence, wall, screen, sign, structure or foliage shall be erected, placed, constructed, planted, or allowed to grow in such a manner as to encroach upon the Visibility Triangles on either side of the driveway.

1. The Visibility Triangles shall be determined as follows: starting at the intersections of the front property line and the edges of the driveway, measure away from the points of intersection a distance of ten (10) feet along both property line and the edges of the driveway. Connect these points with imaginary lines. The Visibility Triangles shall be the triangles defined by the property line, the edges of the driveway and the imaginary lines.

2. Within these Visibility Triangles, nothing shall encroach upon lines of vision between the heights of thirty (30) inches and eight (8) feet.

D. Exceptions. The following items are exempt from the Visibility Triangle requirement.

1. All plantings or structures not within Visibility Triangles described in B. and C. above, measured at the high point of the street along the right-of-way line.

2. The Visibility Triangle shall not apply to the trunk of an existing tree provided that it is trimmed to meet the vision requirement in B. and C. above.

3. Fire hydrants, public utility poles, street markers, traffic control devices, mailboxes, or other items which by their nature must be located within the Visibility Triangle.

4. Public bus benches.

5. Telephone booths, parking areas, bus shelters, signs, bicycle racks, and similar structures are prohibited.

6. Vegetation related to Green Stormwater Infrastructure or Low Impact Development (LID) may be present located in Visibility Triangles provided it does not exceed the height requirements as described in B. and C. above.

**Commented [CM13]:** Recommendation from HW PCP Appendix E pg 10

**Commented [RM14R13]:** Agreed.

**SECTION 711: HOME OCCUPATIONS**. Nothing in this Code shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character thereof.

A. Purpose:

1. To protect residential areas from potential adverse impact of excessive traffic, nuisance, sound and other effects of occupational activities within residential neighborhoods.
2. To establish criteria and development standards for Home Occupations conducted in dwelling units.
3. To provide residents the option to use their residences for certain Home Occupations without altering the residential character of the neighborhood.
4. To assure that public and private services including streets, drainage, water and sewer systems, and other public facilities and services are maintained as designed for residential purposes.

B. Review Criteria. All Home Occupations shall meet the following review criteria and standards:

1. The Home Occupation shall be conducted entirely within the dwelling unit by residents of the dwelling.
2. No employees other than residents of the dwelling are permissible.
3. The area utilized for the Home Occupation shall not exceed twenty (20) percent of the floor area of the residence, including garages.
4. Merchandise offered for sale shall be clearly incidental to the Home Occupation, provided, however, that orders may be taken for later delivery off premises.
5. Delivery of products for a home business shall occur no more frequently than once daily. Vehicles not ordinarily utilized for residential delivery shall be prohibited.
6. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other hazardous materials shall be used or stored on the premises.
7. No mechanical equipment other than that ordinarily utilized for household or hobby purposes shall be permitted.
8. No activity shall be conducted on the premises which would interfere with radio or television transmission, nor shall there be any offensive sound, smoke, dust or heat noticeable at the property line.
9. The operation of the Home Occupation shall not cause or encourage vehicular or pedestrian traffic not ordinarily associated with the residential area in which the Home Occupation is located except under the following conditions:
  - (a) Public access to the Home Occupation shall be by invitation only and no more than one (1) vehicle not owned by the occupant may be parked on or adjacent to the property for business purposes. Appointments may overlap for a time period not exceeding thirty (30) minutes.
  - (b) Occasional parties or meetings associated with the business shall occur no more frequently than four (4) times monthly. Special arrangements must be made to provide sufficient parking so vehicles in no way impede the safety and flow of traffic within the neighborhood.
10. Advertising associated with the home business shall be by phone number only. On-premise advertising shall be limited to one (1) non-illuminated sign not exceeding one (1) square foot. The legend shall show only the name of the occupant and occupation and be neutral in color.
11. Public access to Home Occupations shall be restricted to the hours of 8:00 am to 9:00 pm.

**Commented [JJ15]:** does not address an auto repair business nor parking impacts of such

**Commented [RM16R15]:** I think there are a number of provisions in here which an auto repair business could not meet, but if they could meet the standards then it should be an okay use. Specifically 9.(a) only allows one additional vehicle to be parked on site.

**Commented [RM17]:** This is odd. I would delete this sentence. You only need the second sentence as written here. The last sentence should also be deleted because it is not "content neutral". I can explain more at the meeting.

**SECTION 712: OPEN SPACE REGULATIONS.**

Except as specified in this Code, no building, structure or vehicles shall encroach upon any required setback or designated Open Space area. All required setbacks shall be maintained in vegetative cover and shall not be covered with any impermeable surface materials except in Commercial Districts where the Commission may approve specific alternatives.

**SECTION 713: STORM WATER MANAGEMENT.**

A. Purpose.

1. To promote stormwater management practices that maintain pre-development hydrology through site design, site development, building design and landscape design techniques that infiltrate, filter, store, evaporate and detain ~~stromwater~~ stormwater close to its source;
2. To promote natural resources, particularly streams, lakes, wetlands, floodplains and other natural aquatic systems on the development site and elsewhere from degradation that could be caused by construction activities and post-construction conditions;
3. To protect other properties from damage that could be caused by stormwater and sediment during construction activities and post-construction on the development site;
4. To reduce the impacts from impervious surfaces such as streets, parking lots, rooftops and other paved surfaces;
5. To protect public safety from flooding, reduce public expenditures in removing sediment from stormwater drainage systems and natural resource areas, and to prevent damage to Village infrastructure caused by inadequate stormwater controls.
6. To protect water quality from the effects of nonpoint source pollution.

Commented [JJ18]: spelling

Commented [CM19R18]: fixed

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B. Intent. The intent of this Section is to allow no increase in stormwater runoff as a result of any land development activity. The Stormwater Management Section of this Code has been adopted in recognition of the following: that clearing and grading during construction activities increases soil erosion, which in turn negatively affects aquatic and terrestrial habitats; that the creation of impervious surfaces associated with land development increase stormwater runoff rates and volumes, flooding, stream channel erosion, and the transport and deposition of sediment and pollutants and decrease groundwater recharge and stream base flow; that the elimination of illicit discharges and the proper design, construction, operation and maintenance of stormwater systems are crucial for protecting the environment, public health and safety; and, that economic loss and stream water quality degradation can result from these adverse impacts.

C. Illicit Discharge Detection and Elimination.

1. Prohibition of illicit discharges  
Non-stormwater discharges into publicly owned storm sewer systems and private stormwater systems within the Village of Essex Junction are prohibited. This includes but is not limited to garbage, animal waste, litter, yard waste or other abandoned or discarded objects.
2. Prohibition of illicit connections
  - (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
  - (b) A person is in violation of this sub-section if the person connects a line conveying sewage, laundry waste or other forms of gray water to the Village MS4 or allows such a connection to continue.

3. Exempt discharges

The following discharges are exempt from the discharge prohibitions established in this section:

- \*Water line flushing with De-chlorinated Water
- \*Landscape irrigation
- \*Diverted stream flows
- \* Uncontaminated ground water, either naturally rising or pumped
- \* Uncontaminated ground water infiltration into stormwater drains
- \* Discharges from potable water sources
- \* Uncontaminated foundation drains
- \* Air conditioning condensate
- \* Irrigation water
- \* Springs
- \* Uncontaminated water from crawl space pumps
- \* Uncontaminated water from footing drains
- \* Lawn watering
- \* Individual residential car washing
- \* Flows from riparian habitats and wetlands
- \* De-chlorinated swimming pool discharges
- \* Street wash water
- \* Discharges or flows from fire fighting activities occurring during emergency situations not involving hazardous materials or oil.
- \* Dye testing is an allowable discharge if approved by the Village Engineer.

Notification of Spills: Property owners or citizens responsible for facility operation and management who know or suspect release of materials which may result in an illegal discharge to the stormwater system must immediately notify proper emergency response agencies. For release of non-hazardous materials, notification shall be to the Village of Essex Junction.

4. Watercourse Protection.

All stormwater generated from land use /land development activity shall be treated prior to discharge to a wetland or local water body, municipal drainage system or abutting property. Treatment methods prescribed shall be in accordance with the Stormwater best management practices as noted in this Land Development Code.

- (a) No person shall deposit or cause to be deposited in a watercourse or on the land impacted by runoff to the watercourse any trash, yard debris or any other material that would pollute or significantly alter the natural flow of water through, or can erode into the watercourse.
- (b) The owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
- (c) On-site drainage improvements and best management practices, as required by this Code, such as rain gardens, buffer strips, filter strips, grass swales, rain barrels, porous pavement appropriate for cold weather conditions and cisterns shall be maintained ~~in an operable~~ working condition by the developer and all other subsequent property owners or associations within the development.
- (d) No person shall deposit or cause to be deposited in a public right-of-way used for conveyance of stormwater to a watercourse any trash, yard debris or any other material that would pollute or significantly alter the watercourse. This prohibition addresses yard waste or other organic/inorganic material left within the roadway

or sidewalk of the Village of Essex Junction.

5. Suspension of MS4 Access.

The Village may, without notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present danger to the environment, health or welfare, or to the MS4. The Village of Essex Junction maintains a right to access properties for the purpose of evaluating private property compliance with the State mandated provisions of this regulation.

D. Construction Site Stormwater Runoff Control.

1. Applicability. This subsection shall apply to any clearing, grading, construction or land development activity disturbing any property located within the jurisdictional area of the Code. Agricultural operations shall be regulated by the Agricultural Department best management practices.

2. State Permits.

(a) The Village shall accept a State of Vermont General Permit for construction site runoff as evidence of meeting Village erosion and sediment control permit requirements for those projects that fall under the jurisdiction of the State requirements. General requirements may be waived by the Public Works Superintendent or Water Quality Superintendent or their designee if the applicant conforms to the State of Vermont Best Site Management practices as outlined in: “The Low Risk Site Handbook for Erosion Prevention and Sediment Control” (as amended) or in the “Vermont Erosion Prevention and Sediment Control Field Guide” (as amended) the state guidelines are available at:

<http://www.anr.state.vt.us/dec/waterq/stormwater/htm/swcgp.htm>

(b) For all development reviewed and approved under the zoning permit approval process or site plan process, the Village hereby incorporates by reference the permit application requirements covered under the Vermont General Permit 3-9020 for stormwater runoff from large construction sites to waters within the jurisdictional area of this Code, which are not principally impaired by collected stormwater runoff.

(c) For all development reviewed, the Village hereby incorporates by reference the permit application requirements covered under the Vermont Individual Construction Permit for stormwater runoff from large construction sites to waters within the jurisdictional area of this Code, which are impaired by stormwater runoff. The Village also incorporates by reference any applicable requirements in a TMDL issued for impaired receiving waters located within the jurisdictional area of this Code.

