

**CITY OF ESSEX JUNCTION  
PLANNING COMMISSION  
PUBLIC HEARING  
AGENDA  
AUGUST 4, 2022  
6:30 P.M.**

*This meeting will be held in person at 2 Lincoln Street in the conference room and remotely. The meeting will be live-streamed on [Town Meeting TV](#).*

• **JOIN ONLINE:** [Click here to join the meeting](#)

Visit [www.essexjunction.org](http://www.essexjunction.org) for meeting connection information.

• **JOIN CALLING:** Join via conference call (*audio only*): Dial 1(888) 788-0099 (toll free)

Meeting ID: 953 1240 7791 Passcode: 040339

**PUBLIC MEETING**

**I. Audience for Visitors**

**II. Additions or Amendments to Agenda**

Elect Chair and Vice-chairperson

**PUBLIC HEARING**

Proposed Land Development Code Updates

Chapter 1: Purpose, Application & Severability  
Chapter 2: Definitions  
Chapter 3: Decision Making and Administrative Bodies  
Chapter 4: Regulation of Land Use Activities  
Chapter 5: Development Review Procedures  
Chapter 6: Zoning Districts Regulations and Use Table  
Chapter 7: General Development Standards  
Chapter 8: Nonconformities  
Chapter 9: Subdivision  
Chapter 10: Enforcement  
Chapter 11: Sewer Regulations  
Chapter 14: Water System Management and Use  
Chapter 16: Fees and Charges  
Chapter 17: Appeals  
Appendix A: Public Works Specifications

**PUBLIC HEARING**

Chapter 2: Definitions for Cannabis  
Chapter 6: Use Table to include Cannabis

**III. Other Planning Commission Items**

**IV. Adjournment**

This meeting will be held at the Essex Junction municipal building at 2 Lincoln St., Essex Jct., VT. Reasonable accommodations will be provided upon request to the Village, 878-6950, to assure that Village meetings are accessible to all individuals regardless of disability.



To: Essex Community Development Director  
Williston Planning Director  
South Burlington Planning Director  
Charles Baker, Executive Director, CCRPC  
Department of Housing and Community Affairs

From: Robin Pierce, Community Development Director

Date: July 19, 2022

Re: Village of Essex Junction Land Development Code – Proposed Updates

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Enclosed please find the proposed amendments and agenda to the City of Essex Junction Land Development Code:

**Geographic areas affected:** These amendments apply to all areas and zoning districts within the city.

**List of section headings affected:** The proposed amendments modify the following sections of the *Essex Junction Land Development Code*:

Chapter 1: Purpose, Application and Severability  
Chapter 2: Definitions  
Chapter 3: Decision Making and Administrative Bodies  
Chapter 4: Regulation of Land Use Activities  
Chapter 5: Development Review Procedures  
Chapter 6: Zoning Districts Regulations  
Chapter 7: General Development Standards  
Chapter 8: Nonconformities  
Chapter 9: Subdivision  
Chapter 10: Enforcement  
Chapter 11: Sewer Regulations  
Chapter 14: Water System Management and Use  
Chapter 16: Fees and Charges  
Chapter 17: Appeals  
Appendix A: Public Works Specifications  
Appendix B: Fee Schedule

The Planning Commission will hold a public hearing on the proposed amendments on Thursday, August 4, at 6:30 pm in person at 2 Lincoln Street in the conference room and remotely via Zoom.

Please ensure this communication is forwarded to the chairs of your respective Planning Commission. Submit any communications for the Planning Commission's consideration at the hearing to [Robin@essexjunciton.org](mailto:Robin@essexjunciton.org) by close of business on Wednesday, August 3<sup>rd</sup>.

Thank you,

Robin Pierce  
Community Development Director

**PUBLIC HEARING NOTICE**  
***Essex Junction Land Development Code Amendment***

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Essex Junction Planning Commission to hear comments on the following proposed amendments to the City of Essex Junction's *Land Development Code* (LDC). The public hearing will take place during the Planning Commission meeting on **Thursday, August 4, 2022, with the hearing starting at 6:30 pm.**

**You may access the hearing/meeting as follows:**

**To join virtually from a Computer, please click this URL to join, and enter the Meeting ID and/or Passcode if prompted:**

**Zoom Link:** [Click here to join the meeting](#) **Meeting ID:** 953 1240 7791 **Passcode:** 040339

**To join virtually by phone, dial this number and enter the Meeting ID when prompted:**

**Number:** 1(888) 788-0099 (toll free) **Meeting ID:** 953 1240 7791

**To join the meeting in person:**

Village Conference room at 2 Lincoln Street, Essex Junction

**Pursuant to the requirements of 24 V.S.A. §4444(b):**

**Statement of purpose:**

1. Alignment with the latest Comprehensive Plan update and Five Corners Design Plan to improve infill development and the pedestrian experience in the Village and the trunk routes entering the Village. The design review and historic preservation standards that currently exist in the Village Center District have been expanded to the trunk routes Main Street, Lincoln Street, Pearl Street, Park Street and Maple Street. In addition, improved bike facility and amenity requirements have been added throughout the City. Amendments have also been made to the landscaping standards to improve the streetscape and pedestrian experience.
2. In response to the severe housing shortage, and elevated construction costs for housing, these amendments include several provisions to streamline the review process for housing and Accessory Dwelling Units, increase density in some districts, and reduce residential parking requirements.
3. Stormwater management application requirements and standards have been proposed to align with the City's MS4 permit, Phosphorus Control Plan and changes in state stormwater requirements. These amendments include greater emphasis on Green Stormwater Infrastructure and Low Impact Development techniques.
4. State Statute changes since the last LDC update have been incorporated.
5. General amendments throughout the entire Land Development Code have been made to align with the new City of Essex Junction charter including: all references to the Village of Essex Junction have been replaced with the City of Essex Junction; development review authority has been changed from the Planning Commission and Zoning Board of Adjustment to the Development Review Board.



6. With cannabis retail beginning on October 1, 2022 the amendments include specific cannabis establishment definitions and zoning districts in which the establishments are permitted.
7. Clarification amendments have also been proposed throughout to reduce redundancy between process and standard sections.

**Geographic areas affected:** These amendments apply to all areas and zoning districts within the city.

**List of section headings affected:** The proposed amendments modify the following sections of the *Essex Junction Land Development Code*:

Chapter 1: Purpose, Application and Severability  
Chapter 2: Definitions  
Chapter 3: Decision Making and Administrative Bodies  
Chapter 4: Regulation of Land Use Activities  
Chapter 5: Development Review Procedures  
Chapter 6: Zoning Districts Regulations  
Chapter 7: General Development Standards  
Chapter 8: Nonconformities  
Chapter 9: Subdivision  
Chapter 10: Enforcement  
Chapter 11: Sewer Regulations  
Chapter 14: Water System Management and Use  
Chapter 16: Fees and Charges  
Chapter 17: Appeals  
Appendix A: Public Works Specifications  
Appendix B: Fee Schedule

**The full text** of the *Essex Junction Land Development Code* amendments are available online at <https://www.essexjunction.org/boards/planning-commission>. The proposed amendment can be reviewed in hard copy in the Community Development Department at the City Municipal Offices, 2 Lincoln Street, Essex Junction, Vermont 05452.

## **Essex Junction Planning Commission Reporting Form for Land Development Code Amendments**

The following report has been approved by the Planning Commission July 11, 2022 and warned for an August 4<sup>th</sup> 2022 Public Hearing and is in accordance with 24 V.S.A. §4441(c) which states:

*“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide(:)*

*(A) brief explanation of the proposed bylaw, amendment, or repeal and ....include a statement of purpose as required for notice under §4444 of this title,*

### **Overall purpose of the proposed Land Development Code (LDC) amendments:**

1. Alignment with the latest Comprehensive Plan update and Five Corners Design Plan to improve infill development and the pedestrian experience in the Village and the trunk routes entering the Village. The design review and historic preservation standards that currently exist in the Village Center District have been expanded to the trunk routes Main Street, Lincoln Street, Pearl Street, Park Street and Maple Street. In addition, improved bike facility and amenity requirements have been added throughout the City. Amendments have also been made to the landscaping standards to improve the streetscape and pedestrian experience.
2. In response to the severe housing shortage, and elevated construction costs for housing, these amendments include several provisions to streamline the review process for housing and Accessory Dwelling Units, increase density in some districts, and reduce residential parking requirements.
3. Stormwater management application requirements and standards have been proposed to align with the City’s MS4 permit, Phosphorus Control Plan and changes in state stormwater requirements. These amendments include greater emphasis on Green Stormwater Infrastructure and Low Impact Development techniques.
4. State Statute changes since the last LDC update have been incorporated.
5. General amendments throughout the entire Land Development Code have been made to align with the new City of Essex Junction charter including: all references to the Village of Essex Junction have been replaced with the City of Essex Junction; development review authority has been changed from the Planning Commission and Zoning Board of Adjustment to the Development Review Board.
6. With cannabis retail beginning on October 1, 2022 the amendments include specific cannabis establishment definitions and zoning districts in which the establishments are permitted.
7. Clarification amendments have also been proposed throughout to reduce redundancy between process and standard sections.

*(A) and shall include findings regarding how the proposal:*

1. *Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*

The proposed amendments conform with the goals and policies of the Comprehensive Plan by incorporating reference to the Five Corners Design Plan and standards to fulfill its purpose. In addition, these amendments are intended to enable increased housing stock throughout the City as called for in the Comprehensive Plan.

2. *Is compatible with the proposed future land uses and densities of the municipal plan:*

The proposed amendments are compatible with the proposed future land uses and densities of the municipal plan. The amendments include duplexes and triplexes in the R1 and R2 zoning districts with requirements that these are done in a detached structure style, and limits the frontage of the parcel that can be used for parking to ensure conformance with the existing character of these zoning districts while enabling infill.

3. *Carries out, as applicable, any specific proposals for any planned community facilities.”*

The proposed amendments do not carry out any specific proposals for planned community facilities and it would not impact any plans for community facilities.

#### **Specific Proposed Amendments include:**

*General amendments throughout the entire Land Development Code have been made to align with the new City of Essex Junction charter including:* all references to the Village of Essex Junction have been replaced with the City of Essex Junction; development review authority has been changed from the Planning Commission and Zoning Board of Adjustment to the Development Review Board.

#### Chapter 1: Purpose, Application and Severability

*General amendments in this section include:* Village references and charter references have been updated to the City.

*Specific amendments in this chapter include:* Removal of the 8 year Land Development Code update schedule as this is not a statutory requirement. [Section 104]

#### Chapter 2: Definitions

*General amendments in this section include:* Village references have been updated to the City; and development review authority definitions now include a reference statement just in case the old Planning Commission or Zoning Board of Adjustment terms are still in the Land Development Code.

*Specific amendments in this chapter include:*

- Cannabis uses have been added. These definitions mimic the state definitions. [Section 201.C 34 – 41] *NOTE: this amendment is also warned on its own for a separate public hearing to ensure that these changes can move forward, if the rest of these amendments take more time.*
- The number of children served in the day care home and day care facility and the number of adults served in the family care facility and family care home definitions have been aligned with state statute. [Section 201.C. 68 & 69, and 96 & 97]
- Triplex and fourplex definitions have been added. [Section 201.C. 87 & 88]
- Various definitions have been updated to align with stormwater management related LDC amendments. [Section 201.C, 109, 115, 127, 167, 179, 185, 203 and 204 and Section 201.H. 2, 5, 10, 23, 25 and 26]
- FEMA has been defined as the Federal Emergency Management Agency. [Section 201.E. 6]
- A high strength waste definition has been added to the Sewer Regulation definitions. [Section 201.F. 6]

### Chapter 3: Decision Making and Administrative Bodies

*General amendments in this section include:* Village references and charter references have been updated to the City; development review authority has been changed from the Planning Commission/Zoning Board of Adjustment model to the Development Review Board model; and the Water Quality Superintendent position has been added. [All sections in Chapter 3 have been amended]

### Chapter 4: Regulation of Land Use Activities

*General amendments in this section include:* Village references have been updated to the City.

### Chapter 5: Development Review Procedures

*General amendments in this section include:* removal of redundant standards as those exist in other chapters, changes to timeframes as required by state statute changes, switching review authority from the Planning Commission and Zoning Board of Adjustment to the Development Review Board and associated appeals processes, clarified digital submittal requirements for final plans. [These amendments have been made to many sections throughout Chapter 5]

*Specific amendments in this chapter include:*

- Who receives mailed notices associated with development proposals has been aligned with the state statute requirements [Section 501.D.3]
- Simplifying the Accessory Dwelling Unit approval process in line with state statute, and to improve the process for development of accessory dwelling units. [Section 502.I]
- Clarification of process involved when a development proposal includes proposed public infrastructure. [Section 502.F.4(f) and (p), Section 503.H.4(c) and (d), Section 503.H.7]
- Alignment with state statute:
  - Alignment with VTrans highway access permits [Section 502.F.3(a)(xvi), Section 502.F.4(v), Section 503.H.3(m), and Section 503.H.4(q)]
  - Existing small lots [Section 502.L]
  - Site plans and conditional use approvals last for two years [Section 502.C.7 and Section 502.F.9]

- Clarified Planned Unit Development approvals: better defined the purpose/objective of this review type, defined process for minor applications (under 6 units requires two stages of review) and major applications (over 6 units requires three stages of review), clarified submittal requirement for waiver requests. [Section 502.M and Section 511]
- Clarified stormwater management application requirements to align with the City's MS4 permit. This includes additional submittal information on Green Stormwater Infrastructure and Low Impact Development techniques, and analyses as relevant for Total Maximum Daily Load standards. [Section 502.F.3(a)(ix), Section 502.F.4(u), Section 512 and Section 513]
- Clarified application requirements and expiration of approvals for activities involving public sewer. [Section 504.C and F]
- Alignment with state permits for projects involving wetlands. [Section 516.A]
- Added a "planting project" exemption as required by statute and specifically defined in 42 U.S.C. § 4121(a). [Section 516.I]

## Chapter 6: Zoning Districts Regulations

*General amendments in this section include:* Village references have been updated to the City; development review authority has been changed from the Planning Commission/Zoning Board of Adjustment model to the Development Review Board model.

*Specific amendments in this chapter include:*

- Increased density in Multi-family Residential 1 (MF-1) and Multi-family Residential 2 (M-F2) and simplified how the density is calculated. Changed one single family home to one principal building is allowed per lot unless reviewed as a planned development; and principal building is defined as all uses on the use table. Planned Development review is no longer required for projects with 5 residential units or more; though an applicant can apply under Planned Development if they so choose. [Section 601 and 602]
- Requirements for Planned Development review have been eliminated in many of the districts as this review isn't necessary when land isn't being subdivided; though an applicant can apply under Planned Development if they so choose. [Section 603, 604, 605, 608 and 615]
- Design Five Corners concepts were incorporated into the Village Center zoning district design review standards to accommodate infill development while calming traffic and reclaiming more space for people; and to establish a pedestrian friendly atmosphere [Section 604.E and subpart 4(a)]. Eligibility for historic preservation review has been clarified in the Village Center district and reference has been made to the Historic Site map in the Comprehensive Plan (Map 2) [Section 604.E.2(b)]. Planned Unit Development section was simplified to remove reference to a commercial PUD and to clarify that a mixed use building does not necessarily need to go through PUD approval unless requested [Section 604.G].
- Added duplexes and triplexes as permitted uses in the R-1 & R-2 residential zoning districts to allow flexibility and infill development to address the severe housing shortage. The building coverage is increased to help accommodate these uses. These uses do not require additional land area beyond that required for a single-family home. Special standards have been added to ensure compliance with the Comprehensive Plan. [Section 618, 619 & 622]
- A Design Review Overlay District has been added: The purpose of the Design Review Overlay District is to expand the design review standards used in the Village Center District into the

trunk routes of Main Street, Lincoln Street, Pearl Street, Park Street and Maple Street as called for in the Comprehensive Plan. The purpose is to enable infill and redevelopment in line with the concepts of the Design Five Corners Plan and to establish a pedestrian friendly atmosphere. [Section 620]

- A Historic Preservation Overlay District has been added: The purpose of the Historic Preservation Overlay District is to expand the historic preservation standards used in the Village Center District into the trunk routes of Main Street, Lincoln Street, Pearl Street, Park Street and Maple Street as called for in the Comprehensive Plan; thereby recognizing the economic importance and unique historic qualities of the existing buildings and neighborhoods. [Section 621]
- Eliminated conditional use review for day care facilities to streamline the review for these considering the significant community need for these services. These will still need site plan review. [Section 622, and Section 717]
- Added the cannabis uses as defined by the state to the Land Use Table (Section 622) to establish where each type of use will be permitted by zoning district. [Section 622] *NOTE: this amendment is also warned on its own for a separate public hearing to ensure that these changes can move forward, if the rest of these amendments take more time. In this separate package the Land Use Table remains is Section 620.*

#### Chapter 7: General Development Standards

*General amendments in this section include:* Village references have been updated to the City; development review authority has been changed from the Planning Commission/Zoning Board of Adjustment model to the Development Review Board model.

*Specific amendments in this chapter include:*

- Parking requirements for residential uses (single family, duplex, triplex and multi-family) have been reduced from a minimum of 2 required parking spaces per residential unit to a minimum of 1 required parking space per residential unit. Building parking for housing is costly and takes up valuable space for parking rather than residential units. Reducing the required amount of minimum parking does not disallow a developer from building more parking if they feel they need to. [Section 703.C]
- The option to reduce required parking based on shared parking arrangements has been added with a shared parking manual for reference. [Section 703.K.14]
- Bicycle parking and amenity requirements have been added to recognize and promote cycling as a viable means of transportation and recreation for residents, consumers, visitors, and employees; and to ensure compliance with the Comprehensive Plan which calls for improved access to and safety of bicycle and pedestrian facilities. [Section 703.L]
- Reduced the setback requirement for small sheds in residential districts. [Section 706.F]
- Clarified that fences with public rights-of-way or easements are not allowed, but if unavoidable the fence shall be constructed with a removable panel for access to the infrastructure within the easement. [Section 707.B.3]
- A 15 foot buffer will not be required in accordance with Section 708.B.3 for multi-family developments next to single family uses within the Village Center District. [Section 708.B.3]

- Green Stormwater Infrastructure and Low Impact Development stormwater management strategies have been added to help the City meet the Phosphorus Control Plan; and other amendments necessary to meet the City's MS4 permit and state stormwater requirements. [Section 710.D.6 and Section 713]
- Clarified that home occupations can take place in a garage; and edited the sign requirements for home occupations for content neutrality. [Section 711]
- Landscaping requirement amendments have been included as recommended by the Tree Advisory Council. [Section 719]
- Accessory Apartments have been amended to make these easier to build and to align with state statute requirements. [Section 721]
- Planned Unit Developments have been amended to align with state statute, clarify intent and waiver process and improved design considerations. [Section 723]

#### Chapter 8: Nonconformities

*The specific amendment in this section includes:* a statutory change to the existing small lot definition; this clarifies that legally subdivided small lots in nonaffiliated ownership from surrounding properties may be developed even if smaller than dimensional requirements of the zoning district. [Section 803]

#### Chapter 9: Subdivision

*Specific amendments in this chapter include:*

- A curb cut waiver for Green Stormwater Infrastructure discharge points. [Section 906.C.4]
- Clarified requirements and process for public infrastructure and private infrastructure proposals. Created new sections to make these provisions relevant to all infrastructure, not only streets. [Sections 906.E, 914 & 915]
- Clarified that drainage and utility easements should be in the location and proper width needed for the associated utility, not a standard 8' on the sides and rear of lots in a subdivision. [Section 907]
- Added a requirement to replace any disturbed lot corner monuments and markers. [Section 911]
- Clarified digital submittal requirements for final plans. [Section 915]

#### Chapter 10: Enforcement

*The specific amendment in this section includes:* all references to the Village of Essex Junction have been replaced with the City of Essex Junction; development review authority has been changed from the Planning Commission and Zoning Board of Adjustment to the Development Review Board. [Section 1001 & 1002]

#### Chapter 11: Sewer Regulations

*Specific amendments in this chapter include:*

- Producers of high strength waste need to contact the Water Quality Superintendent prior to proceeding. [Section 1101.A]
- Combined sewer systems are now specifically prohibited. [Section 1101.B]

- Grease and fats are added to the list of prohibited substances discharged to the sewer system. [Section 1101.B]

#### Chapter 14: Water System Management and Use

*Specific amendments in this chapter include:* Clarified that the City does not need to be a co-applicant on privately funded water line extensions when not in the best interest of the City. [Section 1415.E]

#### Chapter 16: Fees and Charges

*The specific amendment in this section includes:* all references to the Village of Essex Junction have been replaced with the City of Essex Junction.

#### Chapter 17: Appeals

*Specific amendments in this chapter include:* appeals of decisions of the staff and administrative officer go to the Development Review Board rather than the Zoning Board of Adjustment or Planning Commission. All references to the Village of Essex Junction have been replaced with the City of Essex Junction.

#### Appendix A: Public Works Specifications

*Specific amendments in this chapter include:* a standard for drainage outlets has been added [Section 117.C.5].

#### Appendix B: Fee Schedule

*General amendments in this chapter include:* increased fees to align with costs of review, costs of services and state statute changes.

Note Chapters 12, 13 & 15 are reserved, so they don't have any content.



**Changes made throughout the document: Village will change to City; Planning Commission and Zoning Board of Adjustment will change to Development Review Board or Board; Village Trustees will change to City Council or Council. Clerical changes and formatting will be corrected throughout the Code.**

## **CHAPTER 1: PURPOSE, APPLICATION AND SEVERABILITY**

### **SECTION 102: PURPOSE.**

This Code represents the minimum required standards for development and land use in Essex Junction. It is the intent of the Village to meet or exceed these standards.

**SECTION 102: PURPOSE.** The purpose of this Land Development Code is to implement the Comprehensive Plan of the ~~Village~~City of Essex Junction by establishing regulations, procedures and standards for review and approval of all development and use of land in Essex Junction.

This Code is adopted to preserve public health, safety, comfort and general welfare, and to aid in the harmonious, orderly and progressive development of the ~~Village~~City. This Code represents the minimum required standards for development and land use in Essex Junction. It is the intent of the ~~Village~~City to meet or exceed these standards.

**SECTION 103: AUTHORITY.** The ~~Village~~City is granted authority by the Vermont General Assembly to regulate activities and impacts associated with the development and use of land in the ~~Village~~City. The Chapters contained in this Land Development Code are enacted pursuant to the statutory provisions set forth below:

- A. Chapter 2: Definitions - As applicable below
- B. Chapter 5: Development Review Procedures (Submission of Applications) - As applicable below
- C. Chapter 6: Zoning District Regulations - 24 V.S.A., Chapter 117
- D. Chapter 7: General Development Standards - 24 V.S.A., Chapter 117 ~~and Village Charter, Article I.~~
- E. Chapter 9: Subdivisions - 24 V.S.A., Chapter 117 ~~and Village Charter, Article I.~~
- F. Chapter 11: Sewer Regulations – 24 V.S.A., Chapter 101.
- G. Chapter 14: Water System Management – 24 V.S.A., Chapter 89.
- H. Appendix A: Public Works Specifications – ~~Village~~City Charter, ~~Article I~~Section 203.

**SECTION 104: SEVERABILITY.** If any part or provision of this Code or application thereof to any person or circumstances is invalidated by a Court of competent jurisdiction, such judgment shall be limited to the part, provision or application being adjudicated. Said judgment shall not limit, affect or impair the validity of the remainder of this Code or the application

thereof to any other persons or circumstances. ~~The Land Development Code shall be readopted, with revisions as necessary, within eight (8) years after the last published update.~~

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

1. **SECTION 201: DEFINITIONS.** (General Definitions, Flood Plain Management Determinations, Sewer Regulation Definitions, Sign Regulations Definitions). Words as defined herein shall be used to interpret provisions of this Code. Interpretation of any words not herein defined shall be made in accordance with the standards specified below. Official Plan. The ~~Village~~ Essex Junction Comprehensive Plan as adopted by the Village Trustees (prior to July 1, 2022) or by the City Council (after July 1, 2022) and filed with the City~~Village~~ Clerk is the Official Plan of the City~~Village~~ of Essex Junction. It is the clear intent of this Code to implement the provisions of the Comprehensive Plan and the Comprehensive Plan shall be consulted to determine the intent of any provisions of this Code. Ordinances, bylaws, or regulations enacted which are in clear conflict with the Comprehensive Plan shall not be adopted until and unless the Comprehensive Plan is amended.

### **B. General Definitions:**

9. *"Adverse Impact"* shall mean any addition or effect of a proposed use, site modification, or structure which may be harmful or injurious to public health, safety or other property; any addition or use which does not meet specific review criteria as established herein; or any proposed uses or structures which cumulatively may be harmful or injurious to public health, safety, or property.

23. *"Bike Path"* shall mean any sidewalk, lane, or path designated and clearly marked by the ~~Village~~City for use by bicycles. Nothing shall prevent a bike path from being utilized by pedestrians or other non-motorized conveyances.

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

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

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

37. “Cannabis Cultivator Establishment” shall mean an establishment licensed by the

Vermont Cannabis Control Board and the Local Control Commission to engage in the cultivation of cannabis in accordance with 7 V.S.A Chapter 33 [or current state definition at time of application].

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

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

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

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

5459. “Comprehensive Plan”, “Village Plan”, “City Plan” or “Plan” shall mean the Village-~~Essex Junction~~ Comprehensive Plan for the City Village of Essex Junction as

adopted pursuant to Title 24, Chapter 119, Section 4385 of Vermont Statutes and filed with the ~~Village~~ Town/City Clerk.

~~6068.~~ "Day Care Facility" shall mean a facility in which care is provided on a regular basis for ~~seven (7)~~ nine (9) or more children under twelve (12) years of age, at one time. Such facilities include those commonly known as "day care center", "day nurseries", "play groups", and "preschool".

~~6169.~~ "Day Care Home" shall mean a ~~facility~~ home which provides care ~~in the owner's residence~~ on a regular basis for ~~six (6)~~ eight (8) or fewer children at any time, excluding children of the owner.

~~6775.~~ "Discharge, Storm Water" shall mean any stormwater which leaves a site, enters another site and subsequently enters any artificial or natural drainage system or drainage way.

~~87.~~ "Dwelling, Three-Family or Triplex" shall mean a building or structure designed to contain no more than three dwelling units.

~~88.~~ "Dwelling, Four-Family or Fourplex" shall mean a building or structure designed to contain no more than four dwelling units.

~~85-96.~~ "Family Care Facility" shall mean a facility in which care is provided on a regular basis for ~~seven (7)~~ nine (9) or more adults, including limited counseling and medical care, and commonly known as group care facilities, hospices, half-way houses, and similar facilities.

~~86-97.~~ "Family Care Home" shall mean a ~~facility~~ home which provides for care ~~in the owner's residence~~ on a regular basis, for ~~six (6)~~ eight (8) or fewer adults at any time, excluding residents of the dwelling.

~~98-109.~~ "Hard Surfaced" shall mean surfaced with asphalt, concrete, paving stones, gravel and similar material. ~~Gravel is not considered hard surfaced.~~

~~104-115.~~ "Impervious Surface" shall mean that portion of a lot or parcel of land which has been compacted or covered in such a way to resist the infiltration of water. ~~This shall include any building, structure, roof, sidewalk, street, driveway, accessory driveway or similar uses.~~

~~116-127.~~ "Lot Coverage" shall mean that portion of the area (square footage) which is covered by buildings, structures, parking areas, sidewalks, driveways ~~or~~ and other impervious surfaces.