3. Erosion and Sediment Control Performance Standards. All construction sites are expected to maintain erosion control to prevent migration of stormwater or stormwater flow containing sediment to adjacent private property or to the Village right-of-way. Authorized Village employees may enter at reasonable times upon any property to conduct on-site inspections. Such inspections shall take place before, during and after any soil is disturbed. If upon inspection, the site is not in compliance with erosion standards and a TMDL has been issued for the stormwater impaired receiving water located within the jurisdictional area of this Code, the zoning permit will be deemed invalid until appropriate erosion and sediment control practices are implemented.

4. Stormwater Management Performance Standards: Stormwater conveyance systems designed for the infiltration of stormwater, ~~in part or in whole are preferred, are~~

**Commented [RM20]:** Most of the sub-parts, but not all, specify if the standard is required for “both new development and redevelopment” or just “new development.” The standards that don’t specify this need to be clarified. Or we can reorganize the list of sub-parts into two lists so that we don’t have to repeat it for each section. What would you prefer? Either way I need to know whether it’s new and rehab or just new for each of the ones not categorized.



required providing that underlying soil conditions allow for infiltration without negative impact on adjacent roads, structures, etc. ~~The use of LID site design approaches and GSI best management practices that reduce runoff rates, volumes and pollutant load should be maximized to the extent possible.~~

a) Site designs for both new development and redevelopment shall ~~minimize stormwater runoff, maximize stormwater volume reduction (through infiltration, recharge, reuse, and/or evapotranspiration)~~ and utilize pervious areas for stormwater treatment. ~~Site designs shall~~ They shall accommodate the peak flow rates of stormwater discharge associated with specified design storms, flood control and soil quality standards as specified in the most as noted in the most recent version of the Vermont Stormwater Management Manual Volumes I and II (as most recently amended). Flood control and soil quality standards also specified in the most recent version of the Vermont Stormwater Management Manual Rule and Design Guidance (as most recently amended), shall be met. Reference the STP calculator <https://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/ms4-permit/ms4tracking>

**Commented [CM21]:** Another suggestion by HW

**Commented [RM22]:** I'd prefer to keep "Site designs shall" rather than "They". Never clear who "they" are in a zoning bylaw.

**Commented [CM23]:** This was recommended by HW in their review as part of the PCP pg 5 of Appendix E

**Commented [RM24]:** Need some clarity in language here. Are we requiring them to use this calculator?

b) Before proposing to use gray stormwater infrastructure practices, applicant must demonstrate why the use of LID design approaches and GSI best management practices are not possible. A request can be made to have Village staff examine an offset to install a stormwater treatment practice at another location.

**Commented [RM25]:** I think we need some more explanation or more clear language about what's being required here. Is this offset a requirement to use gray stormwater practices?

(b) Stormwater runoff generated from new development and redevelopment shall be adequately detained and treated prior to discharging into a jurisdictional wetland or local water body as noted in the most recent version of the Vermont Stormwater Management Manual Rule and Design Guidance (as most recently amended).

**Commented [CM26]:** I think this is covered in above by requiring infiltration and referencing the manual?

d(e) Post development annual groundwater recharge rates shall be maintained at the same rate as the annual recharge from pre development site conditions by promoting infiltration through the use of structural or non structural methods i.e. LID, GSI.

**Commented [RM27R26]:** Seems like it to me, but do we need Jim to okay this?

e(d) For new development, structural stormwater treatment practices (STPs) shall be designed to ~~remove 80% of the average~~ maximize removal of annual post development total suspended solids load (TSS) and 40% for total phosphorous, unless a TMDL has been established requiring a more stringent criteria in the receiving water. ~~It is presumed that a STP complies with this performance standard if it is: sized to capture the prescribed water quality volume;~~ Site designs shall be in accordance with designed should be according to the specific performance criteria outlined in the most recent version of the Vermont Stormwater Management Manual Rule and Design Guidance Volumes I and II (as most recently amended); constructed properly, and maintained regularly. ~~Inability to comply may result in providing of a suitable offset.~~

**Commented [CM28]:** Again isn't this covered by the language above when referring to the new SW manual as it is a written requirement in that I believe.

**Commented [RM29R28]:** Seems like it to me, but do we need Jim to okay this?

(e) For new development and redevelopment -that trigger a all-stormwater permit under this code a stormwater management plan is required showing documentation of the -phosphorus loading and reduction calculations. The Vermont Department of Environmental Conservation Best Management Plan Tracking Spreadsheet which includes phosphorus loading and reduction (pre- and post development) shall be submitted.

**Commented [RM30]:** Does this edit work? It was an incomplete sentence before.

(e) The post-development peak discharge rate shall meet the criteria in the most recent version of the Vermont Stormwater Management Manual Rule and

**Commented [RM31]:** We need some more clarity in this language. Perhaps something like "At the request of the applicant, TITL E may approve an offset if the applicant is unable to comply with this standard."

**Commented [CM32]:** Suggestion from HW as part of the PCP Appendix E



Design Guidance. (as amended) not exceed the pre-development peak discharge rate for the 10-year frequency storm event.

(f) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the most recent version of the *Vermont Stormwater Management Manual Rule and Design Guidance Volumes I and II* (as amended).

(g) Stormwater discharges from intensive land uses or activities with higher potential pollutant loadings, known as hotspots, may require the use of specific structural STPs and pollution prevention practices.

(h) As-builts of the completed project including stormwater infrastructure and easement location must be submitted within 30 days of project completion.

(i) For new or redevelopment easements for access and maintenance of stormwater infrastructure that is being turned over to the Village must be recorded in the land records within 30 days of project completion days and a copy sent to the Village Water Quality Superintendent.

**Commented [RM33]:** To me these are all redundant but we can keep them if folks feel its necessary.

**Commented [CM34]:** Make sure this matches the language that was revised in Chpt 5 as reviewed and edited at the 8/5 PC meeting

**Commented [RM35R34]:** Will do.

**Commented [JJ36]:** add bond and warranty for infrastructure as discussed???

**Commented [CM37R36]:** Yes this language needs to match as revised in CHpt 5

**Commented [RM38R36]:** Will do.

E. **Commercial and Industrial Stormwater Discharges.** Any person subject to an industrial multi-sector general permit or other stormwater permit issued by the State or EPA shall comply with all provisions of such permit. The Village may require proof of compliance with said permit prior to allowing the discharge to connect to the MS4. Those facilities regulated under the Multisector General Permit shall notify the Village of their status under this permit. Notification to the Village shall be required for any change in status under the rules of this State permit process.

F. **Operation and Maintenance of Stormwater Systems.**

1. All stormwater systems shall have a written, and approved, enforceable operation and maintenance agreement, duly recorded in the Essex Town land records with a copy sent to the Village Water Quality Superintendent, to ensure the system functions as designed. The maintenance agreement shall include a schedule for when and how often maintenance will occur and plans for annual periodic self-report inspections by a qualified individual to — ensure proper performance of the facility between scheduled cleanouts. Where required, [The annual self-report, which certifies the system has been inspected and maintained in accordance with submitted plans, must be submitted to the Village Water Quality Superintendent by September 1<sup>st</sup> of each year. Staff will select a quarter ¼ of the permits annually to audit via inspection of infrastructure according to the operation and maintenance agreement and the self-reports submitted.

**Commented [CM39]:** Another suggestion by HW PCP Appendix E pg 12

**Commented [RM40]:** I think this is a good idea, but do you want to codify this? Perhaps flag for legal review.

2. Post-construction responsibility: All proposals for development requiring a stormwater system shall include a post-construction responsibility agreement that designates the person(s) or organization(s) responsible for post-construction maintenance. Maintenance responsibility runs with ownership of the land.

3. Stormwater Systems Designed for Turn Over to the Village: Stormwater systems designed for turn over to the Village shall be maintained in accordance with permit requirements by the permittee. All provisions for compliance shall be the responsibility of the permittee until transfer of permit processes is completed.

**Commented [RM41]:** Is this different from what's described in 1?

(a) All proposals for stormwater systems to be turned over to the Village for operation and maintenance shall meet or exceed Village and State design standards outlined in the most recent version of the *Vermont Stormwater Management Manual Rule and Design Guidance (as amended), Volumes I and II*.

(b) Prior to acceptance by the Village, the developer shall ensure that the

stormwater system is clean and in good working condition and all easements for access to infrastructure are recorded into the land records and a copy provided to Village Water Quality Superintendent.

(c) Only stormwater facilities with valid permits will be considered for acceptance by the Village of Essex Junction. Stormwater system infrastructure will only be accepted by the Village along with other infrastructure accepted for community ownership. An acceptance fee may will be required based on size and complexity of stormwater system to be conveyed. See Appendix B Fee Schedule No stormwater system will be accepted unless it is deemed in the interest of the Village of Essex Junction.

4. Right-of-Entry. All proposals for development requiring a stormwater system shall include a right-of-entry agreement that provides access for authorized Village employees to enter such properties at reasonable times and in a reasonable manner for the purposes of inspection.

**Commented [CM42]:** May need to revise this language to match CHp 5 language regarding bond etc. and not take over for 2 years?

**Commented [CM43R42]:** Also add it so it must be received earlier in process

**Commented [RM44R42]:** Will do.

The Village shall be permitted to enter all private property over which the Village holds an easement for the purposes of, but not limited to inspection, observation, measurement, sampling, repair, and maintenance of any portion of the stormwater treatment practice lying within said easement. All entry and subsequent work within said easement, shall be completed in accordance with the terms of the easement.

**Commented [CM45]:** This section too added to chp 7 LDC for SW

- 5. Waivers. The Village of Essex Junction may waive strict compliance of specific provisions of this stormwater ordinance where:
  - (a) The waiver is allowed by federal, state or local statute/regulation
  - (b) The waiver is **deemed to be** in the interest of the public
  - (c) The waiver is not inconsistent with the purpose of the land development code

Any waiver must be requested in writing and shall contain an explanation or documentation that supports the waiver requested. The justification presented must demonstrate that strict application of this ordinance does not further the purpose or objective set forth within the ordinance. Any request for extension shall be acted on in seven (7) days with findings provided in writing to the applicant.

G. Maintenance of Permitted Stormwater Systems. Should a property owner fail to maintain stormwater infrastructure in accordance with the terms and conditions of this ordinance, state or other stormwater permit requirements, the Village of Essex Junction shall provide written notice of violation. The Village of Essex Junction may pursue any steps deemed necessary to prevent or minimize damage to the Village storm drainage infrastructure or to the waters of the state.

After written notice of system deficiencies, the property owner/owners representative shall be responsible to carry out necessary maintenance work to correct the noted deficiencies. Correction shall be required within thirty (30) days. Other reasonable time frames may be assessed if mutually agreeable to the Village and the property owner.

When the violation creates a situation of immediate danger to public health or public safety, the Village of Essex Junction may perform any necessary immediate work to stabilize the situation. The Village maintains the right to assess the property owner for any direct repair costs which shall be a lien on the property.

The Water Quality ~~Control~~ staff Superintendent in conjunction with the Development Department shall administer, implement and enforce this stormwater management code.

H. The Village incorporates by reference and adopts the Town of Essex Selectboard Changes to Title 10.20, Storm Water Ordinance Appendix A-C as amended

(a) Agreements signed under Title 10.20 Storm Water Ordinance Appendix B Section 2. 6 and Title 10.20 Storm Water Ordinance Appendix C Section 2. 6 can refer to Appendix B Fee Schedule of the Land Development Code

G. . Applicability - New and Existing Developed Areas

- (a) New Development or Redevelopment: All new development, construction or reconstruction shall be in full compliance with the provisions of these regulations
- (c) Existing Developed Areas. Compliance required: All property with existing

**Commented [CM46]:** Took this from the landscape section as I thought it might provide clarity here as to who needs to follow these SW rules but open for discussion

**Commented [RM47R46]:** I think this is helpful and answers my first question in #4 above. If the PC agrees I will move this to the top of the section.

development which is not in compliance with the provisions of this Section shall be considered nonconforming, and allowed to continue until such time as application is made to add, enlarge or reconstruct a structure on the property. At that time a plan showing existing and new development and the proposed plan shall be submitted.

#### **SECTION 714: SIGN STANDARDS.**

**Commented [RM48]:** Most of this is not content neutral.

The provisions of this Section shall apply to all signs except those exempted herein. Signs in the Planned Exposition (PE) District shall require Conceptual and/or Site Plan approval.

A. **Temporary Signs:** Temporary signs shall conform to the requirements set forth below as well as all other applicable requirements of this chapter including minimum yard set-backs and height limitations. Temporary signs shall not be included in computation of sign area and the number of free-standing signs.

1. Temporary signs which are allowed without a sign permit:
  - (a) Signs advertising real estate on which the sign is located (including buildings) is for sale, lease, or rent and identification of the owner or agent. Such signs shall be placed on the ground and shall not exceed four (4) square feet in area and shall be removed immediately after sale, lease, or rental. For lots of less than five (5) acres, a single sign may be erected. For lots of five (5) acres or more in area and having a street frontage in excess of four hundred (400) feet, a second sign not exceeding four (4) square feet in area may be erected.
  - (b) Two (2) temporary directional signs may be placed within the public right-of-way during a special event (e.g., open house, garage sale). Each sign shall not exceed six (6) square feet and shall not block entrances, sidewalks or obstruct Visibility Triangles. All signs shall be removed immediately after the event.
  - (c) Construction site identification signs which identify the project, owner or developer, architect, engineer, contractor and subcontractors, funding source, and related information including but not limited to sale or leasing information. Not more than one (1) such sign may be erected per site, and it may not exceed thirty-two (32) square feet in area. Such signs shall not be erected prior to the issuance of a zoning permit, if required, and shall be removed within three (3) days after the issuance of the final occupancy permit, job completion, or six (6) months whichever is less. If construction is not completed within the six (6) month period, the sign may remain on the property for an additional six (6) months or until the project is completed, whichever is sooner.
  - (d) Temporary signs attached to the interior of a building window or glass door. Window signs shall not exceed twenty-five (25) percent of the total window space. Such signs shall be removed within thirty (30) days after placement.
  - (e) Displays, including lighting, erected in connection with the observance of holidays provided they are removed within ten (10) days following the holidays. Temporary lighting for Christmas decorations from November 15 to January 15

are exempt.

(f) Signs erected on private property for elections or political campaigns. The signs shall be removed three (3) days after the election or conclusion of the campaign and may not exceed fifteen (15) square feet in surface area. A political candidate and/or representative may erect or hold a sign within the public right-of-way provided the candidate and/or representative is present and does not block entrances, sidewalks, or obstruct Visibility Triangles. Political signs in right-of-way may not exceed six (6) square feet in surface area.

(g) Sandwich-Board Signs. Sandwich-board signs are to be located near the business establishment entrance as a means to advertise to pedestrians. Properties with multiple businesses on one (1) lot shall not co-locate sandwich board signs. A business establishment may have one (1) single-sided portable sign or one (1) double-sided sandwich/portable sign provided the sign complies with the following standards: shall be placed on the ground and shall not be larger than eight (8) square feet; may be located within the public right-of-way provided it does not block entrances, sidewalks, or obstruct Visibility Triangles; shall be within fifteen (15) feet of the front door of the business; shall be removed during hours when the business is not open. Signs on publicly owned property for the purpose of public notice are exempt from the requirements of this Section.

(h) Special Event Signs and Banners in right-of-way. A temporary sign or banner in the Village right-of-way, announcing a nonprofit event is allowed upon approval of the Village Trustees, the size and location to be determined by the Trustees. Installation of the sign shall be supervised by the Village Public Works Department. In addition;

- (i) The event shall be sponsored by a charitable, civil or nonprofit organization.
- (ii) The event shall occur within the Village limits.
- (iii) The sign shall indicate the sponsoring organization, location and duration of the event. No more than twenty (20) percent of the sign area shall contain advertising of any product or commercial logo.

(i) Temporary sign(s) approved by the Village Trustees on public property or within the public right-of-way.

Other temporary signs not listed in this Section, shall be regarded and treated in all respects as permanent signs.

2. Temporary signs for which a permit is required.
  - (a) Signs indicating that a special event such as a grand opening, fair, carnival, circus, festival, or similar event is to take place on the lot where the sign is located. Such signs may be erected not sooner than two (2) weeks before the event and must be removed no later than three (3) days after the event. No such signs may exceed thirty (30) square feet in surface area.
  - (b) One (1) sign indicating or directing one to a special event of a nonprofit organization is allowed off the premises of the event with the owner's written permission. The signs may not be erected sooner than two (2) weeks prior to the event and must be removed no later than three (3) days after the event. No such signs may exceed thirty (30) square feet in surface area.
3. Any signs on public property shall be specifically approved by the Trustees.

**B. Number of Signs**

1. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.
2. A two-sided sign shall be regarded as one sign if the distance between the backs of each face of the sign does not exceed one (1) foot.

**C. Computation of Sign Area**

1. The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
2. If the sign has more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.
3. The sign surface area of two-sided signs shall be computed by including the total of both sides designed to attract attention or communicate information that can be seen at any one (1) time by a person from one (1) vantage point.
  - (a) The sign surface of a double faced, back to back sign shall be calculated by using the area of only one (1) side of such sign if the distance between the backs of such signs does not exceed one (1) foot.

**D. Wall Signs**

1. Unless otherwise provided in this article, the total surface area devoted to all wall signs on any lot shall not exceed the limitations set forth in this section.
2. In the Commercial and Industrial Districts, one (1) wall sign per business establishment is allowed, not exceeding five (5) percent of the following area:
  - (a) The size shall be computed as the length of wall multiplied by fifteen (15) feet, or twenty (20) square feet, whichever is greater. If a structure has multiple stories with different business establishments, the facade area shall be calculated by multiplying the length of wall used by each business establishment by vertical floor to ceiling height of each story.
3. No wall sign shall project more than eight (8) inches from the wall to which it is attached, extend beyond the building face on a street or parking lot, or exceed the lowest of the following height limitations:
  - (a) Twenty (20) feet above grade;
  - (b) The cornice line of the building at the building line.
4. In Commercial and Industrial Districts, one (1) business directory wall sign is allowed per principal structure. It must be attached to the principal structure and may not exceed thirty-two (32) square feet or two (2) square feet per business, whichever is less.

**E. Number of Wall Signs**

1. In Commercial and Industrial Districts, the overall number of wall signs shall not be restricted as long as the total square footage of all wall signs does not exceed the size

limitation as listed in Section 714.D.2.

2. In lieu of a freestanding sign an additional twenty (20) square feet of wall signage shall be allowed. However, in no case may a single wall sign exceed the size limitations in Section 714.D.2.

3. In Commercial Districts, if a business is on a corner lot having frontage on two (2) streets, two (2) wall signs shall be allowed, one (1) on the facade facing each street.

F. Projecting Signs

One (1) projecting sign, perpendicular to the wall surface on which it is mounted, may be allowed, subject to the following:

1. The projecting sign must be securely fastened to the wall on which it is mounted.

2. The projecting sign may not project more than three (3) feet from the wall on which it is mounted.

3. The projecting sign shall not be more than two (2) feet tall.

4. The projecting sign shall be mounted so that no part is less than eight (8) feet above ground level.

5. Projecting signs within the Village Center District are specifically permitted. Projecting signs in any other District which would project over any public right-of-way shall require approval by the Board of Trustees.

G. Window Signs

1. In Commercial and Industrial Districts businesses are allowed temporary and permanent window signage not to exceed twenty five (25) percent of the total window area. Each separate window pane shall not have a sign greater than twenty five (25) percent of the window. The Planning Commission may waive the twenty five (25) percent limit on window signage upon determination that the waiver request is consistent with the intent and purpose of the sign regulations as outlined in Section 502.K.

2. Window signs do not require a permit, but must comply with the twenty five (25) percent limit on window signage.

3. Village Center District – Businesses in the Village Center District shall be allowed one (1) internally lit or neon window sign. All internally lit or neon window signs shall not to exceed three (3) square feet and shall require approval of a sign permit. Businesses on a corner lot shall be allowed to have two (2) internally lit or neon window signs, one (1) facing each street frontage. A business that has over one hundred and fifty (150) feet of street frontage shall be allowed two (2) internally lit or neon window signs subject to the size restrictions. All other internally lit permanent, temporary or window signage is expressly prohibited in the Village Center District unless otherwise provided in this Chapter.

H. Awnings

1. A premise, and each occupant of a shopping center or multi-use building, may display awnings on each street or highway frontage in any Commercial District. In addition, awnings are allowed over windows and entrances that do not front on a Public Street or highway. All awnings shall be allowed subject to the following limitations:

a) The awning may extend to within one (1) foot of the vertical plane created by the curb or right-of-way line.

b) Awnings must clear the sidewalks or ground by at least eight (8) feet.

- c) The top of the awning, where it is attached to the building, shall be no higher than fourteen (14) feet above grade
- d) An awning with letters in the form of a sign shall be considered a wall sign.
- e) Awnings without letters shall be allowed subject to the size and height restrictions above, but the overall number of awnings shall not be restricted.
- f) Awnings may be non-illuminated or externally illuminated only by down-directed and shielded fixtures and incandescent bulbs.