~~149-160.~~ "Planning Commission" or "Commission" shall mean shall mean the Planning Commission created under provisions of Title 24, Chapter 117 of Vermont Statutes appointed by the Village Board of Trustees with the responsibilities as specified by Vermont Statutes, the Village Charter and the provisions of this Code. As of July 1, 2022 the Planning Commission no longer has a development review function in Essex Junction. Where these terms still exist in the Land Development Code, it shall mean Development Review Board or Zoning Administrator as applicable.

~~156-167.~~ "Public" shall mean any use, land, structure, building, infrastructure, or facility

used by any state or local governmental entity for use or owned by the general public regardless of ownership.

~~168.179.~~ "Redevelopment" shall mean the alteration, conversion, reconstruction, structural alteration or enlargement of any site or structure or the change in any use.

~~174.185.~~ "Right-of-way" shall mean any parcel of land deeded or for which an easement is granted for the current or future construction of a public or private street or infrastructure. A right of way shall be subtracted from the total lot area.

~~183.194.~~ "Sewer Allocation" shall mean the granting of specific rights to discharge sewage into a sewer for treatment at the Village's-City's Waste Water Treatment Plant.

~~190.201.~~ "Staff" shall mean any Village-City employee or other personnel retained on a contractual basis to whom is delegated the authority to take specific actions as provided herein.

~~192.203.~~ "Stormwater Retention Facility" shall mean any facility designed and constructed to hold and/or treat stormwater runoff.

~~193.204.~~ "Stormwater Runoff" shall mean water from precipitation and materials dissolved or suspended in it which is not absorbed into the soil, does not evaporate and which runs across the land during periods of precipitation.

~~217~~ "Trustees" or "Board of Trustees" shall mean the legislative body of the Village of Essex Junction elected pursuant to the provisions of the Village Charter. As of July 1, 2022 the Board of Trustees no longer exists in Essex Junction. Where these terms still exist in the Land Development Code, it shall mean the City Council.

~~207.219.~~ "Variance" shall mean a procedure by which a waiver of Code requirements may be obtained from the Zoning BoardDevelopment Review Board when the strict application of the Code to a specific parcel will cause undue hardship.

~~218.230.~~ "Zoning Board of Adjustment," "Zoning Board," "Board of Adjustment," or "Board" shall mean the Board as appointed by the Village Trustees which has the specific authority to act on variances, conditional uses, and Code interpretations as specifically delegated by this Code and provisions of the State of Vermont Statutes. As of July 1, 2022, the Zoning Board of Adjustment no longer exists in Essex Junction. Where these terms still exist in the Land Development Code, it shall mean Development Review Board or Zoning Administrator as applicable.

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

6. FEMA – Shall mean Federal Emergency Management Agency

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

6. "High Strength Waste" shall mean wastewater that exceeds an average concentration of

300 mg/L.BOD, 330 mg/L TSS, fat, oil, grease or other waste exceeding that normally expected from domestic sewage.

~~13.14.~~ "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, commercial and industrial establishments, together with such ground, surface, and storm waters as may be present.

~~22.23.~~ "Secretary" shall mean the Secretary of the Agency of Natural Resources, State of Vermont, or ~~his~~their designee-representatives.

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

2. "Best Management Practices" (BMP) shall mean any structural or non-structural site improvements that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point and non- point source pollution and promote stormwater quality improvement with protection to the environment. "Structural" BMPs are devices engineered and constructed to provide treatment and temporary storage of stormwater runoff. "Non- Structural" BMPs use natural measures involving site characteristics to reduce the volume of stormwater or eliminating the source of the pollutant. Non-structural BMPs do not require extensive construction effort in order to promote pollutant reduction. A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce water pollution, including, but not limited to, the stormwater treatment practices (STPs) set forth in the Vermont Stormwater Management Manual.

4. "Existing Development" shall mean a development that was built prior to the effective date of the adoption of this Code.

~~FEMA~~ Shall mean Federal Emergency Management Agency

5. "Green Stormwater Infrastructure (GSI)": A suite of systems and practices that restore and maintain natural hydrologic processes in order to reduce the volume and water quality impacts of stormwater runoff. GSI is a structural approach to stormwater management that focuses on managing stormwater impacts using natural processes such as infiltration, evapotranspiration, and storage and reuse. In contrast to gray stormwater infrastructure, GSI is used in a decentralized fashion to treat stormwater as close to the source as possible.

~~4.6.~~ "Illicit Connection" shall mean either of the following:

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



by the ~~Village City~~ of Essex Junction.

10. "Low Impact Development (LID)": An innovative land planning and design approach which seeks to maintain a site's pre-development ecological and hydrological function through the protection, enhancement, or mimicry of natural processes. LID is primarily a nonstructural approach to stormwater management that focuses on avoiding and minimizing stormwater impacts through better site design.

~~12.16.~~ "Redevelopment" shall mean in the context of stormwater, any construction, alteration, or improvement exceeding ten thousand (10,000) square feet impervious surface on previously developed land.

~~18.23.~~ Stormwater Treatment Practice Calculator (STP) - shall mean a tool developed by the Vermont Department of Environmental Conservation to estimate total phosphorus load reduction achieved by STPs

24. "TMDL" shall mean Total Maximum Daily ~~Load~~~~Limit~~ as established by the State of Vermont Water Quality Division for management and restoration of impaired waterways. TMDLs are contained within applicable impaired watersheds that have been determined to not meet water quality criteria under Section 303d of the Clean Water Act.

~~19.25.~~ Vermont Department of Environmental Conservation Best Management Practice (BMP) Tracking Table (as amended)-shall mean a workbook designed to track stormwater practices that are owned or controlled by an municipalityMS4.

~~20.26.~~ "Vermont Stormwater Management Manual Rule and Design Guidance – Volumes I and II-(as amended)" shall mean the guidance manual referenced in this Code that includes regulatory requirements for the management of stormwater and technical guidance to assist in the design of stormwater treatment systems issued by the State of Vermont.

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

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

### **CHAPTER 3: DECISION MAKING AND ADMINISTRATIVE BODIES**

**SECTION 301: BOARD OF TRUSTEES.** The duly elected ~~Village Board of Trustees~~ City Council shall have all the authority granted it by general law of the State of Vermont and the ~~Village City~~ Charter, including, but not limited to, the following:

- B. To adopt the ~~Village~~City of Essex Junction Land Development Code and any amendments thereto.
- C. To appoint the members of the Development Review Board ~~of Adjustment~~ and Planning Commission, as specified herein.

## **SECTION 302: PLANNING COMMISSION**

A. Creation. The Planning Commission shall be that body created by § 803 of the City Charter~~the Board of Trustees~~ pursuant to 24 V.S.A. §§4321(a) and 4322.

B. Powers and Duties. The Planning Commission shall have all powers granted municipal planning commissions under 24 V.S.A. § 4325~~the general laws of the State of Vermont~~, including, but not limited to, the following:

1. To provide recommendations and advice to the Trustees on issues specified in this Code or as requested by the Trustees.
2. To prepare, cause to be prepared, or review any amendments to the Comprehensive Plan or this Land Development Code.
3. To establish sub-committees to carry out its work.
4. ~~To act pursuant to Section 511 on requests for Planned Developments.~~
5. ~~To act pursuant to Section 502.I on requests for approval of Site Plans.~~
6. ~~To act pursuant to Section 503 on requests for approval of Subdivisions.~~
7. ~~To adopt rules of procedure for the implementation of this Code, for Staff reviews or approvals, and for the conduct and submission of evidence on any item before the Commission.~~
8. ~~To perform any other duties which may be assigned to it.~~

C. Membership. Members of the Planning Commission shall be among the qualified voters residents of Essex Junction. Members shall be ~~selected~~appointed by the City Council ~~Village Trustees~~ and appointed for 3-year terms. The Commission shall have ~~seven (7)~~five (5) members.

~~D. Qualifications. Members shall be appointed based upon their general knowledge of planning, the process of development within the VillageCity, and interest in local government. A majority of the Commission may not be employed by the same employer. All applicants shall advise the ~~Trustees~~ Council of all potential conflicts of interest upon consideration for an appointment.~~

G. Decisions. Decisions shall be made by the Commission by an affirmative vote of a majority of the members present, ~~except that when the Commission is serving in its quasi-judicial capacity (i.e. site plan or subdivision approval) a decision shall require an affirmative~~



~~vote by a majority of the total Commission membership, as required by Statute.~~

H. Meetings. The Planning Commission will meet the first and third Thursday of each month when they are actively working on an update to the Municipal Plan or the Land Development Code, or when the commission has decided to call a meeting for any other duties. The Planning Commission may set additional or alternative meeting days if needed.

### **SECTION 303: ~~BOARD OF ADJUSTMENT~~ DEVELOPMENT REVIEW BOARD**

A. Creation. The Development Review Board ~~of Adjustment~~ shall be that body created by § 804 of the City Charter ~~Board of Trustees~~ pursuant to 24 V.S.A. §4461.

B. Powers and Duties. The Development Review Board ~~of Adjustment~~ shall have all powers granted such boards under 24 V.S.A. § 4460 ~~the general laws of the State of Vermont~~, including, but not limited to the following:

1. To act pursuant to Section 502.C on requests for approval of conditional uses.
2. To act pursuant to Section 511 on requests for Planned Developments.
3. To act pursuant to Section 502.I on requests for approval of Site Plans.
4. To act pursuant to Section 503 on requests for approval of Subdivisions. To review decisions of the Administrative Officer pursuant to Chapter 17.
53. To act pursuant to Chapter 17 to review requests for variances from the requirements of Chapters 6 and 7.
64. To perform other responsibilities as may be specified by Vermont Statutes.

C. Membership. Members of the Zoning Development Review Board ~~of Adjustment~~ shall be among the qualified voters of residents of Essex Junction. Members shall be appointed ~~selected~~ by the City Council ~~Village Trustees and appointed~~ for 3-year terms. The Board shall have five (5) ~~members~~ members and may have alternates.

D. Qualifications. Members shall be appointed based upon their general knowledge of planning, the process of development within the Village, and interest in local government. A majority of the Board may not be employed by the same employer. All applicants shall advise the ~~Trustees~~ City Council of potential conflicts of interest upon consideration for an appointment.

G. Decisions. As specified in Title 24, Chapter 117, Section 4462(a) 4461 of Vermont Statutes, any action taken by the Board shall be taken by the concurrence of a majority of the Board.

### **SECTION 304: COMMUNITY DEVELOPMENT DEPARTMENT**

A. Composition. There shall be a Community Development Department headed by a

Community Development Director. The individual designated by the ~~Village-City~~ Manager to act as Administrative Officer shall be a member of the Community Development Department.

B. Duties and Responsibilities of the Community Development Department.

1. To accept and review all applications as specified herein.
  2. To provide recommendations to the ~~Trustees~~ City Council, ~~Planning~~ Commission and ~~Zoning Development Review~~ Board as specified herein.
  - 3.
  4. ~~Trustees~~City Council, ~~Planning~~ Commission and ~~Zoning-Development Review~~ Board as specified herein.
- 

**SECTION 305: PUBLIC WORKS SUPERINTENDENT** The individual appointed by the ~~Village-City~~ Manager to head the Village Public Works Department which is responsible for ~~Village-City~~ streets and parking lots, ~~the Village storm water system~~, the ~~Village-City~~ water supply system and the ~~Village-City~~ sewage disposal system.

**SECTION 306: WATER QUALITY SUPERINTENDENT** ~~The individual appointed by the VillageCity Manager to head the Water Quality department which is responsible for the Wastewater facility, the Village City pump stations and the CityVillage-storm water system and best management practices.~~

#### **CHAPTER 4: REGULATION OF LAND USE ACTIVITIES**

**SECTION 401: APPROVALS REQUIRED.** No person shall commence any of the following activities without first obtaining the required approval from the ~~Village City~~. Any building permit may be subject to additional state or federal permits.

#### **CHAPTER 5: DEVELOPMENT REVIEW PROCEDURES**

##### **SECTION 501: PROCEDURES OF GENERAL APPLICABILITY**

B. Filing of Applications. All applications requiring a public meeting or hearing must be received and determined complete forty-five (45) days prior to a scheduled meeting and shall be submitted on forms provided by the Community Development Department. Supplemental materials shall be attached to the form as required. Once an application is submitted to the Community Development Department for review, and a public meeting or hearing has been warned, any additional information must be submitted at least 10 days prior to the public meeting or hearing. In addition, no changes which significantly alter the concept of the project may be made once an application has been submitted and any changes must be reviewed by staff prior to ~~Planning-Commission-Development Review Board~~ consideration. Applications

shall not be accepted for review by the Community Development if outstanding zoning violations exist on the property.

- C. Notice of Public Hearings and Public Meetings. Notice of public hearings or meetings required under this Code shall comply with this Section, 24 V.S.A. § 4464 and with Vermont's Open Meeting Law (1 V.S.A. §§ 310-314) unless otherwise specified.

3. Mailed Notice. Community Development Department staff shall mail notice to all property owners adjoining the property subject to development, including the owners of properties which would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way and, in any situation in which a variance is sought regarding setbacks from a State highway, also including written notification to the Secretary of Transportation contiguous within one hundred fifty (150) feet of the project site impacted except as specified herein. If the proposed development is located on a private street, notice shall also be sent to the owners of all properties having any rights of usage of the private street. ~~All calculations to determine notice requirements shall exclude streets, rights of way, easements or streams. Prior to any public hearing or meeting, an applicant may request that the Commission waive the mailed notice requirement if the proposed development is located entirely on the interior of a lot and is located at least one hundred fifty (150) feet from any property line. Such a waiver shall not be granted for any subdivision application.~~

- D. Public Hearing Procedures:

1. The ~~Planning Commission~~ Development Review Board shall meet two times each month on a pre-established meeting schedule, however, a meeting can be canceled on holidays or if there is nothing on the agenda.
2. Staff Report. Staff shall present a summary of the application and provide recommendations.
3. Applicant presentation. The applicant may present evidence relevant to the application. Information not relevant to the application may be disallowed by the Chair.
4. Public Input. The hearing shall be opened for public comment. Public comment is restricted to the issue before the ~~Zoning Board~~ Development Review Board or, TrusteesCity Council or Commission. Information not relevant to the issue at hand may be disallowed by the Chair.
5. Deliberations. The ~~Zoning Board~~ Development Review Board or, TrusteesCity Council or Commission shall review the application, staff recommendations, public input, and all applicable laws or regulations prior to making a decision. The decision may be postponed until a subsequent meeting and deliberations may be made in

executive session.

6. Decisions. The ~~Zoning Board~~Development Review Board or, TrusteesCity Council or Commission shall make its decision on all applications in a public meeting or shall provide written findings as specified below.

(a) The Board shall make and issue written findings and conclusions supporting its decision on all applications before it.

~~(b) The Commission shall make and issue written findings and conclusions supporting its decision on any application before it. Minutes may suffice provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection.~~

(c) ~~(b) TrusteesCity Council~~, at their discretion, may make and issue written finding and conclusions supporting its decision on any application or appeal before it.

## **SECTION 502: APPROVAL PROCEDURES FOR ACTIVITIES REQUIRING REVIEW UNDER CHAPTERS 6 AND 7**

A. Zoning Permit Requirement. A zoning permit is required for the construction of any structure, the making of any material change in the use of any structure or land, the making of a change in the intensity of use of a structure or land, or the filling of land. For the purpose of this Code, the activities identified in this section are referred to as "development activities".

3. Time Limitations:

(a) Staff shall act to approve or deny all permit applications within ~~seven-thirty (10307)~~ days of receipt of a complete application. If, however, Staff determines that the application is incomplete or does not include evidence that all conditions established by the Commission or Board have been met, Staff shall notify the applicant in writing of deficiencies. If additional information or action to remedy the deficiencies is not received within ~~tenthirty (1030) days~~ seven (7) days of the notification, Staff shall deny the permit application.

(b) ~~Special Extension. In unusual situations where Staff determines that additional research or legal opinion is necessary for complete review of the application, Staff may extend the decision period for a period not to exceed twenty (20) days from the date of receipt of a complete application, and shall so notify the applicant in writing.~~

4. Approval Standards and Issuance of Permit. Staff shall issue a Zoning Permit upon determination that the applicant has obtained any approval required under Section 502.A.1 and has complied with any conditions of the approval(s) granted. Each permit shall indicate the time period within which an appeal may be taken (fifteen (15) days) and the following obligations of the permittee:

(a) To immediately post the permit on the property in a location visible from the street and to keep it posted until the development is complete.

5. Administrative Requirements. Upon issuance of a permit, Staff shall:
  - (c) Deliver a copy to the listers/assessor of the Town.
  - (d) Post a copy of the permit in at least one public place in the ~~Village~~City for a period of at least fifteen (15) days after the date of issuance of the permit.

C. Approval of Condition Uses:

1. Purpose. To provide a review mechanism for uses which may be allowed in a District after review by the ~~Zoning Board~~ Development Review Board. A Conditional Use is not a permitted use and is allowed only upon specific action by the Board on a specific application.
6. Action by the ~~Zoning Board~~Development Review Board of Adjustment. The Board shall deny, approve or approve with conditions all applications within ~~sixty~~ forty-five (45) days of the closing of the public hearing. Failure to act within this period shall be deemed approval.
7. Expiration of Approval. A decision approving a conditional use shall expire ~~one two (2)~~ two (2) years. From the date of approval if a zoning permit is not issued with such on year period.

E. Professional Office Development.

1. All activities involving professional office development as defined in Section 723 shall be review pursuant to procedures set forth in this Section. All proposed profession office development shall be review by the ~~Planning Commission~~ Development Review Board to determine if it is an acceptable use.
4. Appeals. Any interested person may appeal a decision of the ~~Development Review Board~~ Board of Adjustment regarding professional office development in accordance with the procedures set forth in Section 1706 below.

F. Approval of Site Plans

3. A Conceptual Site Plan Review is required for the proposal of three (3) or more housing units on a single lot. The purpose of the Conceptual Site Plan Review is to discuss initial project feasibility and to give the applicant the right to proceed. Detailed engineering studies are not required but sufficient data shall be submitted to enable the Commission to review the merits of the proposal.

(d) Submittal requirements. The Conceptual Plan application shall include sufficient information to enable the Commission to review the merits of the application and to determine that all Code standards will be met. At a minimum, the submittal shall include:

- (ix) An estimate or projected use of public infrastructure, including a preliminary statement regarding traffic, sewer, ~~and~~ water demand impacts, and stormwater runoff mitigation, etc.

- (xv) Any other information deemed pertinent to the review of the specific Conceptual Plan.
- (xvi) Whenever a proposed plan involves access to a State highway or other work in the State highway right-of-way such as excavation, grading, paving, or utility installation, the application for site plan approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed site plan is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.
4. Site Plan Application Requirements. The applicant shall submit a Site Plan, drawn to scale (including a north arrow) and documentation to include the following:
- (f) ~~Clear delineation of roads and infrastructure to be reviewed for acceptance as public at the completion of the project.~~ Provide clear identification of infrastructure proposed to be turned over to the Municipality as public infrastructure. Draft legal documents (which may include an irrevocable offer of dedication, easement deed, quit claim or warranty deeds) shall be submitted for proposed public infrastructure.
- (e-p) ~~Location of any proposed new water or sewer service connections. with clear delineation of infrastructure to be reviewed proposed for acceptance as public at the completion of the project.~~
- (t-u) ~~PPhosphorus loads and removal calculations for generated on site plus removal calculation for and stormwater infrastructure must be provided being proposed utilizing HydroCAD.~~
- (ty) Whenever a proposed site plan involves access to a State highway or other work in the State highway right-of-way such as excavation, grading, paving, or utility installation, the application for site plan approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed site plan is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.
7. Actions by ~~Planning Commission~~ Development Review Board. The ~~Board Commission~~ shall review all applications for approval except as provided herein. The ~~Commission Board~~ may table an application pending further information from the applicant. The application shall be denied if the applicant does not submit the requested information within the time specified by the ~~Commission Board~~. The ~~Commission Board~~ may deny, approve, or approve with conditions, any application within ~~sixty (60)~~forty-five (45) days after the

~~public comment period hearing~~ is closed. Failure to act within this time period shall be deemed approval.

8. Exception/Waivers. Upon receipt of a written request, the ~~Commission Board~~ may consider and grant waivers to Site Plan standard as authorized in Chapter 7 of this Code.

9. Expiration of Approval. Site Plan approval shall expire ~~one-two (12)~~ years after approval if a Zoning Permit application has not been made. Staff may approve an extension not to exceed six (6) months upon receipt of a written request prior to expiration of the initial approval by the ~~Commission Board~~.

11. Site Plan Amendments/Minor Developments. Amendments to approved Site Plans shall be classified by Staff as a major or minor amendment based upon the following criteria:

(a) Major amendment. A major amendment requires review of the proposed changes by the ~~Commission Board~~ and includes the following changes:

(i) Any change in land use density or intensity which requires increased parking or loading spaces.

(ii) Any proposed change which would result in the elimination or removal of existing landscaping required by the ~~Commission Board~~.

(b) Minor amendment/development. A minor amendment or development application requires Staff review and approval. Staff may approve changes to existing sites where no site plan is on file (minor development) if the proposed change meets the criteria below. Applications for a minor development shall include only a zoning permit application. Any proposed development on a site with no approved site plan on file that doesn't meet the criteria below, shall submit a new site plan application for approval by the ~~Commission Board~~.

Approval of changes to a property without an approved site plan on file does not constitute an approved site plan and any future changes that don't meet the criteria below are subject to full site plan review by the Commission. Staff reserves the right to defer applications to the ~~Planning Commission Development Review Board~~ which would significantly alter the existing site. Minor amendments/developments include the following changes:

(i) Any change in land use density or intensity which does not result in an increased requirement for parking or loading spaces.

(ii) Any engineering design changes as approved by the ~~Village City~~ Engineer.

(iii) Any addition of less than five hundred (500) square feet if the addition meets all of the requirements of this Code and does not involve a change of use which exceeds required parking, traffic or infrastructure demands. Any addition which meets the requirements of Section 611.G.



- (iv) Any change in lighting plans which meet the requirements of this Code.
- (v) Minor changes in location of landscaped areas, sidewalks or bikepaths.
- (vi) Substitution of proposed planting materials from the approved planting list provided that the substitution does not change the overall design concept approved by the Commission Board.
- (vii) Minor changes in the location of structures.
- (viii) Other minor changes as determined by Staff which do not alter the concept of the development, or the development as approved by the Commission Board.

12. Appeals.

- (a) Any interested person may appeal a Commission Board decision regarding a Site Plan by filing an appeal in accordance with the procedures of Section 1707.
- (b) Any interested person may appeal a Staff decision classifying a Site Plan Amendment or acting on a minor amendment by appealing to the Commission Board pursuant to Section 1704.

G. Approval of Home Occupations

- 5. Appeals. Any interested person may appeal a decision regarding a Home Occupation permit to the Board of Adjustment Development Review Board pursuant to Section 1702 below.

H. Approval of Signs

2. Sign Permits:

- (b) Staff shall act to approve or deny all sign permit applications within three (3) working days of receipt of a complete application. The Planning Commission Development Review Board shall review and approve sign location associated with site plan applications being reviewed by the Development Review Board Planning Commission. All site plan applications before the Planning Commission Development Review Board shall include a sign for review unless a new or modified sign is not part of the project. Staff shall review all sign permit applications that would not otherwise require review by the Development Review Board Planning Commission.

4. Appeals.

- (a) Any interested person may appeal a Board decision regarding a Site Plan by filing an appeal in accordance with the procedures of Section 1707.
- (b) Any interested person may appeal a Staff decision classifying a Site Plan Amendment or acting on a minor amendment by appealing to the Board pursuant to Section 1704.

~~Appeals. Any interested person may appeal a decision regarding a sign to the Zoning~~



~~Board of Adjustment in accordance with the provisions of Section 1702 below.~~

I. Approval of Accessory Apartments

1. Purpose. To provide a mechanism for ~~Administrative Officer~~ Commission review and approval of proposals to create accessory apartments in any Residential District.

3. Review Procedures. The ~~zoning administrator~~ Administrative Officer may approve accessory apartments in accordance with the standards specified in Section 721. ~~within or attached to an existing single family home provided it meets all the required standards including but not limited to setbacks, sewage capacity, 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. Applications submitted for review by the planning commission shall be review at a public meeting.~~

~~4. Review Standards. All accessory apartments shall be reviewed under the standards specified in Section 721.~~

54. Sufficient information shall be submitted to enable the ~~Commission~~ Administrative Officer to determine the possible impact of the proposal on all abutting residentially-zoned properties. The following minimal requirements shall be met.

- (a) A plot plan which shows all existing structures, dimensions and distances from structures to property lines.
- (b) The location of existing and proposed parking.
- (c) The location of existing and proposed landscaping and screening.
- (d) A drawing showing the existing structure arrangement and proposed location and arrangement of the accessory apartments, ~~including room dimensions and entrances.~~

~~5. Conditional Waivers. The Commission may place conditions on any application deemed necessary to protect the residential character of the neighborhood.~~

6. Effect of Approval. The Commission may stipulate time limitations on any approval. The following time standards shall apply, unless specified otherwise by the Commission:

- ~~(a) Initial approval shall be for one year of occupancy. At the request of an abutter, a re-hearing shall be scheduled before the Planning Commission at the next available meeting. The abutter(s) who request a re-hearing shall present concrete evidence that conditions have not been met and that the approval should therefore be rescinded.~~
- ~~(b) If no hearing request is filed by an abutter, the accessory apartment shall be approved for one additional year.~~
- ~~(c) Alteration to the accessory apartment or failure to meet any Commission conditions shall void the permit.~~

~~85. Appeals. Any interested person may appeal a Administrative Officer decision regarding a permitted use by filing an appeal in accordance with Section 1702.~~  
~~Any interested person may appeal a Planning Commission decision regarding an accessory apartment in accordance with the provisions of Section 1707 below.~~

~~96. Expiration of Approval. Approval of an accessory apartment shall expire when the if a Zoning Permit expires application is not received within one (1) year from the date of approval.~~

J. Approval of Activities Regarding Nonconforming Uses

2. Appeals:

- (a) Any interested person may appeal a Staff decision regarding a nonconforming use to the ~~Board of Adjustment~~Development Review Board in accordance with the provisions of Section 1702 below.
- (b) Any interested person may appeal a ~~Board of Adjustment~~Development Review Board decision regarding a non-conforming use in accordance with the provisions of Section 1706 below.

L. Approval of Development Activities on Existing Small Lots. ~~Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw.~~  
~~Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Code may be developed for the purposes permitted in the District in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area and has a minimum width or depth dimension of forty feet.~~ This provision shall not exempt development on such lots from other provisions of this Code.

M. Planned Unit Development (PUD). ~~The objective of the Planned Unit Development (PUD) is to permit flexibility in the application of land development regulations to encourage compact, pedestrian-oriented development and redevelopment, and to implement the policies of the municipal plan, such as the provision of affordable housing. If flexibility is needed to achieve these objective, the City may approve waivers in accordance with 723.B. In this way the City 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.~~ Planned Unit Developments ~~are intended to~~ may be used to facilitate development of areas designated for residential, mixed, or single use ~~to achieve the objective stated herein. on the general plan by permitting greater flexibility and, consequently, more creative and imaginative designs for the development of such areas than generally is possible~~

~~under conventional zoning or subdivision regulations. These regulations are further intended to promote more economical and efficient use of the land while providing a harmonious variety of choices, a higher level of urban amenities, and preservation of natural and scenic qualities of open spaces.~~

2. Appeal. Any interested person may appeal a decision of the ~~Planning Commission~~ Development Review Board regarding a Planned Unit Development in accordance with the procedures set forth in Section 1707 ~~below~~.