I. Freestanding Signs

1. For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area.
2. In Commercial and Industrial Districts, a single side of a freestanding sign may not exceed three tenths (0.3) of a square foot in surface area for every one (1) linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no case may a single side of a free standing sign exceed forty (40) square feet in surface area if the lot on which the sign is located has less than two hundred (200) feet of frontage on the street toward which that sign is primarily oriented, fifty (50) square feet on lots with two hundred (200) or more but less than four hundred (400) feet of frontage, and sixty (60) square feet on lots with four hundred (400) feet or more of frontage.
3. Freestanding signs that have no discernable sides, such as spheres or other shapes not composed of flat planes, may not exceed the maximum total surface area allowed under for a single side of a freestanding sign.
4. In all Districts, any legal business or recreational use, except a Home Occupation, that is not readily visible from a street, may be allowed to erect one (1) off-premise directional sign. This sign may not exceed four (4) square feet, and must be on an adjacent lot or on a right-of-way owned or leased by the business in question. This directional sign must be set back at least five (5) feet from the edge of the right-of-way. Staff may deny an application for a directional sign in any residential district which in Staff's judgment alters the character of the area.
5. Businesses with Drive-Through Facilities may have one (1) menu board sign in addition to one (1) free-standing sign. A menu board sign shall not exceed forty-eight (48) square feet and shall be screened from the public right-of-way.
6. Automobile service stations or convenience stores selling gasoline may add twelve (12) square feet to the free-standing sign allowance for price signs. They must be part of or attached to the supports of the one (1) allowed free-standing sign, gas pump canopy, gas pump, or combination thereof and shall not exceed the additional twelve (12) square foot allowance.

J. Number of Freestanding Signs

1. Except as specifically authorized by this section, no lot or group of contiguous lots used for a single development, may have more than one freestanding sign. However, lots with greater than four hundred (400) feet of frontage may have an additional freestanding sign, not to exceed twenty (20) square feet provided the freestanding signs are at least one hundred and fifty (150) feet apart.
2. If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lot's boundaries (Double Frontage Lot) then the development may not have more than one (1) freestanding sign on each side of the development bordered



by such streets.

3. Directional signs for driveway entrances or exits, which provide direction, instruction or convenience to the public shall be restricted as follows:
  - (a) No more than one (1) such sign shall be located at each driveway.
  - (b) No advertising or business logo information shall be located on such information signs.
  - (c) Each directional sign shall not exceed three (3) square feet in area.
  - (d) Directional signs must be set back at least five (5) feet from the edge of the right-of-way and shall not exceed three (3) feet in height above grade.
  - (e) A directional sign in the Industrial District may be twelve (12) square feet in area and have a maximum height of ten (10) feet if it is set back two hundred (200) feet or more from the nearest public road.
4. An automobile service station or convenience store with a gas pump canopy may use its one (1) free-standing sign and area allowance on the two (2) ends of the canopy with a maximum sign height of three (3) feet.
5. Landscaping regulations for free-standing signs are as follows:
  - (a) The area within five (5) feet of all sides of a permanent free-standing sign shall contain landscaping, consisting of shrubs, rock beds, vines or flowering plants, or any combination thereof. A planter or berm no more than three (3) feet above average grade may be approved by the Staff provided that such planter does not increase the height of the sign.
  - (b) Landscaping shall be maintained in a neat, clean and healthy condition. This shall include proper pruning, mowing of grass, weeding and removal of litter. Landscaping plantings that perish shall be replaced by the next planting season.

**K. Subdivision, Multi-Family, and School Entrance Signs.**

At any entrance to a residential subdivision, multi-family development or school, there may be not more than two free-standing or wall signs identifying the entrance. A single side of any such sign may not exceed ten (10) square feet.

**L. Location and Height Requirements**

Unless otherwise allowed in this Chapter, the following shall be required for all free-standing signs and permanent signs.

1. Front Yard Setbacks. Signs must meet the following minimum front yard setbacks:
  - (a) In all districts, signs shall be set back no less than ten (10) feet from the property line.
  - (b) On lots located on the northerly side of Pearl Street between 159 Pearl Street and Susie Wilson Road, signs shall be set back no less than seven and one-half (7.5) feet from the property line.
  - (c) If a building is located closer to a street than the minimum setback for signs, all signs shall be located flush with the facade of the building.
2. Side and Rear yard Setbacks. Side and rear yard minimum setbacks shall be ten (10) feet in non-residential districts and fifteen (15) feet in all Residential, Neighborhood Commercial, Residential/Office Districts.
3. Height. The height of a sign shall include the height of any supportive posts or structure. No free-standing sign shall exceed the following maximum heights:

- (a) In the Commercial and Industrial Districts, signs shall not exceed fifteen (15) feet in height.
- (b) Signs for commercial uses in Residential/Office and Residential Districts shall not exceed ten (10) feet in height.
- (c) Signs for residential uses, including Home Occupations, in all Residential and Residential/Office Districts shall not exceed five (5) feet in height.

**M. Sign Illumination and Signs Containing Lights.**

Unless otherwise prohibited, signs may be illuminated as specified below:

1. Unless specifically provided for elsewhere in the code, internally illuminated signs are prohibited in Flood Plain, Residential/Office and Village Center District. Internally lit signs in the Village Center District may be allowed with approval of the Planning Commission upon determination that the internally lit sign meets the intent of Section 502.H.1.
2. Externally illuminated signs shall meet the following standards:
  - (a) The average level of illumination on the vertical surface of the sign shall not exceed three (3.0) foot-candles, and the uniformity ratio (ratio of average to minimum illumination) shall not exceed two to one (2:1).
  - (b) Lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that light is directed only onto the sign facade. Lighting fixtures shall not be aimed toward adjacent streets or properties.
3. Internally illuminated signs are allowed in the Highway Arterial, Multi-Family/Mixed Use-1, Multi-Family/Mixed Use-2, Transit Oriented Development and Mixed Use District and shall meet the following standards:
  - (a) The lettering or symbols shall constitute no more than forty (40) percent of the surface area of the sign.
  - (b) The luminous transmittance for the lettering or symbols shall not exceed thirty-five (35) percent.
  - (c) The luminous transmittance for the background portion of the sign shall not exceed fifteen (15) percent.
  - (d) Light sources shall be fluorescent tubes, spaced at least twelve (12) inches on center, mounted at least three and a half (3.5) inches from the translucent surface material.
4. Signs within one hundred and fifty (150) feet of a Residential District or residential use may be illuminated only during operating hours of the business or until 9:00 P.M., whichever is earlier.
5. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign. It shall not shine directly into a public right-of-way or residential property.
6. Internally illuminated freestanding signs may not be illuminated during hours that the business or enterprise advertised is not open for business except:
  - (a) Signs that constitute an integral part of a telephone booth, device that indicates the time, date or, temperature or similar device.
  - (b) Signs that do not exceed two (2) square feet in area and that convey the message that a business enterprise is open or closed or that a place of lodging does or does not have a vacancy.
  - (c) Internally illuminated vending machines shall not be allowed outside of

buildings except in Commercial Districts.

7. Illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.
8. No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or temperature and barber pole signs.
9. String lights may be used in connection with commercial premises except as specifically prohibited within this Section.

N. Miscellaneous Restrictions and Prohibitions.

1. Signs located off the lot of the business, except those specified in Section 714, are prohibited.
2. Signs which obstruct the view of official signs and approaching or merging traffic are prohibited.
3. Signs that revolve or are animated or that utilize movement or apparent movement are prohibited. Without limiting the foregoing, banners, balloons, streamers, animated display boards, non-governmental flags, pennants and propellers are prohibited.
4. No sign may be erected so that by its location, color, size, shape, nature, or message it would obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.
5. Permanent freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure to minimize danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.
6. Any signs which advertise a business which no longer exists or a product no longer sold are prohibited.
7. Portable or temporary signs or any sign erected on a parked vehicle where such a sign would not otherwise be permitted are prohibited.
8. Unless otherwise permitted by this ordinance, signs over or in the public right-of-way are prohibited unless specifically approved by the Trustees.
9. Signs erected so as to obstruct any door, window or fire escape on a building are prohibited.
10. No sign shall be erected, attached, painted, or maintained upon utility poles, or trees and other natural features.
11. Any sign containing a phosphorescent paint is prohibited.
12. Signs which appear to direct the movement of traffic, interfere with, imitate, or resemble any official traffic, directional, or route signs, signal, or device are prohibited.
13. Tourist information signs under Chapter 21, Title 10 of Vermont Statutes Annotated are permitted.
14. The legal display of governmental or non-governmental flags is allowed, subject to the following limitations:
  - (a) Flags with advertising or commercial logos shall be considered to be free-standing signs.
  - (b) No more than three (3) such flags may be displayed per business.
  - (c) Flag poles must meet all setback requirements.
  - (d) At no time shall any flag extend across a property line onto an adjoining property or public right-of-way.

1. Roof signs are prohibited.
  2. Signs on sport fields that are not visible from the public right-of-way do not require a permit if the top edge of the sign is not more than five (5) feet off the ground. Signs that are visible from the public right-of-way shall require a permit.
- O. Maintenance of Signs
1. All signs and all components thereof, including but not limited to, supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted or stained with a neutral color to blend with the natural environment.
  2. Staff is authorized to order the repair or removal of any sign which in the judgment of the Staff is dangerous, or which is erected or maintained contrary to this Code.
- P. Unlawful Cutting of Trees or Shrubs. No person may damage, trim, destroy or remove any trees, shrubs or other vegetation for the purpose of increasing or enhancing the visibility of any sign in any of the following locations:
1. Within any public right-of-way of unless the work is done pursuant to the expressed written authorization of the Village or other Agency having jurisdiction over the streets.
  2. On property that is not under the ownership or control of the person responsible for such work unless the work is authorized by the owner.
  3. In any area where such trees or shrubs are required to remain under a permit issued by the Village or any other Agency having jurisdiction to issue such permits.
- Q. Exemptions. The provisions and regulations of this Ordinance shall not apply to the following signs. However, said signs shall be subject to the provisions of Section 502.H:
1. One- or two-sided free-standing signs for municipal departments which are used to provide public information, and are deemed to meet the intent of Section 502.H.1. Such signs must be approved by the Planning Commission and Board of Trustees, may not exceed thirty (30) square feet per side, must be at least fifteen (15) feet from the pavement of any public right-of-way, must not be located within any right-of-way, and may not exceed ten (10) feet in height. Such signs may include an Electronic Message Board not exceeding ten (10) square feet on each side of the sign, which may only be used between the hours of 7:00 A.M. and midnight. Information may be displayed on the message board on an intermittent basis, provided each display is at least five (5) minutes in duration. Each department shall be limited to one (1) sign.

## **SECTION 715: TELECOMMUNICATIONS**

- A. Balloon Test. The Planning Commission may require the applicant to fly a four (4) foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test at least seven (7) days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Planning Commission, in writing, of the date, time and location of the test, at least fifteen (15) days in advance of the test.

1. The balloon shall be flown for at least eight (8) consecutive daylight hours on two (2) days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Planning Commission.

B. Criteria For Approval And Conditions. An application for a Wireless Telecommunication Facility permit shall be approved after a hearing when the Planning Commission finds all the following criteria have been met:

1. The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the Planning Commission may require the applicant to provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.
2. The Facility will not project more than twenty (20) feet above the average elevation of the tree line measured within fifty (50) feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate collocation of facilities.
3. The minimum distance from the base of any tower to any property line is not less than one hundred (100) percent the total elevation of the tower, including antenna or equipment.
4. The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this Code.
5. The applicant will remove the Facility, should the Facility be abandoned or cease to operate. The Planning Commission may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Planning Commission to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.
6. The applicant demonstrates that the facility will be in compliance with all Federal Communications Commission (FCC) standards and requirements regarding radio frequency radiation.
7. The applicant will maintain adequate insurance on the Facility.
8. The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Planning Commission may condition a permit on the provision of appropriate fencing.
9. The proposed equipment cannot be reasonably collocated at an existing Wireless Telecommunication Facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Planning Commission shall consider the following factors:
  - (a) The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
  - (b) The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.
  - (c) The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.

- (d) Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.
  - (e) Collocation of the equipment upon an existing tower would cause an undue aesthetic impact.
10. The Facility provides reasonable opportunity for collocation of other equipment.
11. The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
12. The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Planning Commission shall consider the following factors:
- (a) The results of the balloon test, if conducted.
  - (b) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
  - (c) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
  - (d) The duration and frequency with which the Facility will be viewed on a public highway or from public property.
  - (e) The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.
  - (f) Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.
  - (g) The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
  - (h) The sensitivity or unique value of a particular view affected by the Facility.
  - (i) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
13. The Facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.
14. The Facility will not generate undue sound.

C. Continuing Obligations For Wireless Telecommunication Facilities. The owner of a Wireless Telecommunication Facility shall, at such times as requested by the Planning Commission, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Planning Commission, shall mean that the Facility has been abandoned.

D. Removal of Abandoned or Unused Facilities. Unless otherwise approved by the Planning Commission, an abandoned or unused Wireless Telecommunication Facility shall be removed within ninety (90) days of abandonment or cessation of use. If the Facility is not removed within ninety (90) days of abandonment or cessation of use, the Planning Commission may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner. Unused portions of a Wireless Telecommunication Facility shall be removed within one hundred

and eighty (80) days of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit, pursuant to Section 502.N.5-6.

**SECTION 716: RESERVED**

**SECTION 717: DAY CARE AND FAMILY CARE FACILITIES**

- A. **Purpose.** To allow for the provision of Day Care and Family Care Facilities within all Districts and to provide criteria for the review of such facilities.
- B. **General Standards:**
1. **Parking.** Parking for Day Care and Family Care Facilities shall meet the following standards:
    - (a) Appropriate parking and unloading areas shall be provided for all facilities.
    - (b) The amount of parking and unloading areas to be provided shall be based on the number of clients served at any one time and the number of shifts to be provided.
    - (c) The location of parking and unloading areas shall be considered relative to the structure, its entrances, and the location of adjoining streets.
    - (d) The impact of required parking facilities upon adjoining properties and neighborhood characteristics shall also be considered.
  2. **Operators of the Day Care or Family Care Facility shall submit a parking and circulation plan which shall include:**
    - (a) A general layout of the lot, including the location of existing structures, driveways, and abutting streets and alleys.
    - (b) The location of proposed parking and unloading areas.
- C. **Day Care Facility Standards:**
1. Play space of not less than thirty-five (35) square feet per child shall be provided. Play space shall not include floor space used for permanent and stationary equipment, storage, halls, bathrooms, offices and kitchens.
  2. A fenced-in play area of not less than fifty (50) square feet per child shall be provided; said space shall not be located closer than twenty-five (25) feet to any public or private street and shall be fenced to a minimum height of forty-eight (48) inches.
  3. A fenced outdoor play area shall not be required if a child care center exclusively provides preschool instruction for not more than three (3) hours per day, and children are not permitted to play outside.
  4. Day care facilities shall not be located above the first story of the structure unless safety codes are met. Basements shall not be used for child care unless all usable rooms have fire escapes and rescue windows or doors which meet all Vermont Fire Protection Codes.
- D. **Standards of Review.** The Zoning Board shall review all applications for Family and Day Care Facilities as Conditional Use Permits. In addition, review shall include the following:
1. Proximity to major streets.
  2. Proximity to schools, recreation facilities, sidewalks and bicycle paths.
  3. Traffic to be generated by the facility.

- 4. Proposed hours of operation of the facility.
  - 5. Maximum number of children to be served by the facility.
  - 6. Potential impact of the proposed facility upon the surrounding neighborhood.
  - 7. Existing or potential levels of air and sound pollution in the area.
  - 8. Access to adjacent areas of commercial or industrial employment.
  - 9. Type of vehicular traffic common to the area.
- E. **Zoning Board Actions.** The Zoning Board may deny, approve, or approve with conditions based upon applicable review criteria.
- F. **Exemptions.** Day Care Homes and Family Care Homes as defined in this Code are exempt from the provisions of this Section.

**SECTION 718: PERFORMANCE STANDARDS**

- A. **Purpose/Applicability.** These performance standards are established to protect the public health, safety and general welfare. No land or building shall be used or occupied in any manner which creates dangerous, injurious, noxious or otherwise objectionable conditions. The Village may retain a qualified consultant at the expense of the applicant or owner to review any application for conformance to any of these standards. Any use authorized by this Code shall meet performance standards as specified herein. No use may be established or structure constructed which violates these performance standards without specific approval of the Commission or Board as authorized herein.
- B. **Sound.** It shall be a violation of this ordinance for any property owner or occupant to create, or allow to be created, sound in excess of the following stated limits:
- 1. At any point where the property on which the sound emanates adjoins any property used for residential purposes sound shall not exceed the following levels of intensity:

TIME PERIOD	One hour Average dba	Instantaneous Maximum dba
12:00 Midnight to 1:00 AM	55	65
1:00 AM to 7:00 AM	50	60
7:00 AM to 12:00 Midnight	70	80
9:00 PM to 12:00 Midnight preceding official Essex Junction school days	60	70

- 2. At any point where the property on which the sound emanates adjoins any property used for commercial uses:



TIME PERIOD	One hour Average dba	Instantaneous Maximum dba
12:00 Midnight to 1:00 AM	70	80
1:00 AM to 7:00 AM	60	70
7:00 AM to 12:00 Midnight	80	90

3. At any point where the property on which the sound emanates adjoins any property used for industrial purposes:

TIME PERIOD	One hour Average dba	Instantaneous Maximum dba
12:00 Midnight to 1:00 AM	70	80
1:00 AM to 7:00 AM	60	70
7:00 AM to 12:00 Midnight	85	95

4. For purposes of this regulation, the following terms shall be defined as stated below.

- (a) Decibel - a unit measure of sound level;
- (b) Sound level - in decibels measured by a sound level meter, using "A" frequency weighting (expressed in DBA)
- (c) Average sound level - a sound level during a given period of time (e.g., one hour) found by the general rule of combination of sound levels. Also called equivalent sound level.

5. Exemptions. Sounds associated with standard agricultural operations shall be exempt from this standard.

C. Odor. No use shall be located or operated which involves the emission of odorous matter which is detectable beyond the property line of the lot on which the odor is generated.

- 1. The odor threshold established herein shall be determined by observation at the property line.
- 2. Where the operator or owner disagrees with the determination that a violation exists, the Village shall cause the odor to be measured by the methods and procedures established by the American Society for Testing materials. The owner, or operator, shall be responsible for all costs associated with the required testing.
- 3. Odors emanating from standard agricultural operations, municipal wastewater and pump stations are exempt.

D. Explosives. No use or structure shall be established which involves the storage or sale of explosives as a principal use. Explosive materials which are incidental to any construction

activity are exempt from this requirement provided, however, that provisions are made for handling and storing such materials that meet or exceed all applicable Federal and State regulations.

E. Smoke and Particulate Matter. No use shall be established or operated which emits smoke or particulate matter beyond the property line. The smoke and particulate matter threshold shall be determined by observation at the property line.

1. Any application for development approval which may cause the emission of smoke or particulate matter shall produce evidence that the emissions will not exceed applicable Federal or State emission standards.
2. When the Village asserts that a violation exists and the owner or operator disagrees the Village shall cause the smoke or particulate matter to be measured by an expert at the expense of the owner or operator.
3. The owner or operator of any source of particulate matter shall use best available control technology to minimize emissions. All construction or land-clearing activities shall use best available control technology to minimize emissions.
4. Techniques used to minimize particulate emissions shall include, but are not limited to, application of dust suppressants, watering of construction sites, control of speed on unpaved drives or parking areas and the installation of pollution control devices at any emission point source.
5. Wood stoves or fireplaces are exempt from this standard.

F. Hazardous materials. Hazardous materials as defined in applicable State and Federal regulations shall not be used, stored, or transported contrary to these regulations. Review and regulations regarding the classification of hazardous materials shall be the responsibility of applicable State and/or Federal agencies. Inspection of sites which involve the use of hazardous materials shall be the responsibility of applicable Federal and/or State agencies. The Commission may place conditions on any application as recommended by an outside expert hired by the Village. Furthermore, any location which stores or uses hazardous materials shall notify the Fire Department regarding the location and type of said hazardous materials on the site.

G. Visual Impact. The Commission may review visual impact of any proposed development located in any Commercial or Industrial District. The Commission may place conditions on any approval or may require the alteration or relocation of any proposed structure which in its opinion would significantly alter the existing character of the area.

1. Factors for Evaluation. Visual impact shall be evaluated through analysis of the following factors and characteristics:
  - (a) Conformance to all regulations and standards as specified herein.
  - (b) Selection and appropriate use of materials.
  - (c) Harmony and compatibility of architectural character with surrounding structures.
  - (d) Exterior space utilization in regard to efficient use of site and existing significant natural or man-made features.
  - (e) Circulation - vehicular and pedestrian.
  - (f) Height, size and bulk of proposed and adjoining buildings.
  - (g) Creativity.

Nothing in this section shall be deemed to require a specific design or architectural treatment.

Evaluation of a proposal shall be based upon the specific proposal at a specific site.