N. Telecommunications.

1. Authority. Pursuant to 24 V.S.A. § 4414(12), the ~~Planning Commission~~ Development Review Board shall have the authority to regulate construction, alteration, development, decommissioning and dismantling of Wireless Telecommunication Facilities in the ~~VillageCity~~ of Essex Junction.
2. Purpose. The purpose of this bylaw is to promote the public health, safety, welfare, and convenience of the residents of the ~~VillageCity~~ of Essex Junction, while accommodating the telecommunication needs of the ~~VillageCity~~'s residents.
4. Permit Application Requirements. In addition to information otherwise required in the ~~VillageCity~~ of Essex Junction's Land Development Code, applicants shall include the following supplemental information:

A Small Scale Facility permit application shall also include:

- (g) A report from a qualified engineer that:
  - (ix) Includes such other information as determined by the ~~Planning Commission~~ Development Review Board or Zoning Board of Adjustment to evaluate the application.
3. Permit Required. Wireless Telecommunication Facilities may be permitted or conditional uses as indicated in the Use Chart in Section 620. No installation or construction of, or significant addition or modification to, any Wireless Telecommunication Facility shall commence until a permit has been issued by the ~~Zoning Administrator~~ Administrative Officer. Site Plan review by the ~~Planning Commission~~ Development Review Board is required for all Wireless Telecommunications Facilities, including Small Scale Facilities not exempted below.
7. Independent Consultants. Upon submission of an application for a Wireless Telecommunication Facility permit, the ~~Planning Commission~~ Development Review Board may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the ~~Development Review Board~~ Planning Commission.

The consultant(s) shall work at the Development Review Board~~Planning Commission~~'s direction and shall provide the ~~Planning Commission~~ Development Review Board reports and assistance, as the ~~Planning Commission~~ Development Review Board deems necessary to review an application.

Q. Master Plans

1. Purpose. To guide long-term development on larger properties and allow for public input early in the process as a means to limit ~~negative~~ impacts resulting from incremental planning and development. The master plan process is an opportunity to address the long-term vision and conceptual design for development of buildings, land uses, infrastructure and conservation/preservation through integrative design. Master plans are an opportunity to discuss early design concepts with the ~~Planning Commission~~ Development Review Board prior to the formal permitting process. A formal approval of the Master Plan by the ~~Planning Commission~~ Development Review Board is not a guarantee that the development moving forward will gain ~~Planning Commission~~ Development Review Board approval, rather it is an indication that the general concept of the Master Plan is in keeping with the ~~Village~~City's vision for the District moving forward. The Master Plan shall address the following:
2. Review Procedures. All Master Plans shall be reviewed by the ~~Commission~~ Development Review Board at a public meeting. Approval of a master plan is not a guarantee of future development approvals on the site.

**SECTION 503: SUBDIVISIONS**

Classification. Staff shall review each subdivision application and classify it as a lot consolidation, minor subdivision or major subdivision. An applicant may request that the ~~Development Review Board~~Commission review the classification as determined by Staff. The classification criteria are as follows:

1. Lot Consolidation or Boundary Adjustment. An application for a lot consolidation or boundary adjustment shall be reviewed and approved by staff.
2. Minor Subdivision. A minor subdivision includes the platting of five (5) or fewer lots or minor adjustments to the lot lines of three (3) or more lots. A minor subdivision shall require Sketch Plan and Final Plat approval.
3. Major Subdivision. A major subdivision is any proposal not classified as a Consolidation or Minor Subdivision. A major subdivision requires approval of a Sketch Plan, Preliminary Plat, and Final Plat.

B. Public Meetings/Public Hearings

1. An application for Sketch Plan Approval shall be considered by the ~~Development Review Board~~Commission at a Public Meeting.

2. Applications for Preliminary Plat or Final Plat approval shall be considered by the Development Review Board~~Commission~~ at a public hearing.

3. The applicant, or duly authorized agent, is encouraged to attend all meetings and hearings for review of the application. The Development Review Board~~Commission~~ may delay action on any application if the owner/agent fails to attend scheduled meetings or hearings.

E. General Standards of Review. The Development Review Board ~~Commission~~ shall generally review all applications for neighborhood compatibility, effect on adjoining undeveloped land, public infrastructure impact and the general public health, safety, and welfare.

H. Application submittal Requirements. Applications submitted for approval shall contain the material specified below.

2. Boundary Adjustment. An application for approval of a Boundary Adjustment shall include two reproducible drawings suitable for filing in the land records which shall meet the requirements of 27 VSA 1403 and two copies of a survey prepared by a licensed surveyor which depicts the two lots with the adjusted boundary and the following endorsements:

"Boundary Adjustments, approved by the VillageCity of Essex Junction on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, meets all VillageCity Code requirements.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_, Title \_\_\_\_\_

4. Sketch Plan. An application for Sketch Plan approval shall be submitted prior to submission of a Preliminary Plat. The Development Review Board~~Commission~~ shall review the sketch plan to determine general compliance with this Code and good urban design techniques. These techniques include but are not limited to designs that do the following: maximize open space and connectivity, are economically viable in the long term, are cohesive with existing surroundings, are connected to the landscape, and are environmentally conscious. The Development Review Board~~Commission~~ shall prepare written findings which clearly express the results of their review of an application. Sketch Plan approval authorizes the applicant to proceed with the Subdivision process. However, Sketch Plan approval does not guarantee Preliminary or Final Plat approval, if further investigation reveals that engineering or design standards cannot be met. An application for Sketch Plan approval shall include the following:

(e) General description of proposed engineering techniques for stormwater management using AutoCAD for input and output calculation and -phosphorus removal calculation.~~or use of STP calculator found on DEC website.~~

(h) Approximate location of any land proposed to be donated to the VillageCity.

(k) General description and proposed methodology for analyzing traffic impact if

deemed necessary by ~~the Development Review Board~~Commission.

(l) Other information as necessary to fully inform the Development Review Board~~Commission~~ of the extent of the development.

(m) Whenever a proposed subdivision is adjacent to the State the highway, the application for subdivision approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed subdivision and determined whether a permit is required under 19 V.S.A. § 1111.

4. Preliminary Plat. Approval of a Preliminary Plat authorizes the applicant to make application for Final Plat approval. The ~~Development Review Board~~Commission shall prepare written findings which identify any conditions of approval or other recommendations ~~of the Commission~~. The ~~Development Review Board~~Commission shall issue its decision and findings within forty-five (45) days of the completion of the ~~meeting-hearing~~ at which it was reviewed unless the application was continued. The findings may require submittal of additional information to the Development Review Board~~Commission~~ or Staff prior to acceptance of an application for Final Plat approval. An application for Preliminary Plat approval shall include the proposed plat and a written statement providing any required information which is not on the proposed plat. At a minimum, the following information is required.

(c) The name, location and width of existing or proposed streets or right of ways within and contiguous to the proposal. For proposed streets, the application shall include plan, profile and grading plan and clear identification of those streets intended proposed to be turned over to the Municipality as public infrastructure. Draft legal documents (which may include an irrevocable offer of dedication, easement deed, quit claim or warranty deeds) shall be submitted for proposed public infrastructure.

(d) The location and size of sewers, water lines, storm drain, and other infrastructure within or contiguous to the proposal. The location of any above ground utilities or facilities including fire hydrants. Provide clear identification of those streets infrastructure intended proposed to be turned over to the Municipality as public infrastructure. Draft legal documents (which may include an irrevocable offer of dedication, easement deed, quit claim or warranty deeds) shall be submitted for proposed public infrastructure.

(j) The location and dimensions of parks or open land under common ownership or land proposed for dedication to the ~~Village~~City.

(n) Traffic impact study if required by the Development Review Board~~Commission~~.

(p) Other material as required by the Development Review Board~~Commission~~ as a condition of Sketch Plan approval.



(q) Whenever a proposed subdivision is adjacent to a state highway, the application for subdivision approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed subdivision and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed subdivision is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.

5. Final Plat. No Final Plat shall be submitted which is not in substantial compliance with the Preliminary Plat and any conditions of approval of the Preliminary Plat. The Development Review Board~~Commission~~ shall, within forty-five (45) days of the ~~meeting~~close of the hearing, approve, modify and approve or disapprove such plat, unless the application was continued.

(f) The final plat shall be submitted in digital form in one of the following options in order of preference:

- i. GIS geospatial data. Either a geodatabase or shapefile format. Must be in Vermont State Plane Meters, NAD83 (NSRS or most current).
- ii. If sub-part i is not possible, the plat shall be submitted as Coordinated CAD data in Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83(2011) epoch 2010.0, NAVD 88 (geoid12b).
- iii. If sub-parts i and ii are not possible, supply 3 values of State Plane Coordinates on the plan(s).

~~GIS-Geospatial data. eodatabase or shape file in VT State Plane Meters NAD83- (NSRS or most current)~~

~~Coordinated DAD data- Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83(2011) eoch 2010.0, NAVD 88 (geogrid12b)~~

~~Supply 3 values of state plane coordinates on the plans.~~

~~(jk)~~ Any areas dedicated or donated to the Village City shall be clearly designated with distance, angles and bearings.

6. Construction Drawings. Construction drawings shall be submitted with all Final Plat applications. The construction drawings shall include engineering details of all improvements to the property. Sufficient detail shall be provided to allow review and inspection of the subdivision during construction. The VillageCity shall have the authority to request additional details as necessary to review the plans for conformance to this Code, accepted engineering practice, and other standards or guidelines which may hereafter be adopted.

7. As-Built Plans. As-built Plans shall be submitted within six (6) months of the

completion of the subdivision or phase thereof. Final inspection shall not occur prior to receipt of as-builts. The Village City shall not accept any street or other public improvements for maintenance prior to submittal of as-built plans. All final deeds and easements needed for transference of roads and/or infrastructure to the municipality shall be submitted to the Community Development Department, with copies for the City Engineer, Public Works Superintendent, and/or Water Quality Superintendent as applicable for review and consideration of processing to the City Council for acceptance.~~All deeds and easements needed for transference of roads and/or infrastructure to the municipality shall be submitted to the Development Department for review and consideration of processing to the Trustees~~City Council for acceptance. The applicant shall submit one set of reproducible drawings suitable for recording in the land records.

I. Time Limitations

1. Sketch Plan. Within one (1) year of approval of a Sketch Plan, a Preliminary Plat shall be submitted for review by the Development Review Board~~Commission~~. If application for a time extension is received prior to the Preliminary Plat submittal date, staff may approve a time extension not to exceed six (6) months.
2. Preliminary Plat. Within one (1) year of approval, a Final Plat shall be submitted for review by the Development Review Board~~Commission~~. If application for time extension is received prior to the Final Plat submittal date, the Development Review Board~~Commission~~ may approve a time extension not to exceed six (6) months. Failure to submit a Final Plat or request a time extension shall negate Sketch Plan approval.
5. Final plat. Construction shall commence on any Final Plat approved within two (2) years of approval. Failure to initiate construction shall negate Final Plat approval and the applicant shall reapply for Subdivision approval. The Development Review Board~~Commission~~ may grant an extension of up to two (2) years if the applicant demonstrates diligent pursuit of financing or other permits and demonstrates inability to control the delay.

J. Consolidated Applications. Applicants may request that the Development Review Board~~Commission~~ consider applications for Sketch Plan Approval, Preliminary Plat approval and/or Final Plat Approval simultaneously with a single application. The Development Review Board~~Commission~~, however, may determine that separate reviews are required.

K. Filing of Approved Subdivision Final Plat. The approval of a final Subdivision Plan shall expire in ~~ninety-one hundred and eighty (90 180)~~ days, unless the plat has been duly record by the applicant with the office of the Essex Town Clerk with a copy provided to the Town Assessor. The administrative officer may extend the date for filing the plat by an additional 90 days, if final local or State permits or approvals are still pending. No plat shall



be recorded with the Town Clerk until it has been approved by the Development Review Board~~Commission~~, and such approval is endorsed in writing on such plat by the Development Review Board~~Commission~~ Chair or Clerk. Endorsement shall not take place until all required plats, construction drawings and supporting documents have been submitted to Staff and determined to be complete and accurate. If submittals are not complete and accurate within one hundred and eighty (180)~~ninety (90)~~ days, the subdivision approval shall be void and the application shall be resubmitted for final approval.

L. Plat Void if Revised after Approval. No changes, erasure, modification, or revision shall be made on any subdivision plat after approval has been given by the Development Review Board~~Commission~~ for approval of such modifications after public hearing with the exception of boundary adjustments pursuant to Section 503B.

M.

N. Appeals.

1. Any interested person may appeal a Planning Commission~~Development Review Board~~ decision regarding a subdivision by filing an appeal in accordance with the procedures of Section 1707 below.
2. Any interested person may appeal a Staff decision classifying a subdivision by appealing to the Planning Commission~~Development Review Board~~ pursuant to Section 1704 below.

#### **SECTION 504: APPROVAL OF ACTIVITIES INVOLVING PUBLIC SEWERS**

B. Review Standards. Activities reviewed under this section shall comply with the standards set forth in Chapter 11.

C. Application Requirements. Applications for the connection of any use or structure of one (1) single-family home shall require a plan prepared by a licensed potable water and wastewater system designer in accordance with the State of Vermont Environmental Protection Rules, Chapter 1, Wastewater System and Potable Water Supply Rules, described in Subchapter 7 - Designer Licensing (<https://dec.vermont.gov/water/licensed-designers>).~~certified site technician. Applications for the connection of any use or structure other than one (1) single-family home shall require a plan prepared and stamped by a registered engineer certified to practice in the State of Vermont.~~

D. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent and Water Quality Superintendent or their designee shall review and approve, approve with conditions, or deny within seven (7) ten (10) days.

E. Appeals. Any interested party may appeal a decision of the Director to the Trustees~~City~~

Council in accordance with the provisions of Section 1705.

F. Expiration of Approvals. Approvals and capacity shall expire one (1) year from the date permits are issued unless an extension is requested. ~~Any capacity granted will expire in 3 years~~

#### **SECTION 505: APPROVAL OF ACTIVITIES INVOLVING PRIVATE SEWERS**

C. Review Procedures. All applications for private sewers shall be reviewed by the Development Review Board ~~Commission~~ and approved by the ~~Trustees~~ City Council.

D. Appeals. Any interested party may appeal a decision regarding a private sewer as specified in Chapter 17.

E. Expiration of Approvals. Approvals and capacity shall expire one (1) year from the date permits are issued unless an extension is requested. ~~Any capacity granted will expire in 3 years~~

#### **SECTION 506: APPROVAL OF WAIVERS TO STANDARDS OF SECTION 718.B**

D. Appeals/Waivers. The ~~Trustees~~ City Council shall review all waiver requests. Waivers may be granted for one event or for multiple events. The ~~Trustees~~ City Council may authorize waivers for the same activity on one or more occasions, or for one or more years.

1. Upon written request, the ~~Trustees~~ City Council may grant a waiver from the provisions of Section 718.B for any activity which has received approval required herein, and:

2. When granting a waiver under this Section, the ~~Trustees~~ City Council may attach reasonable conditions to minimize the impact of the waiver on adjoining properties. Such conditions may include but are not limited to:

(d) Requirements to use particular equipment or procedures to minimize sound.

E. Appeals. An individual who proposes an activity which Staff determines will result in sound in excess of the standards of Section 718.B may appeal such decision to the ~~Board of~~ Trustees City Council in accordance with the procedures of Section 1705.

#### **SECTION 507: APPROVAL OF ACTIVITIES INVOLVING PUBLIC WATER LINES**

B. Review Procedures and Standards. The Public Works Superintendent shall review and approve, approve with conditions, or deny within ~~seven (7)~~ ten (10) days an application to construct or connect to a public water line. The Director shall review an application under the standards set forth in Chapter 14.

C. Expiration of Approvals. Approvals and capacity shall expire one (1) year from the date permits are ~~issued~~issued unless an extension is requested. ~~Any capacity granted will expire in 3 years~~

D. Appeals. An applicant for approval under this Section may appeal a decision of the Public Works Superintendent to the ~~Board of Trustees~~City Council in accordance with the provisions of Section 1705.

## **SECTION 508: APPROVAL OF ACTIVITIES INVOLVING PRIVATE WATER SUPPLY**

### **B. Review Procedures and Standards**

1. An application to establish a private water supply shall be submitted to the ~~Board of Trustees~~City Council for its review at a regular or special meeting. The ~~City Council~~Board may approve the application if it meets the standards of Section 1416. The decision of the ~~City Council~~Board shall be final.

2. The Public Works Superintendent shall review and approve, approve with conditions, or deny within ~~seven (7)~~ten (10) days an application to construct or connect to a private water line. The Director shall review an application under the standards set forth in Section 1416.

D. Appeals. An applicant for approval of a private water line under this Section may appeal a decision of the Public Works Superintendent to the ~~Board of Trustees~~City Council in accordance with the provisions of Section 1705.

## **SECTION 509: ACTIVITIES INVOLVING ACCESS TO PUBLIC ROADS**

### **B. Review Procedures and Standards**

1. Except as provided in subsection 2, below, an application for any activity regulated under this Section shall be submitted to the ~~Board of Trustees~~City Council for its review at a regular or special meeting. The ~~Board of Trustees~~City Council shall review the application under the standard set forth in Section 705. The decision of the ~~Board of Trustees~~City Council shall be final.

2. ~~Board of Trustee~~City Council approval for any activity regulated under this Section shall not be required if such activity is reviewed by Staff, the ~~Commission or the Board of Adjustment~~Development Review Board under the provisions of Chapters 6, 7 or 9 of this Code.

3. The ~~Board of Trustees~~City Council may revoke or modify any approval authorizing any activity regulated under this Section after sending written notice of

intent to take such action to any affected property owner. The ~~Board of Trustees~~City Council shall consider such action at a regular or special meeting of the ~~Board of Trustees~~City Council and provide any affected property owner notice of such meeting and an opportunity to present information at such meeting. The ~~Board of Trustees~~City Council shall review such proposed action under the standards set forth in Section 705. The ~~Board of Trustees~~City Council shall render its decision in writing, which decision shall be final. The ~~Board of Trustees~~City Council shall send a copy of the decision to any affected property owner.

## **SECTION 511: GENERAL REVIEW PROCEDURES FOR PLANNED UNIT DEVELOPMENTS**

A. Purpose. To provide a procedure for the timely and efficient review by the ~~Development Review Board~~Commission of any proposals for Planned Unit Developments. Planned Unit Development review is intended to combine subdivision and site plan review into a unified process. This Section is intended to supplement the procedures set forth in Section 502 above and shall be reviewed under the applicable standards of Section 723.

B. Review Requirements and Review Standards. With the exception of applications for Exposition Center PUD's, the review of applications for a Planned Unit Development approval shall include:

1. ~~For major applications include~~ review of a Preliminary Development Conceptual Plan and review of a Final Development Plan when the proposed development includes six (6) or more units.
2. For minor applications review of a Conceptual Plan and review of a Final Development Plan when the proposed development includes less than six (6) units. ~~Review of a Preliminary Development Plan between Conceptual Plan review and Final Development Plan submittal is optional but highly recommended.~~
3. ~~Where applicable.~~ Site Plan Approval where applicable is also required. All applicable site plan information as outlined in Section 502.F shall be submitted with all final development plans.
4. ~~General Review Standards~~
  - ~~(a) Physical characteristics of the site and relation to surrounding properties.~~
  - ~~(b) Relationship to major transportation facilities, including mass transit, walkways and bike paths.~~
  - ~~(c) Design characteristics of the proposal and compatibility to adjoining developed land.~~
  - ~~(d) Unique design or land planning characteristics.~~
  - ~~(e) Methods used to provide a transition between adjoining uses and proposed uses including, but not limited to, setbacks, screening, fencing, building design and~~

~~parking design.~~

~~(f) The preservation of unique natural physical characteristics.~~

~~(g) Building design compatibility with adjoining structures.~~

~~(h) Other criteria, as deemed necessary by the Commission to evaluate the merits of a specific proposal.~~

~~5. Specific Review Standards~~

~~(a) Proposed traffic flow and circulation design.~~

~~(b) Design compatibility with adjoining developed properties.~~

~~(c) Scale and design of proposed structures.~~

~~(d) Location and setbacks of all proposed structures.~~

~~(e) Unique physical characteristics of the proposed use.~~

~~(f) Unique characteristics of the proposed use.~~

~~(g) Use of innovative techniques, including but not limited to, clustering, Zero Lot Lines development, purchase/leaseback arrangements, and the provision of amenities including biking and hiking trails.~~

~~6. Waivers. The Commission may waive requirements for lot coverage, setbacks, parking and height based upon the merits of the specific proposal. Waivers shall be based upon the following criteria and may include specific conditions.~~

~~(a) Unique physical characteristics of the site proposed for development.~~

~~(b) Superior building design, lot layout and landscaping design.~~

~~(c) Provision of public open spaces or superior bicycle and pedestrian access.~~

~~(d) Joint or combined vehicular access with adjoining properties.~~

~~(e) Waiver of building height in Light Industrial District only.~~

C. Conceptual Plan. A Conceptual Plan review is required for development proposals of less than six (6) units to discuss initial project feasibility and to give the applicant the right to proceed. Detailed engineering studies are not required but sufficient data shall be submitted to enable the Commission to review the merits of the proposal.

1. Review of a Conceptual Plan shall require a public hearing.

2. The Development Review Board ~~Commission~~ may approve or deny a Conceptual Plan, and may make suggestions to be included when the Preliminary or Final Development Plan is prepared.

3. Approval of a Conceptual Plan authorizes the applicant to proceed to the next steps of the approval process, but does not commit the Development Review Board ~~Commission~~ to further approvals.

4. Submittal requirements. The Conceptual Plan application shall include sufficient information to enable the Development Review Board ~~Commission~~ to review the merits of the application and to determine that all Code standards will be met. At a minimum, the submittal shall include:

(n) A written request for any waivers to any standards contained in this

Code, along with a justification for the request, in accordance with Section 723.B.

Preliminary Development Plan.

5. Preliminary Development Plan approval is required when the proposed development includes six (6) or more units optional except where specifically required herein. When not required, All applicants for Planned Development approval are encouraged to seek Preliminary Development plan approval.
  - (a) Review of a Preliminary Development Plan by the Development Review BoardCommission does not require a Public Hearing.
  - (b) Approval of a Preliminary Development Plan authorizes application for Final Development ~~Plan, but~~ Plan but does not commit the Development Review BoardCommission to final approval.
  - (c) Submittal Requirements.
    - (vi) A proposed phasing schedule, if required by the Development Review BoardCommission, and estimated construction period.
    - (vii) A detailed landscape plan by a licensed landscape ~~architect~~design professional shall specify the type, size, quantity and location of all plant materials, and a landscape cost estimate, existing and proposed.
    - (viii) A written request for any waivers to any standards contained in this Code, along with a justification for the request, in accordance with Section 723.B.
6. Final Development Plan. Final Development Plan approval is required for all proposed PUD projects.
  - (c) Submittal Requirements.
    - (viii) A written request for any waivers to any standards contained in this Code, along with a justification for the request, in accordance with Section 723.B.
  - (d) Each application shall be reviewed on an individual basis in accordance with the provisions of the District in which the property is located. The application must comply with the specific standards set forth in Chapter 6 ~~for that type of Planned Development.~~ In general, the Development Review BoardCommission shall consider the effects of the proposal on the surrounding neighborhood, public infrastructure and potential development of adjoining property.
  - (e) Conditions. The Development Review BoardCommission may place conditions on any approval as necessary to ensure quality development and to limit potential negative effects of the proposal.
7. Amendment Procedures. Applications may be submitted to amend an approved Planned Development. Staff shall review any application and classify the proposal as follows:
  - (a) Major Amendment. A major amendment requires submittal of a new

Conceptual Plan and review by the ~~Development Review Board~~Commission at a Public Hearing.

(b) Minor Amendment. A minor amendment requires submittal of a new Conceptual Plan and review by the ~~Development Review Board~~Commission at a public meeting unless the proposed amendment alters an approved subdivision in which case a public hearing shall be required.

## **SECTION 512: APPROVAL OF ACTIVITIES INVOLVING A NEW CONNECTION TO THE PUBLIC STORM DRAIN SYSTEM**

C. Application Requirements. Development of any use, structure, filling activity or redevelopment activity that would increase stormwater runoff ~~off from~~ the property shall be connected to the ~~Village City~~ stormwater system. The ~~Village Engineer may require that the~~ applicant ~~shall~~ provide ~~the additional~~ following information ~~as relevant including~~:

2. On-site drainage improvements and best management practices focused on ~~GSIGreen Stormwater Infrastructure~~ including, but not limited to: rain gardens, buffer strips, filter strips, grass ~~swales, swales, infiltration basins or other infiltrating practices.~~ ~~rain barrels.~~ Permeable pavement systems, cisterns or other structural/ non- structural best management practices are also deemed appropriate for consideration.

4. Projects requiring a State stormwater permit may submit a copy of the issued State permit with supporting documentation and HydroAutoCAD calculations for consideration of compliance with the requirement for a ~~Village City~~ stormwater management plan. Such properties may include properties greater than one-~~half-(4)~~ (0.5) acre in size and industrial facilities regulated under the Multi Sector General Permit requirements (MSGP).

D. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent or Water Quality Superintendent or their designee shall act on all applications with ~~seven-(7)~~ ten (10) days.

## **SECTION 513: APPROVAL OF ACTIVITIES INVOLVING THE CONSTRUCTION OF A STORMWATER SYSTEM**

B. Review Standards. Activities reviewed under this section shall comply with the ~~procedures standards~~ set forth herein, and the standards in Section 713 of in this Code.

C. Application Requirements.

2. Pre-development and post-development drainage calculations for a two (2), ten (10), and twenty-five (25) year design stormwater flow.

3. On-site drainage improvements and best management practices focused on Green



Stormwater Infrastructure including, but not limited to: rain gardens, buffer strips, filter strips, grass swales, infiltration basins or other infiltrating practices. Permeable pavement systems, cisterns or other structural/ non-structural best management practices are also deemed appropriate for consideration.

4. A downstream analysis, if determined necessary by current or proposed local or state processes including, but not limited to Total Maximum Daily Load (“TMDL”).

2. ~~Compliance with this section of the Land Development Code may be met by agreeing to maintain best management practices for small construction sites as outlined in “The Low Risk Site Handbook for Erosion Prevention and Sediment Control” or “The Erosion Prevention and Sediment Control Field Guide.” Both documents are available for download at:~~

~~[http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw\\_cgp.htm](http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw_cgp.htm). The completeness and details of the plan submitted may vary depending on the extent of the project, the site development proximity to water courses, the size of the project, etc.~~

5. Projects requiring a State stormwater permit may submit a copy of the issued State permit with supporting documentation including all data needed to document phosphorus loading and reduction based on watershed (on the VT DEC BMP Tracking Table spreadsheet) This will serve as evidence of compliance with the requirement for a Village City of Essex Junction stormwater management plan and phosphorus control plan.

6. Projects requiring further review as determined by state issued watershed permitting or TMDL (if applicable may require further improvement to mitigate stormwater flows as part of any related permits.