2. Relationship of Buildings to Site:
  - (a) The site should be designed to provide an appropriate and safe transition from the street to the building. Consideration shall be given to safe pedestrian movements, use of planting materials and placement of parking areas to provide a transition.
  - (b) Consideration shall be given to screening parking areas from view from public ways through the use of design elements such as decorative screening, building wall extensions, berms and landscaping materials.
  - (c) The height and scale of each building shall be compatible with the site and existing adjoining buildings:
3. Relationship of buildings and site to adjoining area.
  - (a) Adjacent buildings of different architectural styles shall be considered. To the extent possible, compatibility shall be ensured through the use of screens, sight breaks and materials. Consideration shall be given to the height, bulk and scale of the proposed structure in comparison to existing adjoining buildings.
  - (b) General architectural features including basic building and roof forms, treatment of cornices and windows, treatment of major entrances, placement of doors, fenestration patterns, and use of colors shall be reviewed for compatibility with adjoining buildings.
4. Landscape and Site Treatment:
  - (a) Where unique natural or significant man made features exist, effort should be made to preserve these features.
  - (b) Landscape treatment shall enhance architectural features and vistas.
  - (c) Landscaping and grading shall direct and encourage safe pedestrian, bicycle and vehicular access.
  - (d) Screening of service yards, dumpsters, and utilities shall be accomplished through the use of walls, fencing, plantings or courtyards.
  - (e) Exterior lighting shall be designed and installed to enhance the building design and to minimize negative impact on adjacent buildings or properties.
5. Building Design:
  - (a) Evaluation of the appearance of a project shall be based upon the quality of design and relationship to its surroundings. Generally, the following standards shall be considered:
    - (i) Architectural harmony of the building with adjoining buildings.
    - (ii) Materials shall be of durable quality and shall be architecturally harmonious. Consideration shall be given to the use of materials which are suitable to the proposed use of the building.
    - (iii) Building components, such as doors, windows, eaves and parapets, shall have good proportions and relationships to each other.
    - (iv) Colors shall be harmonious to the site and adjoining buildings.
    - (v) Lighting fixtures shall be part of the architectural concept and shall be compatible with surrounding buildings and materials.
    - (vi) Variation and creativity of detail, form and siting shall be considered to provide visual interest.
    - (vii) Scale of the proposed buildings, including number of stories, bulk, height, site location and lot coverage shall be considered to determine

compatibility with adjoining buildings.

H. **Gas Transmission Lines and Facilities.** Every gas transmission and distribution piping system shall be constructed, operated, and maintained in compliance with current Federal and State rules and regulations. Every gas appliance and gas piping system shall be constructed, operated and maintained in compliance with the provisions of the "American Standards for the Installation of Gas Appliances and Gas Piping." Any construction, placement, or alteration of any facilities within the public right-of-way shall be reviewed and approved as specified herein.

**SECTION 719: LANDSCAPE AND TREE PLANTING REQUIREMENTS**

A. **Purpose and Intent.** To protect and enhance the community's environmental, water, economic and aesthetic quality, thereby contributing to the overall objective of promoting public health, safety, and welfare. More specifically, it is the purpose of this Section to:

1. Reduce sound, glare, and heat.
2. Protect, preserve and improve property values.
3. Reduce conflicts between adjoining land uses and incompatible activities.
4. Promote energy conservation through the use of vegetation.
5. Protect the environment by contributing to air purification, oxygen regeneration, ground water recharge and encouraging use of green stormwater practices, minimizing erosion through storm water run off.
6. Enhance community appearance, identity and unique natural beauty.
7. Preserve and protect existing mature tree growth.
8. Channelize vehicular and pedestrian movement within off-street parking areas.
9. Delineate parking areas and adjacent right-of-way.
10. Delineate ingress and egress points.

B. Low Impact Design approaches and Green Stormwater Best Management Practices. To promote and provide incentives for use of LID/GSI practices (i.e. bioretention areas, vegetated swales, planter boxes, rainwater harvesting systems, and other vegetated practices), these practices may be used to meet landscaping, parking lot landscaping, buffering, streetscape, and tree preservation requirements of this section. These practices may be constructed in the designated landscape, buffering, streetscape and tree preservation area if they are part of an approved stormwater management plan for the site.

B. **Tree Protection.** Any application for development approval by the Commission shall submit a plan, which indicates the location of existing mature trees, or tree groupings, and shall indicate on the plan those trees or tree groupings which are proposed to be saved. The Commission may grant a credit of up to fifty (50) percent of the required landscaping for the preservation of mature trees.

C. **Street Trees.** The developer or applicant for any development approval under this Code shall plant one (1) shade tree of a species determined by the Commission for each forty (40) feet of frontage along a right-of-way bordering the property.

1. Existing single family and two family lots are exempt from this provision.
2. Street trees shall be planted either within the right-of-way or along the frontage of the lot, as determined by the Commission.
3. The Commission may waive this requirement if substantial efforts are proposed

**Commented [JJ49]:** should there be a cross reference to GSI here?

**Commented [CM50R49]:** See B. An alternative could be too add a sentence to each subsection if this doesn't work.

**Commented [RM51R49]:** I think it is a great idea to try to bring some alignment between the two sections. We should be aware that we might be creating some consistency challenges – mainly because the site plans need to be developed by two different types of professionals. But that shouldn't really be an issue. They need to submit a set of plans that meets the entire code.

**Commented [RM52R49]:** Having said that, Robin definitely needs to weigh in on this.

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for preserving existing mature trees along the right-of-way.

4. This provision shall not apply to applications for the expansion of existing commercial or industrial facilities if the expansion amounts to five hundred (500) square feet or less of enclosed floor space.

D. **Landscaping.** There shall be a sufficient amount of landscaping and screening, as may be reasonably determined by the Planning Commission, to ~~insure~~ensure protection of and enhance the quality of the project in question and adjacent properties. The landscape plan must be drawn by a landscape architect, landscape designer, or competent landscape professional, and the landscaping requirement will be a minimum of three (3) percent of the total construction cost for new construction up to \$250,000. For new construction projects above \$250,000, the landscape requirement shall be a minimum of two (2) percent of the total construction cost. In the case of construction projects above \$1,000,000, a landscape architect, licensed by the State of Vermont's Office of Professional Regulation, will be required to prepare a landscape plan. This may be waived in unusual circumstances. The Commission may permit or require improvements to the public right-of-way in part or in lieu of on-site landscaping to be used to improve the pedestrian environment including street trees, plantings, stormwater retention and pedestrian amenities. With a new use on existing development or renovation on existing property, the applicant must provide landscaping adequate to provide screening and environmental enhancement to the satisfaction of the Planning Commission.

1. Landscape Plan:

(a) Preliminary Site Plan

(i) A general concept of the landscaping and GSI/LID (if applicable), in both written and graphic form.

(ii) A list of existing vegetation, with the location, type, and size of existing trees of six (6) inches or greater in caliper.

(iii) A written plan to preserve and protect significant existing vegetation during and after construction. Such plan will be sufficient detail that the Village of Essex Junction will be able to inspect the site during construction to ensure that the existing vegetation is protected as per plan.

(iv) The location of existing natural features, such as streams, wetlands, and rock outcroppings.

(b) Final Landscape Plan

(i) All proposed physical improvements, such as buildings, walls, parking areas sidewalks, etc.

(ii) Proposed landscaping materials, including vegetation to remain, types of new plant materials, identified by common name and botanical name, sizes of all new plant materials by height and/or diameter at time of planting and at maturity, quantities of each of the planting materials, and treatment of the ground surface (paving, seeding, or groundcover).

(iii) Methods of controlling erosion and protecting landscaped areas.

(iv) A landscape phasing plan. Construction phasing shall be shown on the landscape plan with landscape and construction activities correlated.

2. Landscaping Requirements:

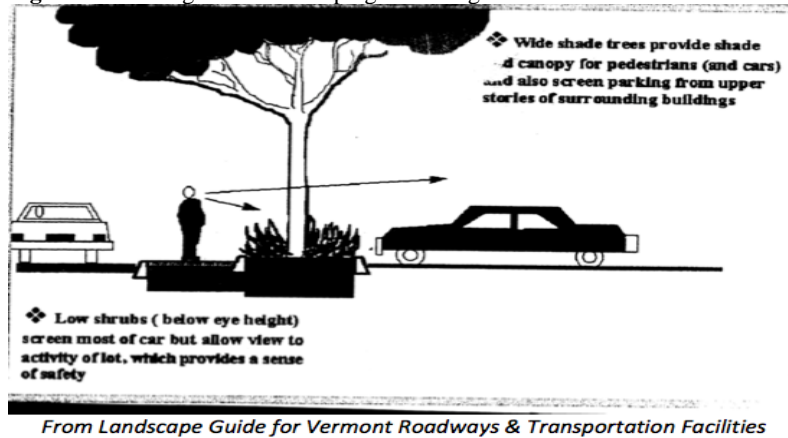
(a) All required landscaping shall comply with the intent and purpose of these regulations.

(b) If at the time of final inspection, all the requirements of these regulations have

- not been completed in a satisfactory manner, a certificate of occupancy shall not be issued unless the applicant has provided a monetary security guarantee. All required landscaping shall be installed as per plans submitted.
3. Applicability - New and Existing Developed Areas
    - (a) The Commission may require review of proposed landscaping.
    - (b) New Development or Redevelopment: All new development, construction or reconstruction shall be in full compliance with the provisions of these regulations.
    - (c) Existing Developed Areas. Compliance required: All property with existing development which is not in compliance with the provisions of this Section shall be considered nonconforming, and allowed to continue until such time as application is made to add, enlarge or reconstruct a structure on the property. At that time a plan showing existing and new development and the proposed landscaping plan shall be submitted. The Commission will consider the existing development, proposed change or alteration, and the impact of the proposed use on the site, parking and circulation. Nothing in this Section shall prevent the Commission from requiring landscaping for the proposed area designated for change.
  4. General Requirements
    - (a) Installation: All landscaping shall follow accepted horticultural practices.
    - (b) Maintenance: All planting shown on an approved site plan shall be maintained by the property owner in a vigorous growing condition throughout the duration of the use. Plants not so maintained shall be replaced with new plants at the beginning of the next growing season. Trees with a caliper of less than five (5) inches may be replaced on an inch-by-inch basis with trees of at least two and a half (2.5) inches caliper preferably of the same genus.
    - (c) Failure to maintain: Failure to replace materials per approved plans shall be a violation of this Code.
  5. Design Standards:
    - (a) Required parking areas must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk of at least twelve (12) inches in diameter. Each tree shall be presumed to shade a circular area having a radius of fifteen (15) feet with the trunk of the tree as the center and there must be sufficient trees so that using this standard, twenty (20) percent of the parking area will be shaded. The twenty (20) percent parking lot shade coverage may be waived by the Planning Commission in unusual circumstances, such as existing lots or lots which are not visible from off-site or if the shade requirements can't be met in conjunction with the incorporated LID/GSI practices are implemented.
    - (b) Trees used in parking lots should be placed far enough back from the curb to accommodate the overhang of an automobile.
    - (c) The parking lot should be screened with shrubs or other barriers to the extent possible.
    - (d) When planters are used in parking lot interiors, a surface area should be made available for aeration and water infiltration of at least twenty-five (25) square feet per tree. Islands may be graded and planted to serve as collection and treatment areas for stormwater management practices including LID/GSI. It is recommended that sections of curb cut be no more than five (5) feet in length.