~~D. Design Practices. If Low Impact Design (LID) Practices are not incorporated into the design, the applicant shall provide justification to the Public Works Superintendent or Water Quality Superintendent or their designee. Applicants shall demonstrate why the use of LID approaches to site runoff is not possible. This must be demonstrated in order to receive permission to connect to the Village stormwater system.~~

~~LID includes a set of practices that when incorporated into the early stages of design, reduce site runoff and related pollutants. On-site LID strategies include Best Management Practice improvements such as rain gardens, buffer strips, filter strips, grass swales, rain barrels, permeable pavement systems, cisterns, etc. Low Impact Design practices are encouraged to the maximum extent practical given the site’s soil characteristics, slope, and other relevant factors. Such factors shall include, but are not limited to:~~

~~1. Minimizing impervious surfaces, preserving open space and their natural drainage systems and preventing unnecessary soil compaction;~~



1. ~~Directing rooftop runoff to a pervious area where water can infiltrate into the soil or flow overland with sufficient time and reduced velocity, thus allowing for filtering;~~
2. ~~Restoring and enhancing natural areas such as stream buffers, wetlands and forests, steep slopes, soil permeability and natural drainage systems; and~~
3. ~~Integration of several LID Best Management Practices such as minimizing soil and vegetation disturbances, installing rain gardens, diverting roof downspouts from hard surfaces to allow for infiltration, installing grass swales, etc.~~

**ED** Review Procedures. Staff shall review all applications for completeness within (3) days of receipt. The Public Works Superintendent or Water Quality Superintendent or their designee shall act on all applications with ~~seven (7)~~ ten (10) days.

**SECTION 514: APPROVAL OF ACTIVITIES INVOLVING THE DISTURBANCE OF LESS MORE THAN ~~0.5~~ ONE(1) ACRE OF LAND**

A. Review Requirement. Activities involving clearing, grading, construction or land development/disturbance of ~~less more~~ than ~~half an acre~~ one (1) acre of land (~~0.54~~) acre shall require review in accordance with the procedures of this section.

C. Application Requirements.

1. Activities involving clearing, grading, construction or land development of land ~~less more~~ than ~~half an acre of land (0.5) acre~~ one (1) acre must include an erosion and sediment control plan indicating compliance with the “Low Risk Site Handbook for Erosion Prevention and Sediment Control.”

C. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent or Water Quality Superintendent shall act on all applications within ~~seven (7)~~ ten (10) days.

**SECTION 515: APPROVAL OF ACTIVITIES INVOLVING THE DISTURBANCE OF EQUAL TO OR GREATER THAN ONE (1) ACRE AND/OR THE CREATION OF MORE THAN ~~0.5~~ ONE(1) ACRE OF IMPERVIOUS SURFACE**

A. Review Requirement. Activities involving clearing, grading, construction or land development of one (1) acre or more of land and/or creating a total resulting impervious surface equal to or greater than ~~half an acre (0.5) acre~~ one (1) acre shall require review in accordance with the procedures of the State of Vermont Construction General Permit 3-9020 and General Permit ~~3-90153-9050~~ 3-90153-9050 or other applicable state permits governing erosion and stormwater control of large construction sites. Evidence

of compliance with this provision of Vermont State requirements must be provided ~~in order~~ to receive local approval to proceed. Projects with more than half an acre (0.5) acre ~~one acre~~ of impervious surface shall also conform with the general standards.

D. Review Procedures. The ~~VillageCity~~ of Essex Junction reserves the right to require additional conditions above and beyond those in the State issue permit for due cause. The ~~VillageCity~~ reserves this right ~~in order to~~ address specific operational concerns related to the site and its impact on abutters including the municipal right of way and the municipal infrastructure.

#### **SECTION 516: APPROVAL OF ACTIVITIES INVOLVING DEVELOPMENT WITHIN 200 FEET OF A WATERWAY, FLOODPLAIN OR WETLAND**

A. Review Requirement. Activities involving development within 200 feet of a waterway, floodplain or wetland shall require review in accordance with the procedures of this section. The property shall maintain a fifteen (15) foot or more undisturbed buffer to adjacent streams. The buffer may be required to be extended based on flood plain profile, slope of the land or other conditions where further setback is warranted for protection of the stream. A set back of fifty (50) feet above high water mark of the floodplain will be considered for impact of stream meandering, streambank crossing, flooding or other natural stream processes that may have an impact on developed land. Development activity in the area of a wetland will require state and federal regulatory review, and set backs will be the same as required by those authorities and permits.

D. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent or Water Quality Superintendent shall act on all applications within ~~seven (7)~~ten (10) days.

H. Riparian Buffer Landscaping Requirements. It is the objective of these standards to promote the establishment and protection of heavily vegetated areas of native vegetation and trees along waterways ~~in order~~ to reduce the impact of stormwater runoff, prevent soil erosion, protect wildlife and fish habitat and maintain water quality. Any application for development approval under this Code shall provide that all lands within a required riparian buffer are left in an undisturbed, naturally vegetated condition. These standards shall apply to all zoning districts. The following activities are not permitted within Riparian Buffer areas:

The following conditions will apply to any application for development approval under this Code:

2. Restoration standards for planting and landscaping appropriate for riparian buffers

are outlined in the Vermont Stormwater Management Manual Rule and Design Guidance (as most recently amend) ~~Vermont Stormwater Management Manual—Volume II, Appendix A2.~~

The standards for maintenance of the stream buffer zone prohibit the following:

1. ~~The creation of new lawn areas within stream buffers is not permitted after the effective date of these regulations.~~

New uses and encroachments within stream buffers: The encroachment of new land development activities into the ~~Village's~~ City's stream buffers is discouraged. The ~~Zoning Board of Adjustment~~ Development Review Board may authorize the following as uses within stream buffers subject to the standards and conditions enumerated for each use:

2. Clearing of vegetation and filling or excavating of earth materials, only to the extent directly necessitated for the construction or safe operation of a permitted or conditional use on the same property and where the ~~Planning Commission~~ Development Review Board finds that there is no practicable alternative to the clearing, filling or excavating within the stream buffer. This section is not meant to exclude any streambank alteration permitting requirements of the State of Vermont.
6. Stormwater treatment facilities meeting the stormwater treatment practices and sizing criteria set forth in the Vermont Stormwater Management Manual Rule and Design Guidance (as most recently amend) ~~Vermont Stormwater Management Manuals Volumes I and II as most recently amended~~. Evidence of an approved permit from the Vermont Agency of Natural Resources for coverage under the applicable permitting requirements shall be required to meet this criterion for encroachment into a stream buffer.

I. A planning project considered to have a permit by operation under 24 V.S.A. § 4424 (c) shall not be required to file an application to obtain a permit under this Code. A "planting project" means planting vegetation to restore natural and beneficial floodplain functions, as defined in 42 U.S.C. § 4121(a), that include floodwater storage, water quality improvement, and supporting riparian and aquatic habitat. By operation of 24 V.S.A. § 4424(c), a planting project in a flood or other hazard area or river corridor protection area is considered to have a permit under this chapter unless the project is:

1. part of a larger undertaking that includes the construction or installation of structures, the creation of earthen berms or banks, or physical disturbance of land or water other than necessary for planting vegetation; or
2. a forestry operation or part of a forestry operation as defined in 10 V.S.A. § 2602 and exempt from municipal regulation under subsection 4413(d) of this title.

## **CHAPTER 6: ZONING DISTRICTS REGULATIONS**

This section sets forth regulations regarding the use, density, lot size, lot coverage and setbacks

on properties in all Zoning Districts within the Village. Where applicable, design review standards are also included.

## **SECTION 600: OFFICIAL ZONING MAP**

All land in Essex Junction is divided into Districts as shown on the Official Zoning Map filed with the ~~Village-City~~ Clerk, a copy of which is attached to this Code. Said Official Zoning Map shall be the official record of the zoning status of all land areas within the ~~Village~~City.

### **A. Map Changes**

No changes of any nature affecting property shall be made on the Official Zoning Map. It shall be unlawful for any person to alter or change the map upon adoption by the ~~Village-of~~ Essex Junction ~~Board-of-Trustees~~City Council. Any changes or amendments to the Official Zoning Map shall be made by the ~~Trustees-City Council~~ after Public Hearings pursuant to Title 24, Chapter 117, Section 4404 of Vermont Statutes.

### **B. Map Interpretation**

Staff shall interpret zoning district boundaries as specified below. Appeals to staff decisions may be made to the ~~Zoning-Board~~Development Review Board.

5. The Future Land Use Map as filed with the ~~Village-City~~ Clerk shall be consulted to determine intent in the establishment of any Zoning District boundary.

## **SECTION 601: MULTI-FAMILY RESIDENTIAL 1 (M-F1)**

### **B. Lot Size/Lot Coverage**

1. The minimum lot size shall contain seven thousand five hundred (7,500) square feet. ~~The maximum number of dwelling units shall be three (3) units per seven thousand five hundred (7,500) square feet for the first dwelling unit plus five thousand (5,000) square feet for each additional dwelling unit in the same structure or within an accessory structure existing on the effective date of this Code, as long as the existing accessory structure is not expanded. Any expansion to an existing accessory structure being used as a dwelling shall require seven thousand five hundred (7,500) square feet of lot size for the first dwelling and five thousand (5,000) for each additional dwelling in the same structure. Each new structure requires seven thousand five hundred (7,500) square feet for the first unit and five thousand (5,000) square feet for each additional unit in the structure. One single family home principal building is allowed per lot unless reviewed as a planned development.~~

### **C. Setback Requirements**

1. The minimum front yard setback shall be thirty (30) feet. The front yard setback shall be established by the average setback of the principal structures on the two

adjacent lots (or the closest two lots on the same side of the same street) and the minimum setback requirement for the underlying zoning district. The principal structure shall have a setback between the established maximum and minimum setback as described above. Semi-attached accessory structures (such as a deck) shall be allowed if there is sufficient space between the principal structure and the minimum setback. Porches that are integrated into the principal structure shall be considered part of the principal structure. If a principal structure is not parallel to the front lot line the setback will be determined by the average setback at the two corners of the structure closest to the front lot line. The ~~Planning Commission~~ Development Review Board may waive this requirement if the following conditions are met:

- D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the

Use Chart in Section ~~620-622~~ of this Code. A principal building may contain any use identified on the Use Table in Section 622 for the MF-1 zoning district.

G. Planned Unit Development. ~~The Planning Commission may approve a Planned Unit Development for use as a Multi-Family and/or Single-Family Residential Development. In connection with such PUD approval, the Planning Commission may authorize the construction of structures and facilities to accommodate any of the uses allowed in the Multi-Family Residential 1 District.~~ Any application for proposed development in the Multi-Family Residential 1 District may, if needed and at the applicant's request, be reviewed as a Planned Unit Development under the provisions of ~~this~~ Sections 511 and 723. ~~Any application for proposed development in the Multi-Family Residential 1 District which contains more than five (5) units shall be reviewed as a Planned Unit Development unless this requirement is specifically waived by the Commission.~~

1. ~~General Review Standards~~

- ~~(a) Physical characteristics of the site and relation to surrounding properties.~~
- ~~(b) Relationship to major transportation facilities, including mass transit, walkways and bike paths.~~
- ~~(c) Design characteristics of the proposal and compatibility to adjoining developed lands.~~
- ~~(d) Unique design or land planning characteristics.~~
- ~~(e) Methods used to provide a transition between adjoining uses and proposed uses including, but not limited to, setbacks, screening, fencing, building design and parking design.~~
- ~~(f) The preservation of unique natural physical characteristics.~~
- ~~(g) Building design compatibility with adjoining structures.~~
- ~~(h) Other criteria, as deemed necessary by the Commission to evaluate the merits of a specific proposal.~~

2. ~~Specific Review Standards~~

- ~~(a) Proposed traffic flow and circulation design.~~
- ~~(b) Design compatibility with adjoining developed properties.~~

- ~~(c) Scale and design of proposed structures.~~
- ~~(d) Location and setbacks of all proposed structures.~~
- ~~(e) Unique physical characteristics of the proposed use.~~
- ~~(f) Unique characteristics of the proposed use.~~

~~Use of innovative techniques, including but not limited to, clustering, Zero Lot Lines development, purchase/leaseback arrangements, and the provision of amenities including biking and hiking trails.~~

~~3. —Waivers. The Commission may waive requirements for lot coverage, setbacks, parking and height based upon the merits of the specific proposal. Waivers shall be based upon the following criteria and may include specific conditions.~~

- ~~(a) Unique physical characteristics of the site proposed for development.~~
- ~~(b) Superior building design, lot layout and landscaping design.~~
- ~~(c) Provision of public open spaces or superior bicycle and pedestrian access.~~
- ~~(d) Joint or combined vehicular access with adjoining properties.~~

## **SECTION 602: MULTI-FAMILY RESIDENTIAL 2 (M-F2)**

### **B. Lot Size/Lot Coverage**

1. The minimum lot size shall contain seven thousand five hundred (7,500) square feet. ~~The maximum number of dwelling units shall be three (3) units per seven thousand five hundred (7,500) square feet for the first dwelling unit plus two thousand five hundred (2,500) square feet for each additional dwelling unit in the same structure or within an accessory structure existing on the effective date of this Code, as long as the existing accessory structure is not expanded. Any expansion to an existing accessory structure being used as a dwelling shall require seven thousand five hundred (7,500) square feet of lot size for the first dwelling and two thousand five hundred (2,500) for each additional dwelling in the same structure. Each new structure requires seven thousand five hundred (7,500) square feet for the first unit and two thousand five hundred (2,500) square feet for each additional unit in the structure.~~ One ~~single family home~~ principal building is allowed per lot unless reviewed as a planned development.

### **C. Setback Requirements**

1. The minimum front yard setback shall be fifteen (15) feet. The front yard setback shall be established by the average setback of the principal structures on the two adjacent lots (or the closest two lots on the same side of the same street) and the minimum setback requirement for the underlying zoning district. The principal structure shall have a setback between the established maximum and minimum setback as described above. Semi-attached accessory structures (such as a deck) shall be allowed if there is sufficient space between the principal structure and the minimum setback. Porches that are integrated into the principal structure shall be considered part of the principal structure. If a principal structure is not parallel to the front lot line the

setback will be determined by the average setback at the two corners of the structure closest to the front lot line. The ~~Planning Commission~~ Development Review Board may waive this requirement if the following conditions are met:

D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code. A principal building may contain any use identified on the Use Table in Section 622 for the MF-1 zoning district.

F. Building Height. Building heights shall not exceed three (3) stories or thirty-five (35) feet, whichever is less. The ~~Commission~~ Development Review Board may grant a waiver of up to four (4) stories or forty-eight (48) feet, whichever is less under either of the following conditions:

G. Planned Unit Development. ~~The Planning Commission may approve a Planned Unit Development for use as a Multi-Family and/or Single-Family Residential Development. In connection with such PUD approval, the Planning Commission may authorize the construction of structures and facilities to accommodate any of the uses allowed in the Multi-Family Residential 2 District. Any application for proposed development in the Multi-Family Residential 2 District may, if needed and at the applicant's request, be reviewed as a Planned Unit Development under the provisions of this Sections 511 and 723. Any application for proposed development in the Multi-Family Residential 2 District which contains more than five (5) units shall be reviewed as a Planned Unit Development unless this requirement is specifically waived by the Commission. Refer to Section 601. G.1.3 for general and specific review standards in addition to waiver information for a PUD.~~

### **SECTION 603. MULTI-FAMILY RESIDENTIAL 3 (M-F3)**

D. Setback Requirements

1. The minimum front yard setback shall be thirty (30) feet. The front yard setback shall be established by the average setback of the principal structures on the two adjacent lots (or the closest two lots on the same side of the same street) and the minimum setback requirement for the underlying zoning district. The principal structure shall have a setback between the established maximum and minimum setback as described above. Semi-attached accessory structures (such as a deck) shall be allowed if there is sufficient space between the principal structure and the minimum setback. Porches that are integrated into the principal structure shall be considered part of the principal structure. If a principal structure is not parallel to the front lot line the setback will be determined by the average setback at the two corners of the structure closest to the front lot line. The ~~Planning Commission~~ Development Review Board may waive this requirement if the following conditions are met:



E. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

H. ~~The Planning Commission may approve a Planned Unit Development for use as a Multi-Family and/or Single Family Residential Development. In connection with such PUD approval, the Planning Commission may authorize the construction of structures and facilities to accommodate any of the uses allowed in the Multi-Family Residential 2 District. Any application for proposed development in the Multi-Family Residential 2 District may, if needed and~~ at the applicant's request, be reviewed as a Planned Unit Development under the provisions of ~~this Sections 511 and 723~~ Section. ~~Any application for proposed development in the Multi-Family Residential 2 District which contains more than five (5) units shall be reviewed as a Planned Unit Development unless this requirement is specifically waived by the Commission. Refer to Section 601.G.1.3 for general and specific review standards in addition to waiver information for a PUD.~~

#### **SECTION 604: VILLAGE CENTER (VC)**

B. Lot Size/Lot Coverage

2. The maximum total lot coverage shall be determined by the ~~Commission~~ Development Review Board as part of Site Plan Review.

C. Setback Requirements. No requirements for commercial or mixed use buildings. ~~The~~ For single family buildings the front yard setback shall be established by the average setback of the principal structures on the two adjacent lots (or the closest two lots on the same side of the same street) and the minimum setback requirement for the underlying zoning district.

D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

E. Design Review and Historic Preservation. Because of the important role the Village Center plays in the regional economy and the unique historic qualities of some of the existing buildings, the ~~Commission-Development Review Board~~ is hereby authorized to undertake a special review, as part of its site plan review. Design review is required by the Planning ~~Commission-Development Review Board~~ for any proposed construction, reconstruction, demolition or exterior alteration (including a change of color) of any building in the district with the exception of sign permits, which are approved administratively. Activities involving buildings listed or eligible for the state or national registers of historic places must meet additional standards as described below. All reviews shall be conducted at a public meeting.



1. Purpose. The purpose of this section is to protect those buildings listed or eligible for the State or Federal Register of Historic Places while accommodating new and appropriate infill and redevelopment supporting increased density and multi-modal development. Infill and redevelopment brings opportunities to protect existing historic resources and provide new sources of architectural and urban design for the 21<sup>st</sup> century while increasing density, activity and economic opportunity in the Village Center District. In addition, the purpose is to carry out the concepts of the Design Five Corners Plan ([https://www.ccrpcvt.org/wp-content/uploads/2019/03/D5C-Implementation-Plan\\_Final-Report.pdf](https://www.ccrpcvt.org/wp-content/uploads/2019/03/D5C-Implementation-Plan_Final-Report.pdf)) which are to accommodate infill development while calming traffic and reclaiming more space for people; and to establish a pedestrian friendly atmosphere.

~~Demolition may be allowed, but only following a thorough review of the economic and structural characteristics of the building and the proposed redevelopment plan and its community benefits. A building that causes blight in the District may be considered a candidate for demolition. New buildings and modifications to existing ones shall be subject to design review.~~

2. Applicability

(a) The design review standards are applicable to all development proposals within the Village Center District. The historic preservation design standards with respect to alterations, additions or redevelopment of existing historic structures as defined in Section 604.E.4.B of this Code are applicable to ~~all~~ buildings listed or eligible for the State or National Register of Historic Places or listed on Map 2 in the Comprehensive Plan.

~~([https://www.essexjunction.org/fileadmin/files/Planning\\_Zoning/Map2\\_Historic\\_Site\\_s\\_20190130.pdf](https://www.essexjunction.org/fileadmin/files/Planning_Zoning/Map2_Historic_Site_s_20190130.pdf)). Documentation from the State Division of Historic Preservation documenting a building's eligibility for the State or National Register of Historic Places. The following buildings are exempt:~~

- ~~i. Buildings that have been de-listed, or determined by the Vermont Division for Historic Preservation for state and federal regulatory program purposes to not meet the State Register Criteria for Evaluation and are not eligible for listing in the State Register of Historic Places.~~
- ~~ii. Buildings where the historical significance has been compromised and is not long relevant. A letter must be provided by a qualified Historic Preservation consultant stating this case.~~

~~(b) Any development proposal for the existing residential structures fronting Pearl, Park, Lincoln, Maple and Main Streets in the Village Center District submitted to the Planning Commission shall be reviewed as a Planned Unit Development (PUD) and are subject to the provisions of Section 724: Planned Unit Development and Chapter 9: Subdivision Regulations.~~

3. District Design Review Procedures. The ~~Planning Commission Development Review Board~~ may deny approval of a proposed development or modification of a

structure if it determines that the intent of this Section has not been met. Accordingly:

(a) Within this district, no structure may be demolished, reconstructed, moved, erected,

(c) The review of plans under this Section by the Planning Commission Development Review Board requires the submission of information listed in Section 502 or Section 503 along with building elevations, a description of materials to be used on the exterior of any structure, plans for exterior lighting, signs, drainage and snow removal, and photographs of existing structures and adjacent buildings if applicable. The Planning Commission Development Review Board may require additional information and documentation, as it deems necessary including 3D drawings and/or models of the proposal to assist in understanding the fundamental design elements and important spatial relationships.

(d) Should the Planning Commission Development Review Board deem it necessary to employ an architect or other qualified individual to review any development proposal, the cost of employing such an individual shall be borne by the applicant.

4. District Design Requirements. The Planning Commission Development Review Board shall review all development applications in the Village Center for compliance with the criteria listed below and in accordance with the character of the district as defined by the Village of Essex Junction Comprehensive Plan. The Planning Commission Development Review Board reserves the right to require applicants to undertake their development per the Secretary of Interiors Standards. Staff will review the applicant's proposal and provide guidance as to what the Planning Commission Development Review Board will expect with historic structures.

(a) Design Standards for the Village Center.

(i) The relationship of building mass and architectural detail to open space and to the relative size of a person shall be reviewed by the Commission Development Review Board in this District.

(iii) Buildings shall generally have no setback from the street and be at least two stories in height and a maximum four stories to create a consistent street edge and sense of enclosure. Additional building setback to provide for an expansion of the sidewalk or active pedestrian space such as sidewalk cafes or display areas may be allowed and in some cases encouraged.

(iv) Bicycle paths which connect neighborhoods shall be constructed in accordance with planned facilities mapped in the Comprehensive Plan on Map 6: Non-Motorized Transportation, or in conformity to a Bicycle Plan as approved by the Development Review Board.

~~(iv) The proposed height of structures may be limited to within ten (10)~~

~~percent of the average height of existing adjacent buildings on predominately residential streets where necessary to protect the residential character of adjacent residential structures. The height limit shall not apply in predominantly commercial and mixed-use areas.~~

(v) Site features and design shall promote cycling, walking and transit as a viable means of transportation and recreation for residents, consumers, visitors, and employees. As appropriate to the location of the application, features shall include at least two or more of the following, or similar amenity with approval from the Development Review Board:

1. Pedestrian access directly from the building to the public sidewalk;
2. Pocket park with benches or similar amenities between the public realm and the private building (see image box for examples to help clarify the intent of this requirement);
3. Public art, murals or interactive games;
4. Covered bus shelter; and
5. Shade trees.

Public Realm Amenity examples for Section 604.E.4(a)(iv). These images are provided as illustrations of intent.



All images herein are from *Seven Catalytic Placemaking Strategies: A Discussion about the Future of Vermont Towns* by Fred Kent, Kathy Madden and Amy Tomasso.  
url: <https://www.sociallifeproject.org/rural-placemaking-vermont-towns/>

(vi) The following architectural elements or features shall be harmonious with existing buildings and significant, predominant or established patterns in the district:

5. Demolition of Historic Structures. The demolition of listed, or properties eligible for historic listing, is discouraged and it is the intent of this section to limit the demolition of The intent of this section is to provide a procedure for the review of applications for the demolition of a historic structure. The **Planning Commission**

Development Review Board may require professional assistance in evaluating an application for demolition at the applicants' expense in order to determine compliance with the standards of this section. An application for demolition of a historic structure will be reviewed based on financial, structural, historic, design and community benefits of the proposed redevelopment.

(a) Application for Demolition

(ii) A report from a qualified professional (planner, economist, business consultant) on the economic feasibility to rehabilitate and/or operate the historic building or site while preserving its historic qualities. The report, at the request of the ~~Planning Commission~~ Development Review Board, may require the report to assess options for sensitive building expansions as it pertains to the economic viability of the building.

(c) Approval for Demolition. Historic buildings that are approved for demolition require the applicant to comply with the following:

(ii) Assurance from the applicant that the redevelopment plan as approved will be implemented if the historic structure demolition is approved based on the community benefit of the redevelopment plan. In addition, structures approved for demolition based on the community benefit shall not be demolished until construction of the entire project has received all financial resources and regulatory permits. The ~~Planning Commission~~ Development Review Board may require a bond or letter of credit as a condition of approval for the demolition of a historic structure.

6. Formula-Based Retail and Restaurants.

~~(a)~~ Purpose. Formula-based retail and restaurants have the potential to negatively impact the unique character and small town atmosphere in the Village Center District unless carefully designed to minimize negative impacts associated with standardized buildings, signs and operations that does not take into account the special qualities and historic features of the District as defined in the ~~Village~~ Essex Junction Comprehensive Plan.

F. Parking. Due to the unique characteristics of this District no minimum parking requirements are established. However, the ~~Planning Commission~~ Development Review Board may require parking as a part of any Site Plan approval. The ~~Commission~~ Development Review Board shall use the parking standards of Chapter Seven as a guide to determine reasonable parking. If on-site parking is required, it shall be placed on the side or rear of the building, not in front. If parking is placed on the side, it shall not take up more than thirty (30) percent of the linear frontage of the lot. The ~~Planning Commission~~ Development Review Board may waive this requirement due to site constraints. Below grade parking or structured parking may also be approved by the Development Review Board ~~Planning Commission~~.



Municipal parking lots are exempt from the side, rear and thirty (30) percent linear frontage requirements for parking areas.

G. Planned Unit Development. ~~Any application for proposed development may, if needed and at the applicant's request, be reviewed as a Planned Unit Development under the provisions of Sections 511 and 723. The Planning Commission may approve a Planned Unit Development in the Village Center District. In connection with such PUD approval, the Planning Commission may authorize the construction of structures and facilities to accommodate any of the uses allowed in the Village Center District. Any application for proposed development in the Village Center District may, at the applicant's request, be reviewed as a Planned Unit Development under the provisions of this Section.~~

~~1. Commercial PUD.~~

~~(a) Activities involving a Commercial PUD shall be reviewed in accordance with the procedures of this Section. Commercial PUD's are authorized in the Village Center District pursuant to Section 604.G.~~

~~(b) Application Requirements. An application for a Commercial PUD shall be submitted and reviewed in accordance with the procedures of Section 511.~~

~~(c) Review Standards. An application for a Commercial PUD shall be reviewed under the applicable standards of Section 511.B.1-3.~~

~~(d) Expiration of Approval. An approval for a Commercial PUD shall expire in accordance with terms set forth in the approval.~~

~~(e) Appeals. Any interested person may appeal a decision of the Commission regarding a Commercial PUD in accordance with the procedures set forth in Section 1707.~~

**SECTION 605: HIGHWAY-ARTERIAL DISTRICT (HA)**

B. Density/Lot Coverage.

2. The maximum total lot coverage shall be sixty-five (65) percent, the sixty-five (65) percent lot coverage may be increased up to eighty (80) percent through a waiver process granted by the ~~Planning Commission~~ Development Review Board using the same criteria outlined in Section 601.G.3.

D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

G. Planned Unit Development. ~~Any application for proposed development may, if needed and at the applicant's request, be reviewed as a Planned Unit Development under the provisions of Sections 511 and 723. The Planning Commission may approve a Planned Unit Development in the Highway Arterial District. In connection with such PUD approval, the~~

~~Planning Commission may authorize the construction of structures and facilities to accommodate any of the uses allowed in the Highway Arterial District. Any application for proposed development in the Highway Arterial District may, at the applicant's request, be reviewed as a Planned Unit Development under the provisions of this Section. Refer to Section 511.B.1-3 for general and specific review standards in addition to waiver information for a PUD.~~

~~1. Commercial PUD.~~

~~(a) Activities involving a Commercial PUD shall be reviewed in accordance with the procedures of this Section. Commercial PUD's are authorized in the Highway Arterial District pursuant to Section 605.G.~~

~~(b) Application Requirements. An application for a Commercial PUD shall be submitted and reviewed in accordance with the procedures of Section 511.~~

~~(c) Review Standards. An application for a Commercial PUD shall be reviewed under the applicable standards of Section 511.B.1-3 604.G, Section 605.G and Section 724.~~

~~(d) Expiration of Approval. An approval for a Commercial PUD shall expire in accordance with terms set forth in the approval.~~

~~(e) Appeals. Any interested person may appeal a decision of the Commission regarding a Commercial PUD in accordance with the procedures set forth in Section 1707.~~

## **SECTION 606: MULTI-FAMILY/MIXED-USE-1 DISTRICT (MF-MU1)**

**B. Density/Lot Coverage.**

2. The maximum total lot coverage shall be sixty-five (65) percent, the sixty-five (65) percent lot coverage may be increased up to eighty (80) percent through a waiver process granted by the ~~Planning Commission~~ Development Review Board using the same criteria outlined in Section 601.G.3.

**C. Setback Requirements.** The ~~Planning Commission~~ Development Review Board may waive the screening and buffering requirements for new developments upon determining that the development will not adversely impact neighboring properties.

**D. Permitted and Conditional Uses.** Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

**G. Planned Unit Development.** The ~~Planning Commission~~ Development Review Board may approve a Planned Unit Development for use as a MF-MU1 District. In connection with such PUD approval, the ~~Planning Commission~~ Development Review Board may authorize the construction of structures and facilities to accommodate any of the uses allowed in the Multi-

Family Mixed-Use-1 District.

#### **SECTION 607: MULTI-FAMILY/MIXED-USE-2 DISTRICT (MF-MU2)**

A. Purpose. The Multi-Family/Mixed-Use-2 District is intended to allow high density multi-family development along low intensity commercial uses along major transportation and public transit corridors. High Density, Mixed Use developments and affordable housing with parking below grade or on the first floor of the building are encouraged. Development in the MF-MU2 District should support alternative modes of transportation, while accommodating the automobile. Developments within this district should be designed in such a way as to build upon the village character found in the core areas of the ~~Village City~~.

B. Density/Lot Coverage

2. The maximum total lot coverage shall be sixty-five (65) percent, the sixty-five (65) percent lot coverage may be increased up to eighty (80) percent through a waiver process granted by the ~~Planning Commission~~ Development Review Board using the same criteria outlined in Section 601.G.3.

C. Setback Requirements. The ~~Planning Commission~~ Development Review Board may waive the screening and buffering requirements for new developments upon determining that the development will not adversely impact neighboring properties.

D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

G. Planned Unit Development. The ~~Planning Commission~~ Development Review Board may approve a Planned Unit Development for use as a MF-MU1 District. In connection with such PUD approval, the ~~Planning Commission~~ Development Review Board may authorize the construction of structures and facilities to accommodate any of the uses allowed in the Multi-Family Mixed-Use-1 District.

#### **SECTION 608: TRANSIT ORIENTED DEVELOPMENT (TOD)**

B. Applicability. Development proposals that involve more than thirty (30) percent or more of the existing building(s) square footage on the effective date of this ordinance shall be in full compliance with the standards of the TOD District. It is the intent of the TOD District regulations to prohibit the expansion of existing non-conforming structures beyond thirty (30) percent of the existing floor space on the effective date of this ordinance unless a waiver is granted by the ~~Planning Commission~~ Development Review Board upon determination that the expansion would not significantly detract from the goals and intent of the TOD District. Any



expansion of existing non-conforming structures shall comply with the provisions of Chapter 8.

1. The use chart in Section ~~620~~ 622 identifies the allowed uses in the TOD District, which shall apply on effective date of this code. Non-conforming uses shall comply with the standards in Chapter 8 regarding non-conforming uses.

E. Building Frontage, Façade and Entry

2. All buildings shall have a minimum building frontage on a public street of seventy-five (75) percent of the frontage of the lot. The ~~Planning Commission~~ Development Review Board may waive this requirement if the proposed land use warrants less building frontage to accommodate on-site parking on the side of the building or due to site constraints.

G. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

H. Access to Public Streets. Curb cuts onto major arterial streets shall be minimized; shared curb cuts and joint access are strongly encouraged. Each property shall be allowed a single curb cut in accordance with the width requirements of Section 705 unless waived by the ~~Planning Commission~~ Development Review Board determination that an additional curb cut is necessary to provide adequate access to the site.

I. Parking Requirements and Location

1. The parking requirements are as follows:

Land Use	Parking Requirement
Residential	1 space per unit
Lodging	1 space per room
Office	2 spaces per 1,000 SF of net office space
Retail	3 spaces per 1,000 SF of net retail space
Other	As determined by the <del>Planning Commission</del> <u>Development Review Board</u> based on anticipated need. The <del>Commission</del> <u>Development Review Board</u> shall use the requirements of Chapter 7 and other national parking standards as a guide.

3. At the discretion of the ~~Village Trustees~~ City Council, parking lots created as part of a development project may be accepted by the ~~Village~~ City as municipal public parking.

K. Planned Unit Development. ~~Any application for proposed development may, if needed and at the applicant's request, be reviewed as a Planned Unit Development under the provisions of Sections 511 and 723. The Planning Commission may approve a Planned Unit Development for use as a mixed use development. In connection with such PUD approval, the Planning Commission may authorize the construction of structures and facilities to accommodate any of the uses allowed in the TOD District. Any application for proposed development in the TOD District may, at the applicant's request, be reviewed as a Planned Unit Development. Refer to Section 511.B.1-3 for general and specific review standards in addition to waiver information for a PUD.~~

1. ~~Commercial PUD.~~

~~(a) Activities involving a Commercial PUD shall be reviewed in accordance with the procedures of this Section. Commercial PUD's are authorized in the Transit-Oriented Development District pursuant to Section 608.K.~~

~~(b) Application Requirements. An application for a Commercial PUD shall be submitted and reviewed in accordance with the procedures of Section 511.~~

~~(c) Review Standards. An application for a Commercial PUD shall be reviewed under the applicable standards of Section 511.B.1-3.~~

~~(d) Expiration of Approval. An approval for a Commercial PUD shall expire in accordance with terms set forth in the approval.~~

~~(e) Appeals. Any interested person may appeal a decision of the Commission regarding a Commercial PUD in accordance with the procedures set forth in Section 1707.~~

L. Special Uses. Uses identified with an "S" on the Use Chart in Section ~~620~~ 622 of this Code for the TOD District shall only be allowed on the first story.

## **SECTION 609: RESIDENTIAL-OFFICE (R-O)**

C. Setback Requirements

If a principal structure is not parallel to the front lot line, the setback will be determined by the average setback at the two corners of the structure closest to the front lot line.

The ~~Planning Commission~~ Development Review Board may waive this requirement if the following conditions are met:

D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

G. Special Standards for Residential Conversions. Any proposed residential conversion which adds one or more dwelling units shall require Site Plan approval. In addition, the following standards shall be met:

1. Parking for additional dwelling units shall be designed to minimize impact on adjoining properties. The ~~Planning Commission~~ Development Review Board may require that screening, landscaping, berming or other techniques be used as a condition of approval.
2. Alterations to the structure shall not substantially change the single family character of the structure. Added exits, stairways and window treatments shall be designed to protect the residential character of the structure. The ~~Planning Commission~~ Development Review Board may require that additions or changes be screened from view by berms, fencing and/or landscaping treatments.

H. Special Standards for Office Conversions. Proposed conversions to non-residential uses shall require Conditional Use and Site Plan approval. In addition to Site Plan standards, the ~~Planning Commission~~ Development Review Board shall review the following special standards:

1. The proposed use shall not cause significant ~~noise sound~~ or traffic impacts on adjoining properties.
2. Parking areas shall be arranged to minimize the impact on adjoining properties. Parking shall not be allowed within any front or side yard. The additional parking shall be effectively screened from ground level view of adjoining residences. The ~~Planning Commission~~ Development Review Board may require that screening, landscaping, berming or other techniques be used as a condition of approval.
4. The application shall specify the number of employees and shall certify to the ~~Planning Commission~~ Development Review Board that there will be no increase in employees without notice. Upon receipt of such notification the ~~Planning Commission~~ Development Review Board may decide to reconsider the Site Plan approval, and shall so notify the applicant within forty-five (45) days of receipt of the notice of increased employees.
5. The application shall include an estimate of the number of daily customers. If, at a later date, the ~~Planning Commission~~ Development Review Board should determine that the daily number of customers is significantly greater than estimated, the Commission may reconsider the Site Plan approval, and shall so notify the applicant.
7. The ~~Planning Commission~~ Development Review Board may restrict hours, employees and customers, and may specify other conditions necessary to protect the residential character of the neighborhood.
8. The ~~Planning Commission~~ Development Review Board may impose conditions on parking, traffic circulation (including prohibiting parking in front yards), drainage and landscaping as it deems necessary to protect the residential character of the neighborhood.
9. Alterations to the structure shall not substantially change the single family character of the structure. Added exits, stairways and window treatments shall be

designed to protect the residential character of the structure. New construction shall be of residential construction and shall fit the established character of the neighborhood. The ~~Planning Commission~~ Development Review Board may require that additions or changes be screened from view by berms, fencing and/or landscaping treatments.

#### **SECTION 610: OPEN SPACE DISTRICT**

- A. Purpose. To provide and maintain open lands within the ~~Village City~~ and its neighborhoods, and to provide locations for public recreation and school facilities.
- D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

#### **SECTION 611: LIGHT INDUSTRIAL (LI)**

- D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.
- F. Building Heights. The height of any structure shall not exceed four stories or fifty-eight (58) feet, whichever is less. The ~~Planning Commission~~ Development Review Board may waive this requirement to no more than six stories or seventy-two (72) feet upon clear determination that the waiver is necessary for proper functioning of any permitted industrial use and that it will not adversely impact any surrounding properties.

#### **SECTION 612: PLANNED EXPOSITION (P-E)**

- D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.
- F. Building Heights. The height of any structure shall not exceed thirty-five (35) feet; provided that the ~~Planning Commission~~ Development Review Board may waive this requirement for facilities constructed a minimum of one hundred (100) feet from any property line with Conceptual Plan and Site Plan review.
- G. Exposition Center PUD. The ~~Planning Commission~~ Development Review Board may approve a Planned Unit Development for use as an Exposition Center.
  - 1. Approval of an application for an Exposition Center PUD requires approval of a Conceptual Plan by the ~~Planning Commission~~ Development Review Board in accordance with the requirements of Section 511.C.
  - 6. Conditions. The ~~Planning Commission~~ Development Review Board may approve the proposed Exposition Center PUD with conditions designed to meet the

standards established in Section 612 of this Code.

7. Classification and Approval of Activities. Plans for specific activities in an Exposition Center PUD shall be classified by the Community Development Department as permitted activities, temporary activities or major activities, and shall be reviewed in the following manner:

(c) Major Activities. The ~~Planning Commission~~ Development Review Board shall hold a public meeting in connection with review of a major activity, and may require a public hearing.

(i) Standards of review. The Commission shall review each application for a major activity permit on its individual merits. Special consideration shall be given to mitigation efforts proposed to reduce potential community impacts. In granting such a permit, the ~~Planning Commission~~ Development Review Board may impose conditions regarding:

(ff) Impacts which, in the opinion of the ~~Planning Commission~~ Development Review Board, are reasonable and will mitigate adverse impacts.

(iii) Annual agricultural exhibitions shall be reviewed by staff on an annual basis and are classified as a major use. Staff may approve all activities specified below. The ~~Planning Commission~~ Development Review Board shall review any activity denied by Staff.

(bb) Cumulative Effects. The cumulative effects of fair activities shall be reviewed annually with Staff, the Police Department and the applicant. Review is restricted to traffic control, lighting, parking, and ~~noise~~ sound abatement plans. Reasonable efforts shall be made to reduce potential adverse impacts of annual events. In the event that agreement is not reached, the ~~Planning Commission~~ Development Review Board shall consider the outstanding issues at a public meeting on the next ~~Planning Commission~~ Development Review Board agenda.

(cc) Special Events. Special events, including, but not limited to, concerts, demolition derbies, tractor pulls and other grandstand events shall be reviewed for compliance with standards for ~~noise~~ sound, dust control, parking and traffic flow. Staff may not grant waivers to any standard included in this Code. If it is expected that sound standards may be exceeded, application shall be made to the ~~Trustees~~ City Council for a waiver in accordance with Section 506 of this Code. Staff may approve any special event which does not exceed standards and may impose reasonable conditions regarding control of traffic,

noise sound and dust. In addition, Staff may stipulate hours of operation to ensure conformance with adopted standards.

8. Signs. Signs in the Planned Exposition Center PUD shall be approved by the ~~Planning Commission~~ Development Review Board as part of Conceptual and/or Site Plan review.

(b) Specific types of signs which may be approved subject to the above, including a single sign with changeable messages to advertise events and signs near the streets to direct pedestrian, bicycle and vehicular traffic to appropriate entrances. The general location and type of Temporary signs shall be reviewed by the ~~Commission~~ Development Review Board.

10. Appeals:

(a) Any interested person may appeal a decision of the ~~Planning Commission~~ Development Review Board regarding an Exposition Center PUD or conduct of a major activity at an Exposition Center PUD in accordance with the procedures set forth in Section 1707 below.

(b) Any interested person may appeal a decision of the Staff classifying an activity at an Exposition Center PUD to the ~~Planning Commission~~ Development Review Board in accordance with the procedures set forth in Section 1704 below.

### **SECTION 613: PLANNED AGRICULTURE (P-A)**

A. Purpose. To provide areas for active agricultural uses and provide mechanisms to ensure the long term viability of agriculture. Prime agriculture or active farming land shall be preserved whenever possible through specific policies of the ~~Village City~~.

C. Setback Requirements

1. The minimum front yard setback shall be thirty (30) feet. If a principal structure is not parallel to the front lot line, the setback will be determined by the average setback at the two corners of the structure closest to the front lot line. The ~~Planning Commission~~ Development Review Board may waive this requirement if the following conditions are met:

D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code.

G. Agriculture PUD. The ~~Planning Commission~~ Development Review Board may approve a Planned Unit Development for an Agriculture PUD, and in connection with such PUD approval, approve the structures and facilities to accommodate any of the uses allowed in the Planned Agriculture District.

4. Standards of Review. Generally, the ~~Planning Commission~~ Development Review Board shall consider the effect of the proposed development on the Community, public infrastructure and adjoining development. Mitigation efforts, including ~~noise~~ sound control, traffic control and landscaping shall be considered.

(a) General Review Standards

(viii) Other criteria, as deemed necessary by the ~~Planning Commission~~ Development Review Board to evaluate the merits of a specific proposal.

5. Density Bonuses. The ~~Planning Commission~~ Development Review Board may approve density increases for any Planned Agricultural proposal. Density shall be calculated on an overall project basis and allowable bonus density on developable land that is preserved may be applied elsewhere in a development.

(a) Standards. The ~~Planning Commission~~ Development Review Board shall consider the standards as specified below:

(c) Special Residential Standards. Upon approval and construction of any residential development, agricultural uses are prohibited in the developed area with the following exceptions:

(i) Specific agricultural uses which are approved by the ~~Planning Commission~~ Development Review Board as part of a Planned Unit Development Conceptual Plan shall be allowed.

6. Conditions. The ~~Planning Commission~~ Development Review Board may approve the proposed Agriculture PUD with conditions designed to meet the standards established in Section 613 of this Code.

8. Appeal. Any interested person may appeal a decision of the ~~Planning Commission~~ Development Review Board regarding an Agriculture PUD in accordance with the procedures set forth in Section 1707 below.

#### **SECTION 614: FLOOD PLAIN (F-P)**

C. Development Standards

8. The lowest floor, including basement, of all new buildings shall be at least one foot ~~or~~ above the base flood elevation.

E. Variances to the Development Standards. Variances shall be granted by the Board of Adjustment only:

1. In accordance with the provision of 24 V.S.A. Section ~~4468~~ 4469.

#### **SECTION 615: MIXED COMMERCIAL USE DISTRICT**

B. Lot Size/Lot Coverage



2. The maximum total lot coverage shall be sixty-five (65) percent; the sixty-five (65) percent lot coverage may be increased up to eighty (80) percent through a waiver process granted by the ~~Planning Commission~~ Development Review Board using the same criteria outlined in Section 601.G

G. Planned Unit Development. ~~The Planning Commission may approve a Planned Unit Development for use as a Commercial or Multi-Family Residential Development. In connection with such PUD approval, the Planning Commission may authorize the construction of structures and facilities to accommodate any of the uses allowed in the Mixed Commercial District. Any application for proposed development in the Mixed Commercial District may, at the applicant's request, be reviewed as a Planned Unit Development under the provisions of Sections 511 and 723. Any application for proposed development in the Mixed Commercial District which contains more than two thousand five hundred (2,500) square feet of commercial space shall be reviewed as a Planned Unit Development or Multi-Family Residential Development unless this requirement is specifically waived by the Commission. Review standards and waiver requirements for a PUD are set forth in Section 511.B.1-3.~~

## **SECTION 616: PROFESSIONAL OFFICE OVERLAY DISTRICT**

A. Purpose. 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~~ Essex Junction Comprehensive Plan.

B. Review. All proposed Professional Office Developments shall require a hearing before the ~~Planning Commission~~ Development Review Board. The ~~Planning Commission~~ Development Review Board shall consider the following criteria and may establish conditions as deemed necessary to meet the purposes of this Section.

4. Permitted Uses. Specific uses shall be determined by the ~~Planning Commission~~ Development Review Board upon review of an application and finding that the proposal meets all the criteria of this Section.

C. The ~~Planning Commission~~ Development Review Board 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 ~~Planning Commission~~ Development Review Board shall review the following:

## **SECTION 617: NORTH LINCOLN STREET OVERLAY DISTRICT NLSO**

B. Permitted Uses. Uses allowed in the NLSO shall be those uses identified in Section



~~620~~ 622 Use Chart, including all uses identified in both the NLSO and the underlying zoning district.

### **SECTION 618: RESIDENTIAL 1 (R-1)**

B. Lot Size/Lot Coverage

1. The minimum lot size shall be fifteen thousand (15,000) square feet. No more than one (1) principal ~~structure~~ building shall be allowed per lot, unless approved as part of a Planned Development.
2. The maximum total lot coverage shall be forty (40) percent. However, the maximum permitted lot coverage for buildings shall not exceed ~~twenty-five~~ thirty(2530) percent.

C. Setback Requirements

1. The minimum front yard setback shall be twenty (20) feet.  
If a principal structure is not parallel to the front lot line the setback will be determined by the average setback at the two corners of the structure closest to the front lot line.  
The ~~Planning Commission~~ Development Review Board may waive this requirement if the following conditions are met:  
~~Applicants may apply for a variance if they do not meet the criteria above but believe they cannot meet the requirements of this Section.~~

D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code. A principal structure may contain any use identified on the Use Table in Section 622 for the R-1 zoning district.

~~F.~~ F. Building Heights. Building heights shall not exceed three (3) stories or thirty-five (35) feet, whichever is less.

G. Special Standards. To remain at similar existing densities in this district as the Comprehensive Plan calls for:

1. Conversion to duplexes or triplexes shall be done within a traditional detached frontage style home.
2. Parking shall not take up more than thirty (30) percent or twenty (20) feet of the linear frontage of the lot, whichever is less.

### **SECTION 619: RESIDENTIAL 2 (R-2)**

B. Lot Size/Lot Coverage

1. The minimum lot size shall be seven thousand five hundred (7,500) square feet.

No more than one (1) principal ~~structure~~ building shall be allowed per lot, unless approved as part of a Planned Development.

2. The maximum total lot coverage shall be forty (40) percent. However, the maximum permitted lot coverage for buildings shall not exceed ~~twenty-five~~ thirty(2530) percent.

C. Setback Requirements

1. The minimum front yard setback shall be fifteen (15) feet.

If a principal structure is not parallel to the front lot line the setback will be determined by the average setback at the two corners of the structure closest to the front lot line.

The ~~Planning Commission~~ Development Review Board may waive this requirement if the following conditions are met:

~~Applicants may apply for a variance if they do not meet the criteria above but believe they cannot meet the requirements of this Section.~~

D. Permitted and Conditional Uses. Permitted and Conditional uses are as indicated on the Use Chart in Section ~~620~~ 622 of this Code. A principal structure may contain any use identified on the Use Table in Section 622 for the R-2 zoning district.

~~F.~~ F. Building Heights. Building heights shall not exceed three (3) stories or thirty-five (35) feet, whichever is less.

G. Special Standards. To remain at similar existing densities in this district as the Comprehensive Plan calls for:

1. Conversion to duplexes or triplexes shall be done within a traditional detached frontage style home.

2. Parking shall not take up more than thirty (30) percent or twenty (20) feet of the linear frontage of the lot, whichever is less.

## **SECTION 620: DESIGN REVIEW OVERLAY DISTRICT**

A. Purpose. The purpose of the Design Review Overlay District is to expand the design review standards used in the Village Center District into the trunk routes of Main Street, Lincoln Street, Pearl Street, Park Street and Maple Street as called for in the Comprehensive Plan; thereby recognizing the economic importance and unique historic qualities of the existing buildings and neighborhoods. The purpose of these standards is to:

1. Enable infill and redevelopment that brings opportunities to protect existing historic resources and provide new sources of architectural and urban design for the 21st century while increasing density, activity and economic opportunity.

2. Carryout the concepts of the Design Five Corners Plan which are to accommodate

infill development while calming traffic and reclaiming more space for people.

3. Establish a pedestrian friendly atmosphere from the surrounding neighborhoods into the Village Center.

B. Applicability. These standards are in addition to the underlying standards of the base zoning district. The design review standards in Section 620.D. are applicable to any new construction, proposed additions, demolition or reconstruction of existing buildings within the Design Review and Historic Preservation Overlay District. Regular maintenance, exterior alterations and change of use are exempt. Regarding demolition the intent is for the Administrative Officer or Development Review Board to review the plan for reconstruction for conformance with this section prior to demolition.

C. Design Review Procedures. The Development Review Board may deny approval of a proposed development or modification of a structure if it determines that the intent of this Section has not been met. Accordingly:

1. Design review from the Development Review Board will be conducted in conjunction with subdivision or site plan approval. If subdivision or site plan review is not otherwise required, design review shall be conducted in accordance with site plan review procedures under Section 502 or Section 503. All reviews shall be conducted at a public meeting.

2. Nothing in these design control criteria shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the district, which does not involve a change in the design, material, color or the outward appearance of the feature.

3. The review of plans under this Section by the Development Review Board requires the submission of information listed in Section 502 or Section 503 along with building elevations, a description of materials to be used on the exterior of any structure, plans for exterior lighting, signs, drainage and snow removal, and photographs of existing structures and adjacent buildings if applicable. The Development Review Board may require additional information and documentation, as it deems necessary including 3D drawings and/or models of the proposal to assist in understanding the fundamental design elements and important spatial relationships.

4. Should the Development Review Board deem it necessary to employ an architect or other qualified individual to review any development proposal, the cost of employing such an individual shall be borne by the applicant.

D. Design Review Standards. The Development Review Board shall review applicable development applications in the Design Review Overlay District for compliance with the criteria listed below and in accordance with the character of the underlying district as defined by the Essex Junction Comprehensive Plan.

1. The relationship of building mass and architectural detail to open space and to the relative size of a person shall be reviewed by the Development Review Board in this District.
2. The predominant direction of structural shape, of placement of openings and architectural details at the front façade shall be harmonious with the core principles of a designated Village Center District.
3. Building setback and height requirements of the underlying zoning district shall apply. However, variation along the frontage may be permitted by the Development Review Board to:
  - a. Create a consistent street edge and sense of enclosure.
  - b. Provide for an expansion of the sidewalk or active pedestrian space such as sidewalk cafes or display areas.
4. Bicycle paths which connect neighborhoods shall be constructed in accordance with planned facilities mapped in the Comprehensive Plan on map 6: Non-Motorized Transportation, or in conformity to a Bicycle Plan as approve by the Development Review Board.
5. Site features and design shall promote cycling, walking and transit as a viable means of transportation and recreation for residents, consumers, visitors, and employees. As appropriate to the location of the application, features shall include at least two or more of the following, or similar amenity with approval from the Development Review Board:
  - a. Pedestrian access directly from the building to the public sidewalk;
  - b. Pocket park with benches or similar amenities between the public realm and the private building (see image box for examples to help clarify the intent of this requirement);
  - c. Public art, murals or interactive games;
  - d. Covered bus shelter; and
  - e. Shade trees.



6. The following architectural elements or features shall be harmonious with existing buildings and significant, predominant or established patterns in the district:
- The relationship between the width to height of the front elevation of the building.
  - The relationship of the width to the height of windows and doors.
  - The rhythmic relationships of openings to solid areas in front facades.

- d. The spaces between the proposed structure or structural alteration.
- e. The relationship of entranceways to buildings and porches.
- f. The materials, textures, and colors, including primary and accent or trim colors.
- g. Proposed architectural details (such as lintels, arches, chimneys).
- h. Proposed roof shapes and lines.
- i. Proposed enclosures, including fences, brick walls, stone walls, evergreen hedgerows and building facades, which are also continuous and cohesive with existing walls in the district.
- j. Proposed landscaping shall be compatible with existing quality and quantity of landscaping in the vicinity, with consideration given to existing landscape mass and continuity.
- k. The proposed ground cover shall be compatible with the predominant ground cover in the district.
- l. Storage areas, service areas, trash receptacles, accessory structures and parking areas shall be screened from view from the street and adjoining properties.

## **SECTION 621: HISTORIC PRESERVATION OVERLAY DISTRICT**

A. Purpose. The purpose of the Historic Preservation Overlay District is to expand the historic preservation standards used in the Village Center District into the trunk routes of Main Street, Lincoln Street, Pearl Street, Park Street and Maple Street as called for in the Comprehensive Plan; thereby recognizing the economic importance and unique historic qualities of the existing buildings and neighborhoods. The purpose of these standards is to:

- 1. Protect those buildings listed or eligible for the State or Federal Register of Historic Places while accommodating new and appropriate infill and redevelopment supporting increased density and multi-modal development.
- 2. Enable infill and redevelopment that brings opportunities to protect existing historic resources and provide new sources of architectural and urban design for the 21st century while increasing density, activity and economic opportunity.

B. Applicability. These standards are in addition to the underlying standards of the base zoning district. The historic preservation design standards in Section 620.D.2. of this Code are applicable to demolition, alterations, additions or redevelopment of buildings within the Design Review and Historic Preservation Overlay District and structures on Map 2 in the Comprehensive Plan  
(([https://www.essexjunction.org/fileadmin/files/Planning\\_Zoning/Map2\\_Historic\\_Sites\\_20190130.pdf](https://www.essexjunction.org/fileadmin/files/Planning_Zoning/Map2_Historic_Sites_20190130.pdf)), or listed on the State or National Registers of Historic Places. The following buildings are exempt:

- 1. Buildings that have been de-listed, or determined by the Vermont Division for Historic Preservation for state and federal regulatory program purposes to not meet the State Register Criteria for Evaluation and are not eligible for listing in the State



Register of Historic Places.

2. Buildings where the historical significance has been compromised and is not long relevant. A letter must be provided by a qualified Historic Preservation consultant stating this case.