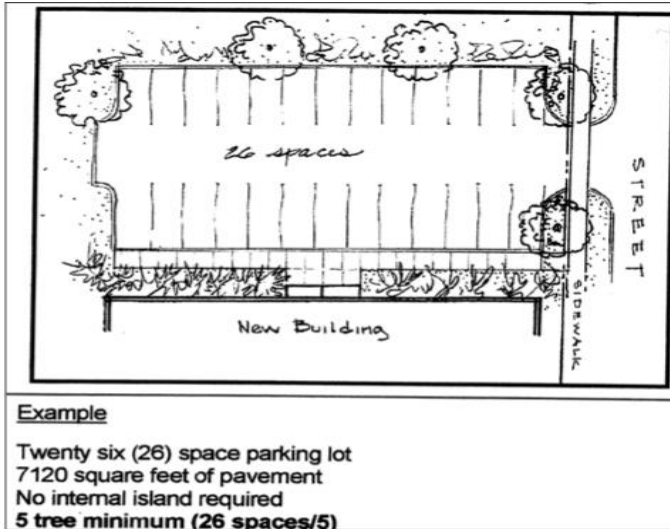
- (e) If possible, the parking lot should be located to the rear or side of the building with landscaping to the front of the structure.
  - (f) Fruit bearing trees should be avoided where vehicular and pedestrian traffic exists.
  - (g) Curbs or other physical barriers should be installed around plant material located within the parking lot unless related to curbs or other physical barriers prohibit proper functioning of LID/GSI stormwater treatment practices.
  - (h) When trees are planted to provide shade on the pavement, they should be located to the south of the pavement to maximize available shade.
  - (i) To the extent possible, trees should be located so that at mature height spread they will not interfere with overhead power lines.
  - (j) Evergreen trees should be avoided in areas where the mature trees will create hazardous interruption of views to oncoming traffic, or where they will create hazardous snow drifting on the parking area or public right-of-way.
  - (k) Vegetative areas should be planted with species normally found in the area.
6. The Planning Commission shall require compliance with any Tree Ordinance or Landscape Design Standards enacted by the Village of Essex Junction, subsequent to the effective date of these regulations.
7. Applications utilizing municipally owned land must be reviewed by the Village of Essex Junction Tree Advisory Committee. The Planning Commission, at their discretion, may ask the Tree Advisory Committee and or the Village of Essex Junction Tree Warden to comment on any landscape plan with regard to tree species selection and location.
8. Example Schematics:

**Figure 8.1** Parking Area Landscaping/Screening



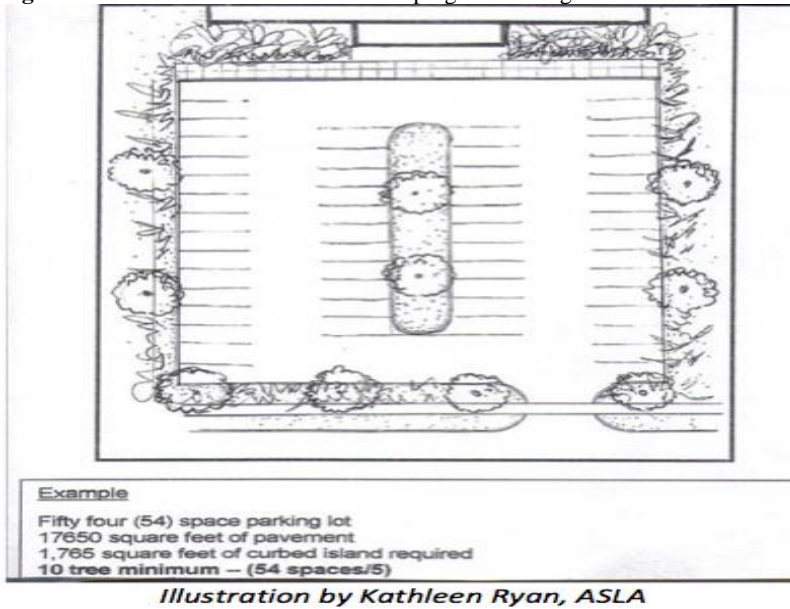
**Figure 8.2** Perimeter Landscaping for Parking Areas





*Illustration by Kathleen Ryan, ASLA*

**Figure 8.3** Internal and Perimeter Landscaping for Parking Areas



E. Approved Plant Materials. An emphasis shall be placed on selecting species native to Vermont and the Champlain Valley. Trees and plantings that are close to driveways, sidewalks and roads shall be salt tolerant. Generally, plants shall be from the most current tree species list recommended by the Vermont Urban Community and Forestry Program and those listed in the Village Land Development Code. The Planning Commission may refer to any or all of the following publications as resources:



1. Recommended Tree Species for Vermont Communities: A guide to Selecting and Purchasing Street, Park, and Landscape Trees, published by Urban and Community Forestry Program.
2. Planting Sustainable Landscapes- A Guide for Plan Reviewers, prepared by Department of Forests and Parks and the Vermont Chapter of the American Society of Landscape Architects- Section-111.
3. Street Tree Fact Sheets- Published by the Municipal Tree Restoration Program with support from the USDA Forest Service, Northeastern Area State and Private Forestry.

List of Suggested Example Species:

**Low Shrubs**

Leatherleaf (*Chamaedaphne calyculata*)  
 Sweet Fern (*Comptonia peregrina*)  
 Bush-honeysuckle (*Diervilla lonicera*)  
 Crowberry (*Empetrum nigrum*)  
 Checkerberry (*Gaultheria procumbens*)  
 Common Juniper (*Juniperus communis*)  
 Sheep Laurel (*Kalmia augustifolia*)  
 Bush Cinquefoil (*Potentilla fruticosa*)  
 Lowbush Blueberry (*Vaccinium angustifolium*)  
 Cowberry (*Vaccinium vitis-idaea*)

**Small Shrubs**

Black Chokeberry (*Aronia melanocarpa*)  
 Leatherwood (*Dirca palustris*)  
 Fragrant Sumac (*Rhus aromatica*)  
 Snowberry (*Symphoricarpos albus*)  
 Mapleleaf Viburnum (*Viburnum acerifolium*)

**Large Shrubs and Small Trees**

Striped Maple (*Acer pennsylvanicum*)  
 Mountain Maple (*Acer spicatum*)  
 Downy Serviceberry (*Amelanchier arborea*)  
 Apple Serviceberry (*Amelanchier x grandiflora*)  
 Allegheny Serviceberry (*Amelanchier laevis*)  
 American Hornbeam (*Carpinus caroliniana*)  
 Pagoda Dogwood (*Cornus alternifolia*)  
 Flowering Dogwood (*Cornus florida*)  
 Witchhazel (*Hamamelis virginiana*)  
 Chokecherry (*Prunus virginiana*)  
 Shining Sumac (*Rhus copallina*)  
 Smooth Sumac (*Rhus glabra*)  
 Pussy Willow (*Salix discolor*)  
 Showy Mountainash (*Sorbus decora*)  
 Nannyberry Viburnum (*Viburnum lentago*)  
 Blackhaw Viburnum (*Viburnum prunifolium*)

**Conifer Trees**

**Medium Shrubs**

Red Chokeberry (*Aronia arbutifolia*)  
 Buttonbush (*Cephalanthus occidentalis*)  
 Silky Dogwood (*Cornus amomum*)  
 Gray Dogwood (*Cornus racemosa*)  
 Redosier Dogwood (*Cornus sericea*)  
 American Hazelnut (*Corylus americana*)  
 Winterberry (*Ilex verticillata*)  
 Spicebush (*Lindera benzoin*)  
 Mtn. Holly (*Nemopanthus mucronatus*)  
 American Elder (*Sambucus canadensis*)  
 Red Elder (*Sambucus pubens*)  
 Highbush Blueberry (*Vaccinium corymbosum*)  
 Witherod Viburnum (*Viburnum cassinoides*)  
 Arrowwood Viburnum (*Viburnum dentatum*)  
 American Cranberrybush Viburnum - (*Viburnum trilobum*)

**Medium and Large Deciduous Trees**

Red Maple (*Acer rubrum*)  
 Silver Maple (*Acer saccharinum*)  
 Sugar Maple (*Acer saccharum*)  
 Speckled Alder (*Alnus rugosa*)  
 Yellow Birch (*Betula alleghaniensis*)  
 Black Birch (*Betula lenta*)  
 Paper Birch (*Betula papyrifera*)  
 Gray Birch (*Betula populifolia*)  
 Shagbark Hickory (*Carya ovata*)  
 Hackberry (*Celtis occidentalis*)  
 American Beech (*Fagus grandifolia*)  
 Staghorn Sumac (*Rhus typhina*)  
 Black Gum (*Nyssa sylvatica*)  
 Ironwood (*Ostrya virginiana*)  
 Sycamore (*Platanus occidentalis*)  
 Quaking Aspen (*Populus tremuloides*)  
 Black Cherry (*Prunus serotina*)  
 White Oak (*Quercus alba*)

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Balsam Fir ( <i>Abies balsamea</i> )	Swamp White Oak ( <i>Quercus bicolor</i> )
Eastern Red Cedar ( <i>Juniperus virginiana</i> )	Scarlet Oak ( <i>Quercus coccinea</i> )
Eastern Larch ( <i>Larix laricina</i> )	Bur Oak ( <i>Quercus macrocarpa</i> )
White Spruce ( <i>Picea glauca</i> )	Chinkapin Oak ( <i>Quercus muehlenbergii</i> )
Black Spruce ( <i>Picea mariana</i> )	Pin Oak ( <i>Quercus palustris</i> )
Red Pine ( <i>Pinus resinosa</i> )	Red Oak ( <i>Quercus rubra</i> )
Eastern White Pine ( <i>Pinus strobus</i> )	Black Oak ( <i>Quercus velutina</i> )
American Arborvitae ( <i>Thuja occidentalis</i> )	Sassafras ( <i>Sassafras albidum</i> )
Canadian Hemlock ( <i>Tsuga canadensis</i> )	American Linden ( <i>Tilia americana</i> )
	American Elm ( <i>Ulmus americana</i> )

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F. Minimum Planting Specifications. All plantings are required to be healthy nursery-grown stock and maintained.

G. Performance Bond. The applicant shall provide a suitable performance bond or other form of security to guarantee the performance and completion of all planting required by this Section, which bond or security shall also guarantee all plantings for a period of two (2) years. The Commission may modify the planting requirements to more fully implement the purpose and intent of this section.

**SECTION 720: LOT FRONTAGE**

A. Lot Frontage. Within any District, a minimum frontage of sixty (60) feet is required at the street, unless specifically stated otherwise. The Commission may waive this requirement in unusual circumstances, including but not limited to small lots and preexisting, non-conforming lots.

B. Required Frontage. In accordance with Section 4406 of Vermont Municipal Planning and Development Act (24 VSA, Chapter 117), no development shall be permitted on any lot which does not have either frontage on a public road or public waters or, without approval of the Commission, access to such road or waters by a permanent easement or right-of-way at least twenty (20) feet in width.

**SECTION 721: ACCESSORY APARTMENTS**

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A. Purpose. To allow the provision of small apartments within existing single family dwellings to improve the ability of households to provide housing.