C. Historic Preservation Procedures. The Development Review Board may deny approval of a proposed development or modification of a structure if it determines that the intent of this Section has not been met. Accordingly:

1. Historic Preservation review from the Development Review Board will be conducted in conjunction with subdivision or site plan approval. If subdivision or site plan review is not otherwise required, design review shall be conducted in accordance with site plan review procedures under Section 502 or Section 503. All reviews shall be conducted at a public meeting.
2. Nothing in these Historic Preservation standards shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the district, which does not involve a change in the design, material, color or the outward appearance of the feature.
3. The review of plans under this Section by the Development Review Board requires the submission of information listed in Section 502 or Section 503 along with building elevations, a description of materials to be used on the exterior of any structure, plans for exterior lighting, signs, drainage and snow removal, and photographs of existing structures and adjacent buildings if applicable. The Development Review Board may require additional information and documentation, as it deems necessary including 3D drawings and/or models of the proposal to assist in understanding the fundamental design elements and important spatial relationships.
4. Should the Development Review Board deem it necessary to employ an architect or other qualified individual to review any development proposal, the cost of employing such an individual shall be borne by the applicant.

D. Historic Preservation Standards. The Development Review Board shall review applicable development applications in the Historic Protection Overlay District for compliance with the criteria listed below and in accordance with the character of the underlying district as defined by the Essex Junction Comprehensive Plan. Staff will review the applicant's proposal and provide guidance as to what the Development Review Board will expect with historic structures. The following Secretary of the Interiors Standards for the Rehabilitation of Historic Structures shall apply:

1. An existing property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of

- historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
  4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
  5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
  6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
  7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
  8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
  9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
  10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

E. Demolition of Historic Structures. The demolition of listed, or properties eligible for historic listing is discouraged and it is the intent of this section to limit the demolition of historic structures unless the following standards are met. The intent of this section is to provide a procedure for the review of applications for the demolition of a historic structure. The Development Review Board may require professional assistance in evaluating an application for demolition at the applicants' expense to determine compliance with the standards of this section. An application for demolition of a historic structure will be reviewed based on financial, structural, historic, design and community benefits of the proposed redevelopment.

(1) Application for Demolition

- (a) A report from a licensed engineer qualified to assess the structural integrity of



historic buildings is required. The report shall address the ability for rehabilitation and reuse of the existing building as it pertains to the building's structural integrity and cost of rehabilitation.

- (b) A report from a qualified professional (planner, economist, business consultant) on the economic feasibility to rehabilitate and/or operate the historic building or site while preserving its historic qualities. The report, at the request of the Development Review Board, may require the report to assess options for sensitive building expansions as it pertains to the economic viability of the building.
- (c) A statement from the applicant regarding compliance with the standards for demolition of a historic structure.
- (d) Any building in non-compliance with the design requirements for historic structures as a result of a fire, flood or similar unforeseen event shall apply within six months of the date of the event for an application to demolish the building or approval of a plan for restoration. All of the standards in this section shall be fully considered including economic hardship, structural integrity and community benefit.

(2) Demolition Review Standards:

- (a) Economic Hardship. The continued operation of the historic structure is financially infeasible based on existing and potential land uses and any costs of rehabilitation. All options for adaptive reuse, resale, or relocation shall be considered and addressed in the application.
- (b) Structural Integrity. The structure is beyond repair or the cost of repairing and operating the building is not financially feasible or reasonable; or
- (c) Community Benefit. The redevelopment plan for the site has significant state, regional or community benefits in terms of urban design, ecology, and cultural or economic benefits. The redevelopment proposal shall consider and address impacts on adjacent historic properties and the entire district. The potential of incorporating historic structures into redevelopment plans shall be considered and is encouraged.

(3) Approval for Demolition. Historic buildings that are approved for demolition require the applicant to comply with the following:

- (a) Any approval for the demolition of a historic structure shall require the applicant to document the building in accordance with the Historic American Building Survey (HABS).
- (b) Assurance from the applicant that the redevelopment plan as approved will be implemented if the historic structure demolition is approved based on the community benefit of the redevelopment plan. In addition, structures approved for demolition based on the community benefit shall not be demolished until construction of the entire project has received all financial resources and

regulatory permits. The Development Review Board may require a bond or letter of credit as a condition of approval for the demolition of a historic structure.

- (c) The time between demolition and the commencement of construction shall not exceed 3 months unless an alternative timeline is specifically approved as part of the demolition approval from the Development Review Board.

## **SECTION 620 622: USE CHART**

- D. Special Uses. Uses which are generally permitted; but require specific reviews or approvals by the ~~Commission~~ Development Review Board to determine applicability at a specific location are marked with a "S".

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

### **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 with the ~~Village City~~.
- B. Loading Requirements. All uses shall provide off-street loading spaces except residential uses or other uses specifically waived by the ~~Planning Commission~~ Development Review Board in accordance with Subsection 7 below.
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 ~~Planning Commission~~ Development Review Board. Loading spaces shall be fifteen (15) feet wide by twenty-five (25) feet in length. The ~~Planning Commission~~ Development Review Board 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~~ Development Review Board.
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 ~~Planning Commission~~ Development Review Board may approve joint usage on adjacent lots provided a written agreement is submitted and filed with a deed.
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 ~~Planning Commission Development Review Board~~ may approve waiver requests under the following circumstances.

The ~~Planning Commission Development Review Board~~ 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.

H. Parking of Recreational Vehicles on Public Property.

The ~~Planning Commission Development Review Board~~ 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 Development Review Board~~ may place conditions upon any approval in the following areas:

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 ~~Planning Commission Development Review Board~~. The ~~Planning Commission Development Review Board~~ 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 ~~Planning Commission Development Review Board~~ 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 City~~. The ~~Planning Commission Development Review Board~~ 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 ~~Planning Commission Development Review Board~~ may waive this requirement for parking lots in accordance with Section 713.
4. Drainage.  
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 City~~ stormwater system.
6. Off-site parking - commuter lots. Commuter lots may be approved by the

~~Planning Commission Development Review Board~~ with Site Plan Review and Approval.

8. Screening. The screening requirements of Section 708 shall apply to the perimeters of all parking lots. In addition, the ~~Planning Commission Development Review Board~~ 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 ~~Planning Commission Development Review Board~~ may approve fencing, if it determines the more preferred methods are impractical.

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 ~~Planning Commission Development Review Board~~ 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~~ 11. Striping. Hard surfaced parking spaces shall be clearly striped and maintained and shall meet standard parking dimensional requirements as specified in Section 703. ~~or as specifically approved by the Commission.~~

~~15~~ 14. Joint Parking Facilities. Minimum parking is required in accordance with Section

703.C , unless the applicant requests and the Development Review Board approves a reduced number based on shared parking calculations. The applicant shall use Shared Parking by Mary Smith (<https://knowledge.uli.org/en/books/2019/shared-parking>) as most recently updated for shared parking calculations. Joint parking arrangements may be approved by the ~~Planning Commission Development Review Board~~, 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 ~~Planning Commission Development Review Board~~ 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~~ 15. Waivers. The ~~Planning Commission Development Review Board~~ may waive some or all parking requirements and may place conditions on a waiver as necessary to

guarantee adequate parking. The ~~Planning Commission~~ Development Review Board 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 ~~Planning Commission~~ Development Review Board 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.
- (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 ~~Planning Commission~~ Development Review Board.

L. Bicycle Parking and Storage Standards and Applicability. These standards for short term parking and long term storage of bicycles are intended to recognize and promote cycling as a viable means of transportation and recreation for residents, consumers, visitors, and employees; and to ensure compliance with the Comprehensive Plan which calls for improved access to and safety of bicycle and pedestrian facilities.

1. Short Term Bicycle Parking. These bicycle parking spaces (bps) standards apply to any application for development that requires site plan approval under Section 502.F of the Land Development Code in all Zoning Districts except for Residential 1 and Planned Agriculture.

- (a) The minimum number of bicycle parking spaces shall be as indicated on Table 703.L.1.
- (b) Bicycle parking shall utilize the ‘Inverted U’ style or as shown as acceptable in the Association of Pedestrian and Bicycle Professionals Essential of Bike Parking, 2015 or as most recently updated. The rack may not be constructed of wood.
- (c) If an applicant wishes to install something different, any bps shall meet the following specifications:
  - (i) Allow secure locking of the frame and wheel;
  - (ii) Support a bicycle frame at two points of contact;
  - (iii) Meet the intent of the examples provided in the Association of Pedestrian and Bicycle Professionals Essential of Bike Parking, 2015 or as most recently updated.
- (d) Location & Serviceability. Each bps shall be:
  - (i) Securely anchored to the ground and on a hard, stabilized surface of at least six feet in length and a width sufficient to satisfy the remainder of these regulations;
  - (ii) Spaced to allow easy access to each bicycle
  - (iii) Spaced sufficiently away from obstructions, including walls, doors, posts, columns, landscaping, and other racks, in accordance with the Association of Pedestrian and Bicycle Professionals Essential of Bike Parking, 2015 or as most recently updated.

- (iv) Easily accessible from the street or multi-use path and protected from motor vehicles;
  - (v) Visible to passers-by and well-lit to promote usage and enhance security; especially in retrofitted areas, or where good visibility is not achievable, an applicant may be required to install directional signage.
  - (vi) Located at or nearby principal entrances where reasonably practicable, unless doing so compromises the other directives of this subsection, including visibility and accessibility.
- (e) Bicycle parking serving buildings with multiple entrances shall be dispersed so that all principal entrances are served.
- (f) For office building use, up to 50% of short term bicycle parking requirements may be met by supplementing the (indoor) long term bicycle parking requirements with the required short term bicycle parking spaces.
- 2. Long Term Bicycle Storage Applicability. These standards apply to construction of new mixed use or commercial buildings and any new residential building with more than 3 dwelling units; building additions or reconstruction of a minimum of 5,000 gross square feet in area for mixed use or commercial buildings and any residential building with five or more residential units and a minimum of 5,000 gross square feet in area.
  - (a) Standards for Residential Buildings
    - (i) Secure Storage in bicycle locker, bicycle storage room or private enclosure outside of the private residence that protects entire bicycle, including components and accessories against theft and weather.
    - (ii) Garages which are private to each unit may count towards parking requirements.
  - (b) Standards for Non-Residential Buildings
    - (i) Secure storage in bicycle locker, bicycle storage room or enclosure that protects entire bicycle, including components and accessories against theft and weather, allows secure locking of the frame and wheel and supports a bicycle upright.
    - (ii) Where indicated in Table 703.L.2, clothes lockers shall be lockable with the following minimum dimensions: 12" wide, 18" deep, 36" high. Lockers do not need to be in same place as bicycle storage;
    - (iii) Secure office space (private offices) may account for up to 50% of the required indoor parking areas and lockers provided they are located on the ground floor of the building, accessible and of sufficient size;
    - (iv) Shower and changing facilities dependent on the number of bicycles required to be stored and as indicated on Table 703.L.1.

**Table 703.L.1. Bicycle Parking Requirements**

<u>Type of Activity</u>	<u>Short Term Bike Parking</u>	<u>Long Term Bike Storage</u>
<u>Residential buildings with more than 3 units</u>	<u>1 for every 10 units; minimum 4<sup>1</sup></u>	<u>1 for every unit</u>
<u>Warehousing, contractor, and light industry</u>	<u>1 per 20k SF; minimum 2</u>	<u>2 per tenant</u>
<u>Retail, restaurant, office, and all other</u>	<u>1 per 5k SF; minimum 4</u>	<u>50% of required short term bike parking spaces.</u>
<u>Educational</u>	<u>1 space for each 20 students of planned capacity.</u>	<u>For new buildings only, one space for each 20 employees.</u>

<sup>1</sup> May request waiver from minimum per building for buildings with less than 6 units if Development Review Board finds the need is adequately met for visitors.

**Table 703.L.2. Long Term parking – shower and changing room facility requirements**

<u>Number of protected long Term bicycle parking spaces</u>	<u>Changing facility</u>	<u>Unisex Showers</u>	<u>Clothes Lockers</u>
<u>1-3</u>	<u>none</u>	<u>none</u>	<u>1</u>
<u>4 - 9</u>	<u>12</u>	<u>12</u>	<u>3</u>
<u>For every 10</u>	<u>12</u>	<u>12</u>	<u>40% of LTB parking</u>

## **SECTION 704: LIGHTING**

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

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~~ Development Review Board.

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~~ Development Review Board 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 City~~'s review. The plan shall include the following information:

D. Parking Lot Illumination

4. Wood utility or similar poles may not be used to mount light fixtures unless specifically approved by the ~~Planning Commission~~ Development Review Board.

Decorative poles of wood or other materials may be approved by the ~~Planning Commission~~ Development Review Board 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 ~~Planning Commission~~ Development Review Board upon determination that the purposes of this Section are achieved.

9. Lighting shall conform to the Chittenden County Regional Planning Commission

“Outdoor Lighting Manual for Vermont Municipalities” or as otherwise approved by the ~~Village City~~ 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 City~~ Engineer.

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

	LI District	HC District	<del>Village City</del> 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~~ Development Review Board as long as it is not visible from off-site. Building facades having symbolic or historic significance shall be approved by the ~~Planning Commission~~ Development Review Board and the following provisions shall be met:

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 ~~Planning Commission~~ Development Review Board upon determination that the purposes of this Section will be achieved.
2. On other existing ~~Village City~~ streets, new or replacement light fixtures, shall match existing styles unless alternatives are approved by the ~~Planning Commission~~ Development Review Board. 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 ~~Planning Commission~~ Development Review Board.
4. The standards summarized in the table below shall be utilized unless otherwise approved by the ~~Village City~~ Engineer.

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

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~~ Development Review Board.

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

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

The ~~Planning Commission~~ Development Review Board 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 ~~Planning Commission~~ Development Review Board upon determination that special conditions justify the exception.
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 ~~Planning Commission~~ Development Review Board 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 ~~Planning Commission~~ Development Review Board. Curb cuts for any residential property shall meet the setbacks of the District, unless joint access is specifically approved by the ~~Planning Commission~~ Development Review Board.
7. The ~~Planning Commission~~ Development Review Board 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.

E. Alterations Within Public Right-of-way.

The ~~Trustees City Council~~ 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 ~~Planning Commission~~ Development Review Board in Section 705.C.

1. Routine maintenance by the Public Works Department and construction projects approved by the ~~Trustees City~~ 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~~ Development Review Board through Site Plan Review) shall require a Public Meeting

by the ~~Trustees City~~. Closure or relocation review may be by written request or may be initiated by the ~~Trustees City Council~~. The ~~Trustees City Council~~ shall notify by mail all property owners abutting the proposed site and all property owners with a legal interest in the curb cut.

5. Appeal of any decision or permit granted under the provisions of this Section shall be to the ~~Trustees City Council~~.

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

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

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:

(b) Bus shelters shall be reviewed by the ~~Planning Commission~~ Development Review Board and meet Site Plan standards.

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.

4. All antenna dishes shall be permanently ground-mounted unless specifically approved otherwise by the ~~Zoning Board of Adjustment~~ Planning Commission Development Review Board.

F. Storage sheds. Other Structures. Within any residential zoned district, storage sheds must be located a minimum of ~~eight~~ five (85) feet from the property line within any side or rear yard. The Administrative Officer may waive this setback for sheds no larger than one hundred and twenty (120) square feet and with a height no taller than twelve (12) feet, and if the structure does not shed rainwater onto neighboring properties.

## **SECTION 707: FENCES**

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

3. No fence may be erected or constructed within a public right-of-way or easement. If unavoidable, the fence shall have a removable panel for access to the infrastructure which the easement is granted for.

34. 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.

45. 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 6. 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

C. Exceptions.

2. The ~~Planning Commission~~ Development Review Board may authorize the use of fences which exceed the six (6) foot requirement for non-commercial, Industrial, or Planned Exposition Districts. The ~~Planning Commission~~ Development Review Board 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 ~~Planning Commission~~ Development Review Board 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.

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

B. Standards. 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 ~~Planning Commission~~ Development Review Board 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 ~~Development Review Board~~ Commission may require the placement of an opaque fence and/or hedge to screen the multi-family structure from adjoining single family dwellings. Any multi-family development in the Village Center District that is adjacent to a single family use that is also in the Village Center District shall not be required to provide a fifteen (15) feet buffer zone.

5. Waivers. The ~~Planning Commission~~ Development Review Board 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 ~~Planning Commission Development Review Board~~ 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 to ensure snow removal on the Private Street, ~~as well as include the snow storage area on the plans.~~
4. No new private street shall be accepted by the ~~Village City~~ for maintenance or snow removal without conforming to all street standards specified in Chapter 9.
5. The ~~Village City~~ 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 City~~ unless waived by the ~~Planning Commission Development Review Board~~ upon determination the waiver would be consistent with the provisions of Section 917 of the Land Development Code:
  - (d) Other streets as determined by the ~~Planning Commission Development Review Board.~~

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

## **SECTION 710: VISIBILITY TRIANGLES**

D. Exceptions. The following items are exempt from the Visibility Triangle requirement.  
~~6. Vegetation related to Green Stormwater Infrastructure or Low Impact Development may be located in Visibility Triangles provided it does not exceed the height requirements as described in B and and C above~~

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

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 ~~or garage~~ by residents of the dwelling.
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 ~~and it shall be neutral in color. The legend shall show only the name of the occupant and occupation and be neutral in color.~~

## **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 Development Review Board Commission may approve specific alternatives.

## **SECTION 713: STORM WATER MANAGEMENT**

1. To protect water quality from the effects of nonpoint source pollution.
- ~~4.2.~~ 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 ~~stormwater~~stormwater close to its source;
6. 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 VillageCity infrastructure caused by inadequate stormwater controls.
- ~~7. To protect water quality from the effects of nonpoint source pollution.~~

### **C. Illicit Discharge Detention 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.
3. Exempt discharges  
\* Dye testing is an allowable discharge if approved by the Village City

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 City 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.



(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 a 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~~ City of Essex Junction.

5. Suspension of MS4 Access.

The ~~Village~~ City 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~~ City 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 as follows: ~~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.~~

(a) New Development or Redevelopment: All new development, construction or reconstruction shall be in full compliance with the provisions of these regulations.

(b) 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 plan shall be submitted.

(c) Agricultural operations shall be regulated by the Agricultural Department best management practices.

2. State Permits.

(a) The ~~Village~~ City shall accept a State of Vermont General Permit for construction site runoff as evidence of meeting ~~Village~~ City erosion and sediment control permit requirements for those projects that fall under the jurisdiction of the State requirements.

(b) For all development reviewed and approved under the zoning permit

approval process or site plan process, the ~~Village City~~ 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 City~~ 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 City~~ 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 City~~ right-of-way.

4. Stormwater Management Performance Standards: Stormwater conveyance systems designed for the infiltration of stormwater, ~~in part or in whole are preferred,~~ are required providing that underlying soil conditions allow for infiltration without negative impact on adjacent roads, structures, etc. The use of Low Impact Design LID site design approaches and Green Stormwater Infrastructure 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 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.~~ When directed by staff applicants shall use the STP calculator <https://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/ms4-permit/ms4tracking> to ensure these standards are met.

(b) Before proposing to use gray stormwater infrastructure practices, applicant must demonstrate why the use of Low Impact Design LID design approaches and Green Stormwater Infrastructure GSI best management practices are not possible. ~~Staff~~

~~may require evaluation and installation of stormwater treatment practice at another location in the same watershed or pay an appropriate offset fee.~~

~~(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).~~

~~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 ie. LID, GSI. As per SW manual~~

- ~~e(d)~~ (c) 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 with the TSS and Total P criteria may result in providing of a suitable offset, staff requiring evaluation and installation of stormwater treatment practice at another location in the same watershed or pay an appropriate offset fee.~~
- ~~(ed)~~ 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.

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

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 ~~VillageCity~~ 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 ~~VillageCity~~ of their status under this permit. Notification to the ~~VillageCity~~ 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 ~~VillageCity~~ 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 ~~City~~ Water Quality Superintendent by September 1<sup>st</sup> of each year.

Staff may elect to audit some of the permits annually.

2. ~~Post-construction responsibility: See F.1. above 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.~~

~~32.~~ Stormwater Systems Designed for Turn Over to the ~~VillageCity~~: Stormwater systems designed for turn over to the ~~VillageCity~~ 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.

(a) All proposals for stormwater systems to be turned over to the ~~VillageCity~~ for operation and maintenance shall meet or exceed ~~VillageCity~~ 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 City, the applicant shall submit as-builts of the infrastructure and a final inspection shall be conducted.~~

(c) Prior to acceptance by the ~~VillageCity~~, the developer shall ensure that the stormwater system is clean and in good working condition and all easements for access to infrastructure are recorded in the land records and a copy provided to ~~VillageCity~~ Water Quality Superintendent.

~~(ed)~~ Only stormwater facilities with valid permits will be considered for acceptance by the ~~VillageCity~~ of Essex Junction. Stormwater system infrastructure will only be accepted by the ~~VillageCity~~ 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 Schuedule.~~ No stormwater system will be accepted unless it is deemed in the interest of the ~~Village City~~ of Essex Junction.

43. Right-of-Entry. All proposals for development requiring a stormwater system shall include a right-of-entry agreement that provides access for authorized ~~VillageCity~~ employees to enter such properties at reasonable times and in a reasonable manner for the purposes of inspection. The ~~VillageCity~~ shall be permitted to enter all private property over which the ~~VillageCity~~ 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.

54. Waivers. The ~~VillageCity~~ of Essex Junction may waive strict compliance of specific provisions of this stormwater ordinance where:

(b) The waiver is deemed to be in the interest of the public.

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 City~~ of Essex Junction shall provide written notice of violation. The ~~Village City~~ of Essex Junction may pursue any steps deemed necessary to prevent or minimize damage to the ~~Village City~~ 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 City~~ and the property owner.

When the violation creates a situation of immediate danger to public health or public safety, the ~~Village City~~ of Essex Junction may perform any necessary immediate work to stabilize the situation. The ~~Village City~~ 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-Superintendent staff~~ in conjunction with the Development Department shall administer, implement and enforce this stormwater management code.

H. The City incorporates by reference and adopts the Town of Essex Selectboard Changes

to Title 10.20 Storm Water Ordinance Appendix A-C 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 206 can refer to Appendix B Fee Schedule of the Land Development Code.

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

### **A. Temporary Signs**

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

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

3. Any signs on public property shall be specifically approved by the ~~Trustees~~ City Council.

### **F. Projecting Signs**

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~~ City Council.

### **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~~ Development Review Board 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.

### **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 Development Review Board~~ upon determination that the internally lit sign meets the intent of Section 502.H.1.

N. Milcellaneous Restriction and Prophibitions.

8. Unless otherwise permitted by this ordinance, signs over or in the public right-of-way are prohibited unless specifically approved by the ~~Trustees~~ City Council.

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 City~~ or other Agency having jurisdiction over the streets.

3. In any area where such trees or shrubs are required to remain under a permit issued by the ~~Village City~~ 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 Development Review Board~~ and ~~Board of Trustees~~ City Council, 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.

## **SECTION 715: TELECOMMUNICATIONS**

A. Balloon Test. The ~~Planning Commission Development Review Board~~ may require the applicant to fly a four (4) foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower.

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 Development Review Board~~.

B. Criteria For Approval And Conditions. An application for a Wireless Telecommunication Facility permit shall be approved after a hearing when the ~~Planning Commission Development Review Board~~ 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~~ Development Review Board 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.

5. The applicant will remove the Facility, should the Facility be abandoned or cease to operate. The ~~Planning Commission~~ Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the ~~Planning Commission~~ Development Review Board to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.

8. The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The ~~Planning Commission~~ Development Review Board 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~~ Development Review Board shall consider the following factors:

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~~ Development Review Board shall consider the following factors:

C. Continuing Obligations For Wireless Telecommunication Facilities. The owner of a Wireless Telecommunication Facility shall, at such times as requested by the ~~Planning Commission~~ Development Review Board, 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~~ Development Review Board, shall mean that the Facility has been abandoned.

D. Removal of Abandoned or Unused Facilities. Unless otherwise approved by the ~~Planning Commission~~ Development Review Board, 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~~ Development Review Board may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

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

D. Standards of Review. The ~~Zoning Board~~ Administrator Officer or Development Review Board shall review all applications for Family and Day Care Facilities as Site

Plans Conditional Use Permits. In addition, review shall include the following:

- E. Administrator Officer or Development Review Board Zoning Board Actions. The Administrator Officer or Development Review Board Zoning Board may deny, approve, or approve with conditions based upon applicable review criteria.

## **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 City 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 Development Review Board Commission or Board City Council as authorized herein.

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.

2. Where the operator or owner disagrees with the determination that a violation exists, the Village City shall cause the odor to be measured by the methods and procedures established by the American Society for Testing materials.

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.

2. When the Village City asserts that a violation exists and the owner or operator disagrees the Village City shall cause the smoke or particulate matter to be measured by an expert at the expense of the owner or operator.

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 Development Review Board Commission may place conditions on any application as recommended by an outside expert hired by the Village City. 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 Development Review Board Commission may review visual

impact of any proposed development located in any Commercial or Industrial District. The ~~Development Review Board 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.

## **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:

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. Create an inviting pedestrian friendly streetscape.
- ~~78.~~ Preserve and protect existing mature tree growth.
- ~~89.~~ Channelize vehicular and pedestrian movement within off-street parking areas.
- ~~910.~~ Delineate parking areas and adjacent right-of-way.
- ~~1011.~~ 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 practice 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; and if they are reviewed favorably by the Tree Advisory Committee and/or the Essex Junction Tree Warden.

~~BC.~~ Tree Protection. Any application for development approval by the ~~Development Review Board 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. This plan shall be developed by a consulting arborist or landscape architect. The ~~Development Review Board Commission~~ may grant a credit of up to fifty (50) percent of the required landscaping for the preservation of mature trees. If removal of trees or shrubs in the City right of way is necessary for the proposed development, replacement trees equal to or better than shall be planted in coordination with and approval from the City Tree Advisory Committee.

~~CD.~~ Street-Shade Trees. The developer or applicant for any development approval under this Code shall plant one (1) shade tree of a species determined by the ~~Development Review~~

~~BoardCommission~~ for each forty (40) feet of frontage along a right-of-way bordering the property, unless modifications are needed due to existing utilities or other safety factors.

2. Street trees shall be planted either within the right-of-way or along the frontage of the lot, as determined by the Development Review BoardCommission.

3. The Development Review BoardCommission may waive this requirement if substantial efforts are proposed for preserving existing mature trees along the right-of-way.

5. Any Disturbance of existing landscape must be replaced.

**DE. Landscaping.**

There shall be a sufficient amount of landscaping and screening, as may be reasonably determined by the Development Review BoardCommission, to insure 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 Development Review BoardCommission 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 Development Review BoardCommission. The Development Review Board may modify the planting requirements to more fully implement the purpose and intent of the section.

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.

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

2. Landscaping Requirements:

(a) ~~A minimum of fifty percent (50%) of the required landscaping shall be located within twenty (20) feet of the parking lot.~~ All required landscaping shall comply with the intent and purpose of these regulations.

3. Applicability - New and Existing Developed Areas
  - (a) The Development Review Board~~Commission~~ may require review of proposed landscaping.
  - (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 Development Review Board~~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 Development Review Board~~Commission~~ from requiring landscaping for the proposed area designated for change.
4. General Requirements
  - (a) Planting Materials and Specifications: All plant materials shall be in accordance with the American Standards for Nursery Stock (ANSI Z60.1) or latest version. All installations shall follow the acceptable horticultural practices as described in the most current ANSI A300 Planting and Transplanting Standards~~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. Replacement of trees greater than 5 inches in caliper shall be done in consultation with the City Tree Warden.
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~~Development Review Board~~ 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.

(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.

(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~~

(l) The City of Essex Junction may require additional design to enhance and sustain tree growth, such as the use of Silva cells, engineered soils, or an expansion of the proposed planting area.

6. The ~~Planning Commission~~ Development Review Board shall require compliance with any Tree Ordinance or Landscape Design Standards enacted by the ~~Village City~~ of Essex Junction, subsequent to the effective date of these regulations.

7. Landscape plans for all development applications must be reviewed by the ~~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 City~~ of Essex Junction Tree Warden. Comments from the Tree Advisory Committee and/or the City of Essex Junction Tree Warden shall be considered by the Development Review Board. ~~to comment on any landscape plan with regard to tree species selection and location.~~

**EF.** Approved Plant Materials. An emphasis shall be placed on selecting species ~~native~~ **hardy** 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 Development Review Board may refer to any or all of the following publications as resources:

1. Vermont Tree Selection Guide from the Vermont Urban and Community Forestry Program:  
[https://vtcommunityforestry.org/sites/default/files/pictures/complete\\_vt\\_tree\\_selection\\_guide\\_2022.pdf](https://vtcommunityforestry.org/sites/default/files/pictures/complete_vt_tree_selection_guide_2022.pdf)~~Recommended Tree Species for Vermont Communities: A guide to Selecting and Purchasing Street, Park, and Landscape Trees, published by Urban and Community Forestry Program.~~

List of Suggested Example Species:

**Low Shrubs**

Leatherleaf (*Chamaedaphne calyculata*)

Sweet Fern (*Comptonia peregrina*)

Bush honeysuckle (*Diervilla lonicera*)

**Medium Shrubs**

Red Chokeberry (*Aronia arbutifolia*)

Buttonbush (*Cephalanthus occidentalis*)

Silky Dogwood (*Cornus amomum*)



Crowberry ( <i>Empetrum nigrum</i> )	Gray Dogwood ( <i>Cornus racemosa</i> )
Checkerberry ( <i>Gaultheria procumbens</i> )	Redosier Dogwood ( <i>Cornus sericea</i> )
Common Juniper ( <i>Juniperus communis</i> )	American Hazelnut ( <i>Corylus americana</i> )
Sheep Laurel ( <i>Kalmia augustifolia</i> )	Winterberry ( <i>Ilex verticillata</i> )
Bush Cinquefoil ( <i>Potentilla fruticosa</i> )	Spicebush ( <i>Lindera benzoin</i> )
Lowbush Blueberry ( <i>Vaccinium angustifolium</i> )	Mtn. Holly ( <i>Nemopanthus mucronatus</i> )
Cowberry ( <i>Vaccinium vitis idaea</i> )	American Elder ( <i>Sambucus canadensis</i> )
	Red Elder ( <i>Sambucus pubens</i> )
<b><u>Small Shrubs</u></b>	Highbush Blueberry ( <i>Vaccinium corymbosum</i> )
Black Chokeberry ( <i>Aronia melanocarpa</i> )	Witherod Viburnum ( <i>Viburnum cassinoides</i> )
Leatherwood ( <i>Dirca palustris</i> )	Arrowwood Viburnum ( <i>Viburnum dentatum</i> )
Fragrant Sumac ( <i>Rhus aromatica</i> )	American Cranberrybush Viburnum—
Snowberry ( <i>Symphoricarpos albus</i> )	( <i>Viburnum trilobum</i> )
Mapleleaf Viburnum ( <i>Viburnum acerifolium</i> )	
<b><u>Large Shrubs and Small Trees</u></b>	<b><u>Medium and Large Deciduous Trees</u></b>
Striped Maple ( <i>Acer pennsylvanicum</i> )	Red Maple ( <i>Acer rubrum</i> )
Mountain Maple ( <i>Acer spicatum</i> )	Silver Maple ( <i>Acer saccharinum</i> )
Downy Serviceberry ( <i>Amelanchier arborea</i> )	Sugar Maple ( <i>Acer saccharum</i> )
Apple Serviceberry ( <i>Amelanchier x grandiflora</i> )	Speckled Alder ( <i>Alnus rugosa</i> )
Allegheny Serviceberry ( <i>Amelanchier laevis</i> )	Yellow Birch ( <i>Betula alleghaniensis</i> )
American Hornbeam ( <i>Carpinus caroliniana</i> )	Black Birch ( <i>Betula lenta</i> )
Pagoda Dogwood ( <i>Cornus alternifolia</i> )	Paper Birch ( <i>Betula papyrifera</i> )
Flowering Dogwood ( <i>Cornus florida</i> )	Gray Birch ( <i>Betula populifolia</i> )
Witchhazel ( <i>Hamamelis virginiana</i> )	Shagbark Hickory ( <i>Carya ovata</i> )
Chokecherry ( <i>Prunus virginiana</i> )	Hackberry ( <i>Celtis occidentalis</i> )
Shining Sumac ( <i>Rhus copallina</i> )	American Beech ( <i>Fagus grandifolia</i> )
Smooth Sumac ( <i>Rhus glabra</i> )	Staghorn Sumac ( <i>Rhus typhina</i> )
Pussy Willow ( <i>Salix discolor</i> )	Black Gum ( <i>Nyssa sylvatica</i> )
Showy Mountainash ( <i>Sorbus decora</i> )	Ironwood ( <i>Ostrya virginiana</i> )
Nannyberry Viburnum ( <i>Viburnum lentago</i> )	Sycamore ( <i>Platanus occidentalis</i> )
Blackhaw Viburnum ( <i>Viburnum prunifolium</i> )	Quaking Aspen ( <i>Populus tremuloides</i> )
	Black Cherry ( <i>Prunus serotina</i> )
<b><u>Conifer Trees</u></b>	White Oak ( <i>Quercus alba</i> )
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> )



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

~~GH. 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. Following this time period, the plantings are still required to be maintained in accordance with Section E.4.b. 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 ~~Development Review Board 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 ~~Development Review Board 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**

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

B. Standards.

1. Thirty (30) percent of the existing residential floor space, or 900 square feet, whichever is greater, 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-~~ allowed 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.~~
6. An accessory apartment may be approved ~~The Commission may approve the conversion of an~~ within 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.~~

- (ba) All other provisions of this Section are met.
- (eb) Additional driveways or parking areas shall not be constructed on the lot except adjacent to the existing driveway or parking area.
- (dc) If an existing unattached structure is utilized as an accessory apartment, the single family dwelling shall not be eligible for an additional accessory apartment.

(d) New unattached accessory structures shall be a maximum of 1.5 stories.

7. Either ~~The~~ the single family residence or the accessory apartment must be owner occupied. All permits shall be voided if this there is occupancy ~~re3~~requirement is not adhered to ~~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 Development Review Board Commission. The Development Review Board Commission shall consider the following criteria and may establish conditions as deemed necessary to meet the purposes of this Section.

4. Permitted Uses. Specific uses shall be determined by the Development Review Board Commission upon review of an application and finding that the proposal meets all the criteria of this Section

C. The Development Review Board 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 Development Review Board Commission shall review the following:

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

The objective of the Planned Unit Development (PUD) is to permit flexibility in the application of land development regulations to encourage compact, pedestrian-oriented development and redevelopment, and to implement the policies of the municipal plan, such as the provision of affordable housing. If flexibility is needed to achieve these objectives, the City may approve waivers in accordance with 723.B. In this way the City 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. Planned Unit Developments may be used to facilitate development of areas designated for residential, mixed, or single use to achieve the objective stated herein.~~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 Development Review Board 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 Development Review Board 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 Development Review Board Commission may, at its sole discretion, request additional information prior to approval of any bonus. Density

bonuses are as follows:

- (d) Preservation and donation to the ~~VillageCity~~ 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 ~~VillageCity~~ residents not to exceed five (5) percent.
- (f) Construction of bicycle paths which connect neighborhoods, especially as mapped in the Comprehensive Plan on Map 6: Non-Motorized Transportation, or in conformity to a Bicycle Plan as approved by the Development Review Board~~Commission~~ not to exceed five (5) percent.
- (i) Other considerations which in the opinion of the Development Review Board~~Commission~~ provide important community services including the dedication of land for public purposes not to exceed five (5) percent.

B. Design Considerations and Associated Waivers. ~~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 Development Review Board may waive requirements of the underlying Zoning District for lot coverage, setbacks, and parking if needed to achieve the objectives of the PUD. Height may be waived only in accordance with sub-section 4 below. Waivers shall be based upon the following criteria and may include specific conditions. The Commission may authorize the following modifications to requirements of the underlying Zoning District.~~

1. Superior building design, lot layout and landscaping 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. The proposal shall include all the following except for (f) if not applicable:~~

- ~~(a) Landscaping. Landscape plan development by a licensed landscape architect regardless of the cost of construction; and reviewed by the Tree Advisory Committee.~~
- ~~(b) Private open space. Each residential unit shall include a private outdoor open space (yard, deck or similar), of not less than seven hundred and fifty (750) square feet.~~
- ~~(c) Common open space. At a minimum, up to fifteen (15) percent of the gross PUD area shall be developed with passive and active amenities. If public amenities exist on adjacent properties connections to those amenities shall be established. Amenities shall include at least one or more of the following, or similar amenity with approval from the Development Review Board:~~
  - ~~i. Jogging/exercise track;~~
  - ~~ii. Off-street bicycle paths;~~

- iii. Playgrounds;
  - iv. Tennis court;
  - v. Athletic fields;
  - vi. Wooded areas; and
  - vii. Open fields that may be in active agricultural production
  - (d) Building Massing. Varied building massing or other measure to reduce monotony in design.
  - (e) Land Use Intensity Transition. If the proposed development is an increase in land use intensity from the surrounding properties the design shall minimize the intensity of the development adjacent to the less intense properties surrounding it. This may be accomplished through a reduction in building height, landscape buffer, or similar mechanism required by the Development Review Board.
2. **Provision of public open spaces or superior bicycle and pedestrian access.** To be granted the flexibility permitted under these regulations, the PUD must demonstrate site features and design that promotes cycling, walking and transit as a viable means of transportation and recreation for residents, consumers, visitors, and employees. Features shall include at least one or more of the following, or similar amenity with approval from the Development Review Board:
- (a) Pedestrian access directly from the building to the public sidewalk;
  - (b) Construction of bicycle paths which connect neighborhoods, especially as mapped in the Comprehensive Plan on Map 6: Non-Motorized Transportation, or in conformity to a Bicycle Plan as approved by the Development Review Board;
  - (c) Pocket park with benches or similar amenities between the public realm and the private building (see image box for examples to help clarify the intent of this requirement);
  - (d) Public art, murals or interactive games;
  - (e) Covered bus shelter; and
  - (f) Shade trees

Public Realm Amenity examples for Section 604.E.4(a)(iv). These images are provided as illustrations of intent.



3. Joint or combined vehicular access with adjoining properties. Because a reduction in curb cuts directly onto public roads is beneficial for pedestrian safety and can help improve access management, waivers will be granted if needed to accommodate joint or combined vehicular access with adjoining properties.

4. Waiver of building height in Light Industrial District only, as described in Section 611.F.



~~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:~~

~~1. Jogging/exercise track;~~

~~2. Off-street bicycle paths;~~

~~3. Playgrounds;~~

~~4. Tennis court;~~

~~5. Athletic fields;~~

~~6. Wooded areas; and~~

~~7. 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~~ Development Review Board 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~~ waivers to the use and design standards established by these regulations are warranted.

3. Consistent with General Plan. The final plan is consistent with the ~~Village of~~ Essex Junction Comprehensive Plan.

## **CHAPTER 8: NONCONFORMITIES**

**SECTION 803: EXISTING SMALL LOTS.** ~~Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw.~~ Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Code may be developed for the purposes permitted in the District in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area and has a minimum width or depth dimension of forty (40) feet. This provision shall not exempt development on such lots from other provisions of this Code.

## **CHAPTER 9: SUBDIVISIONS**

**SECTION 901: PURPOSE.** To provide uniform standards for the division of land within the ~~Village~~ City and to minimize public costs for the maintenance and repair of facilities installed and constructed as a requirement of this Code.

D. Protection of Significant Features. In all subdivisions, to the maximum extent possible, efforts shall be made to preserve historic sites, scenic views, forested lands, and unique natural physical characteristics. The ~~Commission~~Development Review Board shall consider all alternatives available to preserve these significant features, including the donation of lands for public purposes.

E. Subdivision Name. Every subdivision shall be given a unique name, which distinguishes it from other existing subdivisions within the ~~Village~~City. Every effort shall be made not to duplicate names of subdivisions in adjoining communities.

3. Access. Each lot shall have direct access to a public street. The ~~Development Review Board Commission~~Development Review Board may approve a private drive, which serves not more than two (2) lots if both lots have the required sixty (60) feet of frontage on a public street for new subdivisions. A private drive can also serve an existing lot without sixty (60) feet of frontage. Secondary access shall be provided whenever possible. The ~~Development Review Board Commission~~Development Review Board may require secondary access for any subdivision of ten (10) or more lots or units. The commission may require more than two (2) access points into subdivisions over ten (10) lots or units based on the ability to connect existing or planned streets. The ~~Development Review Board Commission~~Development Review Board may require a right-of-way(s) accommodate future street connections to adjacent properties in any subdivision.

## **SECTION 906: STREETS**

B. Arrangement

2. All streets shall be extended to the boundary of the proposed subdivision if the ~~Development Review Board Commission~~Development Review Board determines a future need for street extensions to serve adjoining property.

C. Design

1. Streets shall be designed to the extent possible to intersect at right angles. The approach to the intersection should be approximately at right angles for a distance of fifty (50) feet.

3. New intersections on one side of the street shall be located immediately across the street from an existing intersection whenever possible. Street jogs with centerline offsets of less than one hundred twenty five (125) feet are prohibited, unless the ~~Development Review Board Commission~~Development Review Board finds that no reasonable alternative exists.

4. Curb radii shall be adequate for the design speed of any street. All streets shall have curbs on both sides unless a waiver is requested and approved by the Development Review Board for GSI runoff control discharge points. specifically waived by the Commission. City Council approval is not needed for Curb cuts here do

~~not apply to GSI runoff control discharge points curb cuts as they are not vehicle access points.~~

D. Dead-end Streets. Dead-end streets may be allowed only on a temporary basis until the street may be extended to adjacent property. The ~~Development Review Board Commission~~ may require a temporary turn-around on any dead-end street. If the dead-end street extends to more than six hundred (600) feet, from the closest intersection, a temporary turnaround shall be required. Dead-end streets shall be limited to one thousand (1,000) feet. When a dead-end street is connected the temporary turn-around or cul de sac shall be removed, returned to grass and deeded to the adjacent property owners at the expense of the developer making the connection. Where undeveloped land lies beyond the developed portion of the subdivision, the ~~Development Review Board Commission~~ shall require that no development occur at the terminus of the dead-end street and the right-of-way improvements be extended to the property line. The ~~Development Review Board Commission~~ has the right to condition or restrict access to any thru street to minimize any negative impact caused by traffic to a specific use where a special and vulnerable population is present with specific needs that would be at risk with thru traffic. Restricted access shall not negate the ability of the ~~Development Review Board Commission~~ to require more than one access point for subdivisions of ten (10) or more lots or units.

Waiver. The ~~Development Review Board Commission~~ may waive the requirement that a dead-end street be temporary if, in the opinion of the ~~Development Review Board Planning Commission~~, all of the following standards are met:

Waiver. The commission may waive the requirement that a Dead-end Street be temporary if, in the opinion of the ~~Development Review Board Planning Commission~~, all of the following standards are met:

E. Dedications. Unless specifically approved otherwise all right-of-ways, utility connections, stormwater infrastructure, and streets shall be dedicated to the ~~VillageCity~~ in accordance with the deed and acceptance provisions of this LDC. No private streets or drives utilities or stormwater infrastructure shall be accepted by the ~~VillageCity~~ until the right-of-way, pavement and construction standards of the ~~VillageCity~~ are met in their entirety and deeded to the communityCity with TrusteeCity Council Approval. All proposed subdivisions to be served by private infrastructure shall include a proposed homeowners association agreement with the final application. The association agreements shall be reviewed and approved by the ~~VillageCity~~ Attorney and ~~VillageCity~~ Engineer, Public Works Superintendent and Water Quality Superintendent prior to final plan approval by the ~~Planning Commission~~ Development Review Board.

F. Street Utilities Easements. Upon specific approval of the ~~Commission~~Development Review Board, the right-of-way width may be reduced by five (5) feet on either or both sides for a total of ten (10) feet provided that a permanent easement is granted for public use.

G. Right-of-Way Widths. For the purpose of determining right-of-way and pavement widths, the following standards shall apply.

1. Major arterial shall be any street with one or more of the following characteristics:

(f) The street is located in a commercial or non-residential district and the ~~Commission~~Development Review Board determines a need for the right-of-way for vehicle, pedestrian and bikeway purposes, or for bus transportation purposes.

I. Street Surface. Streets shall be hard surfaced. The ~~Planning Commission~~Development Review Board may waive this requirement for existing private streets that are not hard surfaced and for which the

**SECTION 907: EASEMENTS**. Drainage and utility easements shall be specified on the plat. Easements shall be based upon standard engineering practices for the associated utility and a twenty-five (25) year design storm. ~~A standard eight (8) foot easement shall be placed on all side lot lines and rear lot lines for future use for drainage and utility purposes.~~

**SECTION 908: RECREATIONAL OPEN SPACE**. Open space provides ecological, health and social benefits to new and existing residents and must be incorporated into new developments if required by the The ~~Planning Commission~~Development Review Board based on the standards contained herein. Within any subdivision, site plan, PUD plan the ~~Commission~~Development Review Board may require the dedication of not more than fifteen (15) percent of the land for open space and recreation purposes. The ~~Commission~~Development Review Board may require that all or part of the land be developable. The designation of all open space up to and exceeding the fifteen (15) percent that may be required by the ~~Planning Commission~~Development Review Board shall not be deducted from the total project land area for density purposes if the project is reviewed as a PUD and meets the intent of the Planned Development Standards as listed in Section 511. Under this scenario, density will be calculated on an overall project basis with preserved open space and developed land both counting towards the total land area. Developed areas may then be denser than the underlying zoning district allows in accordance with The ~~Planning Commission~~Development Review Board approval and the planned development standards. The dedicated open space must be preserved indefinitely through either donation of the land to the ~~village~~ City or a conservation easement guaranteeing public access. If development is to occur the preservation of open space for agricultural or recreation purposes are important to the long-term environmental sustainability and quality of life in the district. Projects are reviewed on an overall project

density basis to allow for the preservation of open space while achieving full build out. Open space networks and preservation of important natural resources should be integrated with new development in such a way as to allow for continued agricultural uses or emerging open space opportunities with responsible development. This dedication does not specifically preclude the use of land for environmental or stormwater purposes if deemed to be in the best interest of the community.

## **SECTION 909: PEDESTRIAN AND BIKEWAY STANDARDS**

### **A. General Standards**

1. Concrete Sidewalks shall be constructed along both sides of major arterials and along one side of all other streets. The ~~The Commission~~Development Review Board may waive this requirement in favor of a specific alternative, which provides equal or superior pedestrian access.
2. The ~~The Commission~~Development Review Board may require other walkways to connect with pedestrian origins or destinations, or to connect with walkways planned or existing on adjacent properties.
3. All subdivisions shall be designed to include bicycle access, unless this requirement is specifically waived by the ~~The Commission~~Development Review Board. The construction of a hard-surfaced bicycle path along one side of a street shall eliminate the need to construct a sidewalk along that side of the street, provided a sidewalk is constructed along the other side of the street.

**SECTION 910: INFRASTRUCTURE IMPROVEMENTS.** All infrastructure improvements shall meet the applicable standards of the Land Development Code, including but not limited to Appendix A: Public Works Specifications unless an alternate is specifically reviewed and approved by the ~~VillageCity~~ Engineer, Public Works Superintendent and/or Water Quality Superintendent as applicable and the ~~Commission~~Development Review Board. All construction and installation shall be reviewed by the ~~VillageCity~~. The ~~VillageCity~~ shall have the authority to require on-site changes as deemed necessary. Infrastructure may be required to be over-sized to serve future development, as determined by the ~~Commission~~Development Review Board.

**SECTION 911: MONUMENTS AND LOT CORNER MARKERS.** Permanent right-of-way monuments shall be set at all street intersections and at all angles and curves or other critical points in street lines. Each monument shall be a precast concrete post, four (4) inches by four (4) inches and forty-eight (48) inches long. The top shall have a center mark, which shall be the point of reference. The monuments shall be set in place after all other street improvements are completed. Corner markers (i.e.-iron rods shall be set at all corners and angle points of all

lots, plots or parcels, and shall be located in the ground below finish grade level. If monuments and lot corner markers are disturbed, they shall be replaced and any surrounding material shall be repaired.

**SECTION 912: STREET LIGHTS.** Streetlights shall be located at each intersection and at approximately one hundred fifty (150) foot intervals between intersections. Streetlights shall be located at the corner to provide light at the intersection, where possible. Streetlights shall be provided at major curves and at the ends of cul-de-sacs.

1. Street light poles and fixtures shall be as approved by the ~~Commission~~Development Review Board, designed to be harmonious with their surroundings.
2. Street lighting plans shall be approved by the ~~VillageCity~~.

**SECTION 914: INSTALLATION/GUARANTEES.** The applicant shall provide a guarantee for all improvements.

A. Performance Bond. Prior to starting land development or obtaining a zoning permit, the applicant shall furnish the ~~VillageCity~~ with a performance bond with appropriate surety or security (as approved by the ~~VillageCity~~ Attorney) in an amount to cover the full costs of all new streets and other required public improvements as determined by the ~~VillageCity~~ Engineer for a period of two (2) years after acceptance by the ~~VillageCity TrusteesCouncil~~. Such bond shall include a provision that the principal of the bond comply with all terms of the final plat approval and shall include, but not be limited to, the performance of all required public improvements. Such bonds shall provide for, and secure to the public, the completion of all required public improvements and the maintenance thereof for a period of two (2) years after the ~~VillageCity TrusteesCouncil~~ accept the public streets and other required public improvements.

**SECTION 915: AS BUILT PLANS.**

One (1) set of mylars, two (2) paper copies and digital files of plans showing as built conditions of streets and other infrastructure improvements shall be submitted prior to final inspections and public acceptance of said improvements.

The as-built files shall be submitted in digital form in one of the following options in order of preference:

- i. GIS geospatial data. Either a geodatabase or shapefile format. Must be in Vermont State Plane Meters, NAD83 (NSRS or most current).
- ii. If sub-part i is not possible, the plat shall be submitted as Coordinated CAD data in Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83(2011) epoch 2010.0, NAVD 88 (geoid12b).
- iii. If sub-parts i and ii are not possible, supply 3 values of State Plane Coordinates on the plan(s).



One digit set as built file including the following:

HydroCAD;

GIS Geospatial data. Geodatabase or shape file in VT State Plane Meters NAD83 (NSRS or most current) Coordinated DAD data Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83(2011) epoch 2010.0, NAVD 88 (geogrid12b) Supply 3 values of state plane coordinates on the plans;

For stormwater management systems, the Vermont Department of Environmental Conservation's Best Management Practices VT DEC BMP Tracking spreadsheet with Phosphorus removal numbers shall also be submitted prior to final inspections and public acceptance of said improvements.

~~One (1) set of mylars and two (2) paper copies of plans showing as built conditions of streets and other infrastructure improvements shall be submitted prior to final inspections and public acceptance of said improvements.~~

**SECTION 916: OFF-SITE IMPROVEMENTS.** The ~~Commission~~Development Review Board may require, upon recommendation of the ~~Village~~City Engineer, the construction of off-site improvements. Said improvements may include oversize piping, drainage improvements, intersection improvements, traffic control improvements or other improvements necessitated by the proposed development. Arrangements may be made by the applicant to obtain reimbursement from future developments, which utilize the off-site improvements. The ~~Village~~City may financially participate in off-site improvements, which improve existing deficiencies.

**SECTION 917: WAIVERS/EXCEPTIONS.** The ~~Commission~~Development Review Board may waive or modify the provisions of this Chapter as specified below. Waivers or modifications shall be requested in writing and must be specifically approved by the ~~Commission~~Development Review Board.

**SECTION 918: DEDICATIONS OF PUBLIC INFRASTRUCTURE.** Unless specifically approved otherwise all right-of-ways, utility connections, stormwater infrastructure, and streets shall be dedicated to the City in accordance with the deed and acceptance provisions of this LDC. No private streets or drives, utilities or stormwater infrastructure shall be accepted by the City until the right-of-way, pavement and construction standards of the City are met in their entirety and deeded, or easements conveyed, to the City with Council approval.

**SECTION 919: PRIVATE INFRASTRUCTURE.** All proposed subdivisions to be served by private infrastructure shall include a proposed homeowners association agreement with the final application. The association agreements shall be reviewed and approved by the City Attorney and City Engineer, Public Works Superintendent and Water Quality Superintendent



prior to final plan approval by the Development Review Board.

## **CHAPTER 10: ENFORCEMENT**

### **SECTION 1001: VIOLATIONS**

B. The Administrative Officer shall issue a written "Notice of Violation" to any person believed to be in violation of this Code. Such Notice of Violation shall:

4. State that if the violation is not cured within seven (7) days of the Notice of Violation, the ~~Village City~~ may institute court proceedings to obtain a court order directing compliance with the Code and fines shall be awarded as established by state laws; and

5. State that the Notice of Violation may be appealed to the ~~Board of Adjustment Development Review~~ Board in accordance with the procedures of Section 1702 of the Code.

### **SECTION 1002: ENFORCEMENT THROUGH THE JUDICIAL BUREAU**

A. As an alternative to the procedure for enforcing violations of this code and provided for in 24 V.S.A. § 1974a (d) the administrative officer may enforce zoning violations through the Judicial Bureau against the civil offense of being in violation of the standards of this ordinance. (Copy of "Ordinance Enforcement in Judicial Bureau, a Comprehensive Guide" is located in the ~~Village City~~ Offices or at VT League of Cities and Towns website - <http://www.vlct.org>).

## **CHAPTER 11: SEWER REGULATIONS**

### **SECTION 1101: SEWER USE RULES AND REGULATIONS**

A. Building Sewers and Connections. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the ~~Village City~~. Any persons proposing a new discharge into the system, or a substantial change in the volume or character of pollutants that are discharged shall notify the ~~Village City~~ at least forty-five (45) days prior to the proposed change or connection. Producers of potential high strength waste need to contact the Water quality Superintendent prior to procedeeding.

There shall be three (3) classes of building sewer permits:

1. For Residential service;
2. For commercial service; and

3. For service to establishments producing Industrial Wastes. In all cases, the owner or agent shall make application to the ~~Village~~ City. The application shall be supplemented by plans, specifications, or other information pertinent to the application.

All expenses incidental to the installation, maintenance and connection of the building sewer shall be borne by the owner. The owner shall indemnify the ~~Village~~ City from any loss or damage that may directly or indirectly be caused by the installation of the building sewer.

Old building sewers may be used in connection with new buildings if they meet all requirements of this Chapter after examination and test by the ~~Village~~ City.

The size, slope, alignment, materials of construction, and the methods to be used in excavating, laying pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the ~~Village~~ City. In the absence of code provisions, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and ~~W.P.C.F. Manual of Practice No. 9 State Environmental Protection Rules Chapters 1 (as amended) and other applicable design standards~~ shall be followed. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the ~~Village~~ City Engineer before installation.

All connections to the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the ~~Village~~ City or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the ~~Village~~ City Engineer before installation.

The applicant for the building sewer permit shall notify the ~~Village~~ City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the ~~Village Engineer~~ City Engineer or its representative.

Excavations for building sewer installations shall be guarded with barricades and lights to minimize safety hazard. Streets, sidewalks, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the ~~Village Engineer~~ City Engineer.