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- B. Standards.
1. Thirty (30) percent of the existing residential floor space may be converted, added on to the principal structure or built in an accessory structure to accommodate an accessory apartment.
  2. No more than one accessory apartment may be converted within or added to any existing residential dwelling on any single family lot.
  3. The converted dwelling shall retain the appearance of a single family dwelling. Any alterations to the exterior of the single family residence must be specifically approved by the Commission.
  4. An accessory apartment shall not be allowed in a residential garage, unless there is

adequate separation between the residential unit and garage and is compliant with the Vermont Fire Prevention Code.

5. The parking area shall be appropriately landscaped or screened to retain the appearance of a single family dwelling.
6. The Commission may approve the conversion of an existing unattached structure which is located on the same lot prior to adoption of this Code, if the following conditions are met:
  - (a) Any accessory apartment proposed in an accessory structure that was built after the effective date of this code shall require conditional use approval.
  - (b) All other provisions of this Section are met.
  - (c) Additional driveways or parking areas shall not be constructed on the lot except adjacent to the existing driveway or parking area.
  - (d) If an existing unattached structure is utilized as an accessory apartment, the single family dwelling shall not be eligible for an additional accessory apartment.
7. The single family residence must be owner occupied. All permits shall be voided if there is occupancy by more than two individuals or if the single family residence is not owner occupied.

C. Permit Review. The zoning administrator may approve accessory apartments within or attached to an existing single family home provided it meets all the required standards including but not limited to setbacks, parking and is wholly within the existing footprint and/or envelope of the existing dwelling. The zoning administrator may defer any accessory apartment application to the Planning Commission for review and approval. Generally an application shall be reviewed for neighborhood compatibility, screening and landscaping, parking, and access. Furthermore, the Commission shall consider all issues within its jurisdiction raised by adjoining property owners prior to granting approval.

The Commission shall have the authority to place reasonable conditions on any applications, which in their sole view are necessary to meet the intent of this Code, the Village Plan and to protect the residential characteristics of the neighborhood.

#### **SECTION 722: PROFESSIONAL OFFICE OVERLAY DISTRICT**

- A. A Professional Office Development Overlay District is to allow for the development of office buildings within areas of existing offices, and as designated on the Future Land Use Map in the Village Comprehensive Plan.
- B. All proposed professional office developments shall require a hearing before the Commission. The Commission shall consider the following criteria and may establish conditions as deemed necessary to meet the purposes of this Section.
  1. Compatibility with surrounding office uses.
  2. Hours of operation.
  3. The proposed use will not interfere with or alter the residential uses of adjoining properties.
  4. Permitted Uses. Specific uses shall be determined by the Commission upon review of an application and finding that the proposal meets all the criteria of this Section. However, retail and industrial uses shall not be allowed. Residential uses shall

be allowed as a Conditional Use. The residential density shall not exceed ten (10) units per acre.

C. The Commission may establish conditions as deemed necessary to mitigate impacts of a proposed professional office development.

D. **Site Plan.** In addition to the Site Plan Standards specified in this Code, the Commission shall review the following:

1. Lighting shall not negatively impact adjoining residential properties, and the use of flood lighting is expressly prohibited.
2. Parking areas shall be screened from view from adjoining residential properties.
3. All structures shall be designed to be compatible in construction with adjoining structures.
4. Proposed signs shall be specifically approved.

### **SECTION 723: PLANNED UNIT DEVELOPMENT (PUD)**

The objective of the Planned Unit Development (PUD) is not simply to allow exceptions to otherwise applicable regulations. It is instead to encourage a higher level of design and amenity than it is possible to achieve under the usual land development requirements.

The Village may require modifications to the application of detailed zoning and subdivision standards as provided herein only where such special amenity is achieved to otherwise applicable regulations. In this way the Village may grant the developer a desirable flexibility and at the same time not only protect, but enhance the welfare of the residents and other users of a development as well as the rest of the community.

A. **Planned Unit Development.** The Commission may review any subdivision under Section 503 as a Planned Unit Development under this Section. The Commission may approve a Planned Unit Development in the R-1 and R-2 Residential Zoning Districts.

1. **Application Requirements.** Submittal of a Planned Unit Development application shall be in conformance with the submittal standards of Section 511, Planned Developments.
2. **Density.** A Planned Unit Development shall meet the density requirements of the Residential District in which it is located. The Commission may grant density bonuses not to exceed one-hundred (100) percent in the R-1 District and up to twenty-five (25) percent in the R-2 District of the gross density as permitted in the District. Bonuses may be earned by the following schedule and shall be requested by the applicant. The applicant shall provide sufficient information to justify all bonus requests. The Commission may, at its sole discretion, request additional information prior to approval of any bonus. Density bonuses are as follows:
  - (a) Preservation of natural resources including scenic views, mature tree stands, unique vegetation or unique rock formations not to exceed five (5) percent.
  - (b) Preservation of solar access not to exceed five (5) percent. Credit shall be given for the preservation of solar access to ten (10) homes, or ten (10) percent of the total development, whichever is greater.
  - (c) Renewable Energy Generation one hundred (100) percent density bonus for

projects that generate at least twenty-five (25) percent of the total project energy use through on-site renewable sources (e.g., solar photovoltaic, solar hot water, wind, geothermal, biomass, etc.). Energy use shall be based on professional estimates. The total bonus shall be equal to the percentage of the total project energy generated from on-site solar power generation. Credit may only be granted for preservation of solar access or solar power generation, not both.

(d) Preservation and donation to the Village or non-profit organization of open space through the use of clustering, Zero-Lot Lines or other innovative techniques not to exceed five (5) percent.

(e) Provision of recreation facilities which are available to all Village residents not to exceed five (5) percent.

(f) Construction of bicycle paths which connect neighborhoods or in conformity to a Bicycle Plan as approved by the Commission not to exceed five (5) percent.

(g) Innovative design which reduces long-term maintenance costs not to exceed five (5) percent.

(h) Provision of affordable housing which is deeded to a land trust or non-profit organization or includes other mechanisms to guarantee the perpetual affordability of the units not to exceed twenty (20) percent. A minimum of ten (10) percent of the total number of units constructed shall be affordable to a family of four with eighty (80) percent of the current median family income (per Federal HUD Standards of Chittenden County).

(i) Other considerations which in the opinion of the Commission provide important community services including the dedication of land for public purposes not to exceed five (5) percent.

B. Design Considerations. The Commission shall review an application for innovative land and building design techniques. The Commission may determine that the design is not innovative and that standard District requirements shall apply. The Commission may authorize the following modifications to requirements of the underlying Zoning District.

1. Reduced side yard setbacks when specific building footprints are approved.
2. Front yard setback reduction on any internal streets which do not provide a direct connection to adjoining public streets.
3. The use of Zero Lot Lines, clustering and other innovative techniques.
4. The incorporation of on-site solar panels to generate power for the project.
5. Amenities and Quality of Design. To be granted the flexibility permitted under these regulations, the PUD must demonstrate a level of design and amenity exceeding that typical of conventional development. Features that exhibit a strong level of design include, but are not limited to:
  - (a) Amount and quality of landscaping;
  - (b) Amount, quality, and interconnectedness of common space; and
  - (c) Varied building massing or other measure to reduce monotony in design.

At a minimum, up to fifteen (15) percent of the gross PRD or PUD area shall be developed with passive and active amenities. Examples of amenities include but are not limited to:

- (a) Jogging/exercise track;
- (b) Off-street bicycle paths;
- (c) Playgrounds;

- (d) Tennis court;
- (e) Athletic fields;
- (f) Wooded areas; and
- (g) Open fields that may be in active agricultural production.

The type of amenities required will vary with each individual project. For example, projects designed for seniors, ages fifty five (55) and above, will have different types of amenities than a project designed for young families.

C. **Multifamily Dwellings.** The Commission may approve the construction of multi-family dwellings not exceeding thirty (30) percent of the units permitted by the underlying Zoning Districts if the following criteria are met:

1. Each multi-family unit shall include a private yard of not less than seven hundred and fifty (750) square feet.
2. The multi-family structure shall be so designed and located on the exterior of the development to provide a buffer from adjoining streets and single family residences.
3. The number of dwelling units located in any single structure shall not exceed six (6).
4. Structural design shall be reviewed to determine compatibility with adjacent existing and proposed single family dwellings.
5. Density may be calculated based on the entire project area and density may be transferred within the project area including from undevelopable land to developable land although the Planning Commission may limit the transfer of undevelopable land to developable land based on maintaining the character of the neighborhood and the overall quality of the design and amenities.
6. General Standards. The Commission shall have the sole authority to determine that the intent of the Planned Residential Overlay District and the Village Comprehensive Plan are being met by a specific proposal. The Commission shall not approve any proposal which does not clearly meet the intent to provide unique design and land planning techniques. This District shall not be interpreted to allow bonuses, reduced lot sizes, multi-family bonus, or waivers unless there is clear and convincing evidence that the proposal is superior to standard subdivision design.

D. **Findings Review Requirements.** The Planning Commission shall make the following findings before approving a PUD zoning request:

1. Superior Design. The final plan represents a more creative approach to the unified planning of development and incorporates a higher standard of integrated design and amenity than could be achieved under otherwise applicable zoning district and subdivision regulations, and that solely on this basis modifications to the use and design standards established by these regulations are warranted.
2. Meets PUD Requirements. The final plan meets the requirements for Planned Unit Developments set forth in this Code and that no modifications to the use and design standards otherwise applicable are allowed other than those permitted herein.
3. Consistent with General Plan. The final plan is consistent with the Village of Essex Junction Comprehensive Plan.
4. Circulation. The streets, sidewalks, pedestrian ways, bicycle paths, off-street parking and loading as appropriate to the planned uses are provided. That they are adequate in location, size, capacity and design to ensure safe and efficient circulation of

automobiles, trucks, bicycles, pedestrians, fire trucks, and garbage trucks without blocking traffic, creating unnecessary through traffic within the preliminary plan, or unduly interfering with the safety or capacity of adjacent thoroughfares.

5. **Open Spaces and Landscaping.** The quality and quantity of common open spaces and landscaping provided are consistent with the higher standards of design and amenity required in a Planned Unit Development. The size, shape, and location of a substantial portion of total common open space provided in residential areas render it useable for recreation purposes.

6. **Phasing.** Each proposed development phase of the PUD may, together with any phases that preceded it, exist as an independent unit that meets all the foregoing criteria and all other applicable regulations herein even if no subsequent phase should ever be completed.

#### **SECTION 724: RAISING, KEEPING, OR HARBORING LIVESTOCK**

The raising, keeping, or harboring of livestock, wild animals or other domesticated farm animals for personal use or commercial purposes shall be prohibited in all Zoning Districts, except for the PA and PE Districts. The raising, keeping or harboring of livestock, wild animals or other domesticated farm animals shall require a minimum lot size of ten acres. Refer to the Municipal Code for exceptions.

#### **SECTION 725: ABANDONMENT OF STRUCTURES**

Within six (6) months after work on an excavation for a building has begun or within six (6) months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, and determined to be in an unsafe condition, all structural materials shall be removed from the site, and excavation thus remaining shall be covered over or filled to the normal grade by the owner.