B. Use of Sewers. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, floor drain, uncontaminated cooling water, or unpolluted industrial process water to any sanitary sewer.

~~Storm water and other unpolluted drainage shall be discharged to such sewers, which are~~

~~specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Village Engineer. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Village Engineer, to a storm sewer, combined sewer, or natural outlet. Ceom~~  
combined sewer systems are specifically prohibited.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

4. Solid or viscous grease, fats and/or oils or other substances, in quantities or sizes capable of obstructing sewer flow or interfering with the operation of the treatment plant. Other sSubstances include, but are not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper products, either whole or ground by garbage grinders.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes, if in the opinion of the ~~Village-City~~ Engineer such wastes can harm the sewer, sewage treatment process, or equipment, adversely effect the receiving stream, or endanger life, limb, public property, or constitute a nuisance. Discharge to drain of an otherwise regulated material through an unapproved pretreatment unit is specifically prohibited. In determining the acceptability of these wastes, the ~~Village-City~~ Engineer will consider such factors as the quantities of subject wastes in relation to sewer flows and velocities, sewer construction materials, the sewage treatment process, sewage treatment plant capacity, ability to treat wastes in the sewage treatment plant, and other relevant factors. The substances prohibited are:

5. Any water or wastes containing iron, cadmium, lead, mercury, selenium, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the ~~Village Engineer~~City Engineer for such materials or is proven to provide for significant degradation of the byproduct sludge from the treatment process.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the ~~Village Engineer~~City Engineer in compliance with applicable State or Federal regulations.

If any waters or wastes are discharged, or proposed for discharge to the public sewers, which contain the substances or characteristics enumerated in Section B of this Chapter, and which in the judgment of the ~~Village Engineer~~City Engineer, may have a deleterious effect upon the sewage works, processes, equipment, sludge quality, or receiving waters, or which may create a hazard to life or constitute a public nuisance, the ~~Village Engineer~~City Engineer may:

(a) Reject the wastes,

- (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
- (c) Require control over the quantities and rates of discharge.

If the ~~Village Engineer~~City Engineer permits the pretreatment or equalization of waste flows, the design and installation of plants and equipment shall be reviewed and approved by the ~~Village Engineer~~City Engineer, subject to the requirements of applicable codes, ordinances, laws, and the municipal discharge permit. Further, such pretreatment installations must be consistent with the requirements of any state pretreatment permit issued.

Grease, oil, and sand interceptors shall be provided if, in the opinion of the ~~Village Engineer~~City Engineer, they are necessary to properly handle liquid wastes with excessive amounts of grease, flammable wastes, sand, or other harmful ingredients; Interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the ~~Village Engineer~~City Engineer, and shall be located as to be readily and easily accessible for cleaning and inspection. Installation of an interceptor does not infer an obligation by the ~~Village Engineer~~City Engineer to accept segregated material for further treatment or disposal.

If preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained in satisfactory and effective operation at the owners expense.

If required by the ~~Village Engineer~~City Engineer, the owner of property served by a building sewer, which carries industrial wastes, shall install a control manhole together with meters and appurtenances as necessary to facilitate observation, sampling, and measurement of wastes. The manhole shall be located and constructed in accordance with plans approved by the ~~Village Engineer~~City Engineer. The manhole shall be installed at the owners expense, and shall be maintained to be safe and accessible at all times to ~~Village~~City staff and representatives.

All industries discharging into a public sewer shall monitor their discharges as reasonably required by the ~~Village Engineer~~City Engineer. Participating industry shall be responsible for reasonable expenses incurred by the ~~Village Engineer~~City Engineer and WWTF Staff for unusual sampling by the ~~Village Engineer~~City Engineer in determining conformance with these sewer regulations. Such instances can include, but shall not be limited to, compliance monitoring, duplicate analysis check samples, or random sampling for compliance. Where industrial pretreatment permits are issued by the State of Vermont, monitoring records must also be submitted to the Secretary in accord with such permit and submitted to the Water Quality Superintendent WWTF Chief Operator on the same schedule as compliance reporting to the ANR. ~~Detailed~~s Records of analysis or any other monitoring shall be made available

upon request by Staff to the Secretary or agency with jurisdiction over discharges to the receiving waters.

All measurements, tests, and analyses of the characteristics of waters and wastes shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the Water Environment Association and the American Public Health Association, and shall be determined at the control manhole provided, or upon samples taken at said control manhole. If no special manhole has been required, the control manhole shall be the nearest downstream manhole from the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a ~~twenty-four~~ (24) hour composite of all outfalls of a premise is appropriate, or whether a grab sample or samples should be taken). Normally, but not always, BOD and suspended solids analyses are obtained from ~~twenty four (24) hour~~ composites of all outfalls whereas pH's ~~are~~ may be determined from periodic grab samples.

Any industry in violation of the provisions of this Chapter may have its disposal authorization terminated as in condition 1101 E. -

Nothing in this Chapter shall be construed to prevent a special agreement or arrangement between the VillageCity, other cities or towns and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the VillageCity for treatment. Any special agreement may be subject to payment by the industrial concern and no agreements shall contravene any requirements of existing Federal or State laws. Except as specifically provided, no privy, privy vault, septic tank, cesspool, or other facility intended or used for sewage disposal may be constructed.

D. Powers and Authority of Inspectors. Any duly authorized employee of the VillageCity shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Chapter. The VillageCity shall have no authority to inquire into any processes (including metallurgical, chemical, oil, refining, ceramic, paper, or other industries) except as the process has a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

While performing the necessary work on private property referred to in this Chapter, duly authorized employees of the VillageCity shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the VillageCity employees. The VillageCity shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the

company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

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

E. Penalties. Any person violating any provision of this Chapter shall be served by the ~~VillageCity~~ with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the time stated in such notice, permanently cease all violations.

Any person violating any of the provisions of this Ordinance shall become liable to the ~~VillageCity~~ for any expense, loss, or damage occasioned the ~~VillageCity~~ by reason of such offense.

G. Charges for Debt Service and Operation/Maintenance. The ~~Trustees-City Council~~ shall include in the annual ~~VillageCity~~ general, wastewater and sanitation budgets, an amount sufficient to repay the cost of development and construction of the ~~VillageCity~~ of Essex Junction public sewer system.

Tax exempt property and Federal, State and municipal properties connected to the ~~VillageCity~~ of Essex Junction public sewerage system shall be subject to sewer rents for the discharge of debt service.

The ~~Trustees-City Council~~ shall annually establish a user charge rate in US dollars per one thousand (1,000) gallons of water consumed for all premises connected to the ~~VillageCity~~ public sewer system for the payment of operating costs, maintenance and repair of the system. The established annual user charge rate shall be made known to each user of the system.

The user charge rate established by the ~~Trustees-City Council~~ shall be applied to the annual consumption of water by the user as metered by the ~~VillageCity~~ and the wastewater quantities transmitted to the ~~VillageCity~~ for treatment by the Towns of Essex and Williston measured in accordance with the prevailing inter-municipal agreement.

The ~~Trustees-City Council~~ reserve the right to assess charges in a fair and equitable manner for use of the public sewer system by metered water usage or by contract in the event a user does not fall within any of the classifications listed in this Chapter.

Failure of any owner or agent to receive a bill shall not excuse non-payment. If the owner fails to receive a bill, he/she shall obtain a bill from the ~~VillageCity~~ Clerk.

Collection of delinquent charges may be enforced by the ~~VillageCity~~ pursuant to 24 V.S.A. 3612, 24 V.S.A. 2615, and 24 V.S.A. Chapter 129.

The ~~VillageCity~~ Clerk shall file all delinquent charges in accordance with 24 V.S.A. Chapter 129, Uniform Water and Sewer Disconnect.

The ~~Trustees-City Council~~ shall have the right to abate any and all delinquent penalty charges, which, in their sole and uncontrolled discretion, deem to be in the best interest of the ~~VillageCity~~ to abate.

Pursuant to 24 V.S.A. 3611 all revenues received from sewer rents including interest and penalties thereof shall be credited to the ~~VillageCity~~ general fund for the payment of debt service and all revenues received from the user charges shall be credited to a special fund to be known as the "Public Sewerage System Operations and Maintenance Account".

H. Commercial and Industrial Cost Recovery System. All wastewaters entering the ~~VillageCity~~ of Essex Junction public sewerage system are domestic type wastes. The ~~VillageCity~~ retains the right to surcharge as allowed by State and Federal law, all waste streams consistently to be stronger than domestic type wastes. Surcharges imposed will be in proportional increments in relation to typical domestic sewage normally measured at two hundred and twenty (220) mg/l each five (5) day BOD and/or total suspended solids.

I. Private Sewage Disposal. Off-Site - All new development shall be directly connected to a public sewer. Existing state and federal approved private waste water treatment systems in the Light Industrial District are exempt from this requirement. The developer is required to provide such pumping and other facilities as necessary. Improvements to existing ~~VillageCity~~ facilities may be required when significant impact to sanitary sewage infrastructure is determined through the subdivision permitting review. The ~~Commission-Development Review Board~~ may require at the applicants expense, the installation of larger sewer lines, pumping and other facilities, outside the development, if the sewer service would otherwise be inadequate.

This exception shall not apply when lots are created as part of a major subdivision. Major subdivisions shall discharge to the public sewer system. An exception may be granted by ~~Trustees-the City Council~~ for the development of one single-family residence, commercial or light industrial use estimated to discharge under five thousand (5,000) gallons per day per unit if the applicant meets all of the following requirements:

3. Facilities will be designed and installed as specified in all applicable ~~VillageCity~~ and State regulations and standards.

Prior to construction of a private sewage disposal system, the owner shall obtain a written



permit. The applicant shall supplement the permit with plans, specifications, and other information as deemed necessary by the ~~Village~~City.

A permit for a private sewage disposal system shall not be effective until installation is completed to the satisfaction of the ~~Village Engineer~~City Engineer. The ~~Village Engineer~~City Engineer shall be allowed to inspect the work at any stage of construction. The applicant shall notify Staff when the work is ready for final inspection, prior to covering any underground portions. The inspection shall be made within twenty-four (24) hours of receipt of notice by the ~~Village Engineer~~City Engineer.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the ~~Village~~City.

When an existing on-site system is abandoned, it must be cleaned of sludge and filled with clean bank-run gravel or dirt within ninety (90) days from the date the septic system was abandoned. Whenever an existing septic system fails, as determined by the Health Officer, the property owner(s), at their expense, will be required to connect to the public sewer within ninety (90) days, unless the property owner receives an exception from the ~~Trustees~~City Council and complies with all of the following requirements:

2. Facilities will be designed and installed as specified in all applicable ~~Village~~City and State regulations and standards.

J. Private Sewers. "Private sewers" shall mean a sewer in which all owners of abutting properties have equal rights through an association of abutting property owners or any sewer line that is not owned and maintained by the ~~Village~~City. Private sewers shall be permitted only when:

7. All private sewers shall be located outside the ~~Village~~City Right-of-way and shall be designed by a registered engineer licensed to practice in the State of Vermont, and constructed to ~~Village~~City standards (subject to the approval of the ~~Village Engineer~~City Engineer). Bylaws for the association of owners controlling the private sewer shall:

- (a) Be subject to approval by the ~~Commission~~Development Review Board;
- (b) Be included in the deed for each property abutting the private sewer in perpetuity; and
- (c) Include a statement absolving the ~~Village~~City from any responsibility for the operation and maintenance of the private sewer and indemnify the ~~Village~~City for any liability for damage associated with the private sewer.

9. After a private sewer system has been approved as specified herein, additional connections to that private sewer system shall be prohibited unless they are approved by the Commission and the ~~Village Engineer~~City Engineer.

10. The ~~Village Engineer~~City Engineer will have the authority to require any

necessary repairs to private sewer laterals or lines (including the connection to the ~~Village~~City main). All laterals and services from the main to the building are private. If the private owner refuses to repair the lateral when requested to do so by the ~~Village Engineer~~City Engineer, the ~~Village Engineer~~City Engineer can contract for these repairs and bill the private owner for all actual costs. These charges will become part of the sewer bill.

K. Pump Stations. Sewage Lift Stations shall be constructed when topography/or other relevant site conditions warrant. Sewage to be centrally collected and “raised” to the surface for continued gravity flow to the central treatment facility. Any constructed sewage lift station shall be owned and maintained by the site developer, homeowners association, or other private entity unless the Sewage Lift Station is built in accordance with these general specifications and the ~~Village~~ City agrees to accept the Lift Station upon completion of the installation. Acceptance shall include all appurtenant structures, applicable warranties and sureties. Acceptance shall include and be concluded with transfer of the station and its property where installed, by warranty deed to the Municipality.

Whereas reliability is important to protect the public health, facilities constructed to transmit sewage from a service area greater than ten (10) homes shall be of the following general type and configuration: (Note: The ~~Village~~City will not accept for ownership any Wet Pit Submersible Pump stations).

#### A. **SECTION 1102: SEWER ALLOCATION**

A. Allocation of Capacity. Discharge capacity shall be allocated to any applicant who has, at the time of application for an allocation, obtained a Zoning Permit, Sketch Plan Approval or Site Plan Approval for a proposed project (regardless of whether such approval is subject to appeal) and has complied with all requirements established by the Water Quality Superintendent~~Village wastewater treatment facility~~ to obtain an allocation of capacity from ~~the wastewater treatment such~~ facility. Applicants under this section shall be allocated capacity according to the date they apply for an allocation of capacity under this Chapter in an amount equal to that approved by the Water Quality Superintendent~~Village wastewater treatment facility~~.

Expiration of Allocations. Any allocation of capacity shall expire two (2) years from the date such allocation is made if the improvements needing such capacity are not substantially completed within such two (2) year period. For good cause shown, Staff may approve one extension of one (1) year provided a request for such extension is filed with Staff at least thirty (30) days prior to the expiration of the initial two (2) year period. Allocation will be issued (awarded) upon the applicant’s signature on a State of Vermont “Voluntary Request Permit

Revocation” form specifically related to the permitted project. The ~~VillageCity of Essex~~ shall execute the Voluntary Request for Permit Revocation only if improvements are not substantially completed within a two (2) year period or when any extension as expired.

C. Assignability of Allocations. Allocations of capacity is not alienable, assignable or transferable without written approval of the ~~VillageCity~~, may not be sold or transferred for use on property other than that for which the allocation is initially granted. Allocations may not be used for substantially different projects on the same property for which an allocation is initially granted.

D. Administration. Requests for allocation of capacity under this Chapter shall be submitted on a standard form and shall be accompanied by an application fee established by the ~~TrusteesCity Council~~.

A decision of the Staff to approve or deny an allocation of capacity under this Chapter shall be appealable to the ~~TrusteesCity Council~~.

Staff shall have no authority to approve a request for allocation of capacity in an amount of ten thousand (10,000) gallons per day or greater. Staff shall forward a request for such allocation to the ~~TrusteesCity Council~~ who shall hold a public hearing. The ~~TrusteesCity Council~~ shall give due consideration to the following:

1. Whether the proposed project complies with the Plan and ~~VillageCity~~ Ordinances in effect, or which have been warned for public hearing before the ~~TrusteesCity Council~~.
2. Ability of the ~~VillageCity~~'s Wastewater Treatment facility and collection system to accommodate the proposed discharge.
3. Impact of the proposed allocation on the ~~VillageCity~~'s ability to sustain balanced growth within the limits of remaining available capacity.

## **CHAPTER 14: WATER SYSTEM MANAGEMENT AND USE**

**SECTION 1401: APPLICABILITY.** Any person obtaining water from the ~~VillageCity~~ of Essex Junction shall agree to the following regulations and such other regulations as the ~~VillageCity~~ may establish to manage the water system.

### **SECTION 1402: APPLICATIONS.**

A. The applicant must state fully and truly the purposes for which the water shall be required, and shall agree to conform to these regulations. No person supplied with water from the ~~VillageCity~~ mains will be entitled to use it for any purpose other than those stated on the application. Application for any other water use shall require a separate permit application.

B. The owner of record shall be responsible for any permit issued or work completed under the provisions of this Chapter. The owner shall keep the VillageCity advised of the address to which bills, notices, and other communications are to be delivered. The owner of the premises shall be held responsible for all water payments. A change of tenants or premises will not relieve the owners from the payment of a back bill.

**SECTION 1403: METER REQUIREMENTS.** Under no circumstances are plumbers or persons other than those authorized by the VillageCity permitted to turn water on or off at the meter. The water will not in any instance be turned on to any premises for use until a meter has been suitably attached as provided herein.

**SECTION 1404: WATER DAMAGE.**

A. All persons taking water must keep the fixtures and service pipe within their own premises in good repair and fully protected from frost and must prevent unnecessary leakage of water. The VillageCity shall not be liable for leakage of hydrants, pipes or fixtures upon the premises of the consumer, nor from any obstructions therein by freezing or otherwise, nor for damages resulting from any of the foregoing causes. All leaks that are on the building side of the curb stop will be repaired at the private owners' cost.

B. The VillageCity shall not be liable for any injury, loss or damage of whatever nature occasioned by the failure to maintain a constant or uniform pressure in the water mains, or for damages occasioned by or growing out of a stoppage of said water by frost or other cause, or for damage occasioned by or growing out of an insufficient supply of the same, or for accident or damage of any kind caused by or growing out of the use or failure of said water.

**SECTION 1405: DISCONTINUATION.** When the owner desires to discontinue the use of water, notice must be given to the VillageCity. Water rates will be collected for all water used until the water is shut off at the curb stop.

**SECTION 1406: ABATEMENT.** No abatement of water rates will be allowed by reason of disuse or diminished use, or vacancy of premises, unless notice is given to the VillageCity previous to the change. No refunds or abatements shall be made for any of the reasons specified in Section 1404.

**SECTION 1407: WATER USAGE.** No person shall give away or use water for any purpose other than that for which payment has been made. No person shall, in any way, pollute the waters of any collecting basin, or reservoir, or in any way interfere or meddle with, or obstruct access to any stopcocks or hydrants or other appurtenances of the VillageCity water system.

**SECTION 1408: FIRE HYDRANTS.** The ~~VillageCity~~ shall, from time to time, examine ~~VillageCity~~ fire hydrants. Except when shut off for repairs, all hydrants shall be kept in working order, and all defective hydrants shall be repaired without unnecessary delay. No person shall open any hydrant or draw water there from except the ~~VillageCity~~ or persons under their direction or the officers of the Fire Department and members of the fire companies under their direction for fire purposes.

**SECTION 1409: WATER METERS.** All residential meters shall be furnished by the ~~VillageCity~~ and the meters shall be placed in a manner as may be satisfactory to the ~~VillageCity~~. The type, make and size of the meters shall be as the ~~VillageCity~~ may prescribe and approve. The costs of any damage to the meters by frost, hot water, improper usage or neglect shall be paid by the property owners including removal and reinstallation. In no case shall the ~~VillageCity~~ furnish water through any meter of which they do not have exclusive control.

**SECTION 1410: MULTIPLE USE OF METERS.** If different parties occupy the same building or premises and are supplied from the same service pipe or meter, all the occupants will have the water cut off for the failure of any one of the consumers to pay their bill. There shall not be two or more services on one meter except where permitted by the ~~VillageCity~~.

**SECTION 1412: WATER METER CONNECTIONS.** Users of meters must connect all water-using fixtures on their premises with their meters in such a manner that all water used will be measured. All water passing through meters must be paid for, whether used or wasted. All meters must be set under the direction of the ~~VillageCity~~ and shall not be moved or disturbed without permission. The use of water through a meter so that the meter will not, in the opinion of the ~~VillageCity~~, accurately measure water usage will not be allowed. In such cases the ~~VillageCity~~ shall cause the meter or meters to be placed on such service to accurately measure water usage.

**SECTION 1415: OTHER ~~VILLAGE CITY~~ RIGHTS.** The ~~VillageCity~~ is granted the following right:

E. To not apply as a co-applicant to privately funded water line extensions when it is deemed not to meet provisions of their Code or if not deemed in the bester interest of the City.

**SECTION 1416: WATER SUPPLY**

A. Off-Site. All new development (residential, commercial and industrial) must be directly connected to a public water main. The developer is required to provide such facilities as may be necessary. The developer may be required by the ~~Planning Commission~~

Development Review Board to provide or to have installed at his/her expense, larger water lines, meters, and other facilities outside the development, if the water service would otherwise be inadequate.

B. Exception. An exception may be granted by Village City Trustees Council for the development of one single-family residence, commercial or light industrial use if the applicant meets all of the following requirements:

Whenever an existing private water supply fails, as determined by the Health Officer, the property owner(s), at their expense, will be required to connect to the public water main within ninety (90) days, unless the property owner receives an exception from the Trustees Council and complies with all of the following requirements:

2. Facilities will be designed and installed as specified in all applicable Village City and State regulations and standards.

C. Private Water Lines. Private water lines may be approved and connections to existing private water lines may be approved, if the following conditions are met:

2. The private water line shall be located within an easement granted to the Village City providing access to the line and absolving the Village City of all maintenance responsibilities.

4. A water meter shall be installed at each user structure by the Village City in conformance with this Chapter.

7. The engineer shall provide plans showing the accurate location of the existing main, all laterals, and the size and type of piping. The engineer shall certify that the existing private water line can provide sufficient water at adequate pressure to all current and proposed connections to the line. After construction of the line, pressure and disinfection testing records shall be submitted to the Village City along with the design Engineer's certification that the work was completed in accordance with the approved plans.

8. The Village City will have the authority to require any necessary repairs to private water lines (including the connection to the Village main). All lines from the main to the building are private. If the private owner refuses to repair the line when requested to do so by the Village City Engineer, the Village City can contract for these repairs and bill the private owner for all actual costs. These charges will become part of the water bill.

## **CHAPTER 16: FEES AND CHARGES**

**SECTION 1601:** The Board of City Trustees Council may establish and from time to time revise fees to be charged for the submission and review of applications and approvals under the

Land Development Code. Prior to the adoption of any such standards, the ~~Trustees~~Council shall consider such fees at a public meeting. Following such consideration, the ~~Trustees~~Council shall act to establish or not establish such fees by appropriate resolution of the ~~Board~~Council

## **CHAPTER 17: APPEALS**

### **SECTION 1701: ADMINISTRATIVE DETERMINATIONS**

- E. Appeals. A prospective applicant may appeal administrative determinations as follows:
1. A determination that a Zoning Permit is required under Section 502.A to the ~~Development Review Board~~ ~~Board of Adjustment~~ following the procedures of Section 1702.
  2. A determination that one or more approvals set forth in Section 502.A.1 are required to the ~~Development Review Board~~ ~~Board of Adjustment~~ following the procedures of Section 1702.
  3. A determination that Subdivision Approval is required under Section 503 to the ~~Planning Commission~~ ~~Development Review Board~~ following the procedures of Section 1704.
  4. A determination that a Public Sewer System Approval is required under Section 504 to the ~~City Council~~ ~~Board of Trustees~~ following the procedures of Section 1705.
  5. A determination that a Private Sewer System Approval is required under Section 505 to the ~~City Council~~ ~~Board of Trustees~~ following the procedures of Section 1705.
  6. A determination that a Noise Standard Waiver is required under Section 506 to the ~~City Council~~ ~~Board of Trustees~~ following the procedures of Section 1705.
  7. A determination that a Public Water System Approval is required under Section 507 to the ~~City Council~~ ~~Board of Trustees~~ following the procedures of Section 1705.
  8. A determination that a Private Water System Approval is required under Section 508 to the ~~City Council~~ ~~Board of Trustees~~ following the procedures of Section 1705.
  9. A determination that a Public Road Access Approval is required under Section 509 to the ~~City Council~~ ~~Board of Trustees~~ following the procedures of Section 1705.
- F. Standards of Review. Staff shall review all requests based upon provisions of this Code and the rules of interpretation as contained herein. Staff shall issue a letter of interpretation within 14 days of receipt of a written request. Determinations shall be limited as follows:
6. An interpretation of any policies established by any Board or Commission of the ~~Village~~ City of Essex Junction.



## **SECTION 1702: APPEALS OF STAFF DECISIONS PURSUANT TO SECTION 502**

A. Purpose. To provide a mechanism by which interested parties may appeal a Staff decision under any subsection of section 502 regarding an application. ~~Actions or approvals of the Planning Commission under this Code shall not be appealable to the Zoning Board of Adjustment.~~

B. Notice of Appeal. Any interested person who believes that the Administrative Officer has committed an error in making a decision or taking an action may appeal such act or decision to the ~~Development Review~~ Board ~~of Adjustment~~ by filing a written Notice of Appeal with the ~~Village City~~ Clerk within fifteen (15) calendar days of the subject action or decision. A copy of the notice of appeal shall be filed with the administrative office. The Notice of Appeal must identify the decision or action appealed and state why such decision or action is erroneous.

C. Action by the ~~Zoning Board of Adjustment~~ Development Review Board. The Board shall conduct a duly warned Public Hearing at which it will take testimony and receive evidence from the applicant, Staff and interested parties.

D. Standards of Review. The Board shall review any appeal in accordance with the following:

3. Any interpretation shall fully consider the intent of all applicable provisions of the ~~Village Comprehensive~~ Plan.

## **SECTION 1703: REQUESTS FOR VARIANCES FROM THE REQUIREMENTS OF CHAPTERS 6 and 7**

B. Action by ~~Development Review Board~~ Zoning Board of Adjustment. The Board may approve or deny an application for a Variance. The Board may grant only the minimum relief necessary to allow the applicant reasonable use of the property in question. A use variance shall not be granted.

C. Standards of Review. In accordance with Section 4469 of Title 24, Chapter 117, of Vermont Statutes Annotated, the Board may grant Variances if it finds that all of the following standards of review are met and such findings are included in its written decisions.

6. A request for a Variance that is primarily a request for a renewable energy resource structure shall meet only the following:

(e) In rendering a decision in favor of an appellant under this section, ~~a board of adjustment or the dDevelopment rReview bBoard or the environmental court~~ may attach such conditions to variances as it may consider necessary and

appropriate under the circumstances to implement the purposes of this chapter and the plan of the municipality then in effect.

**SECTION 1704: APPEALS OF STAFF DECISIONS TO THE ~~ZONING BOARD OF ADJUSTMENT~~ DEVELOPMENT REVIEW BOARD**

B. Notice of Appeal. Any interested person who believes that Staff has committed an error in making a decision or taking an action may appeal such act or decision to the ~~Zoning Development~~ Board ~~of Adjustment~~ by filing a written Notice of Appeal with the ~~Village City~~ Clerk within fifteen (15) calendar days of the subject action or decision. A copy of the notice of appeal shall be filed with the administrative officer. The Notice of Appeal must identify the decision or action appealed and state why such decision or action is erroneous.

D. Standard of Review. In an appeal under this Section, the ~~Commission Board~~ shall proceed de novo but shall limit its review and decision to the specific decision or action appealed.

**SECTION 1705: APPEALS TO THE ~~BOARD OF TRUSTEES~~ CITY COUNCIL**

B. Notice of Appeal. Any interested person who believes that the Staff has committed an error in making a decision or taking an action may appeal such act or decision to the ~~Board of Trustees~~ City Council by filing a written Notice of Appeal with the ~~Village City~~ Clerk within 15 calendar days of the subject action or decision. The Notice of Appeal must identify the decision or action appealed and state why such decision or action is erroneous.

C. Action by the ~~Board of Trustees~~ City Council. The ~~Council Board~~ shall conduct a duly warned Public Hearing, except in those matters identified in subsection E below, at which it will take testimony and receive evidence from the applicant, interested parties and Staff. The ~~Council Board~~ shall consider all relevant evidence before it. It shall ~~issues~~ its decision in writing with findings of fact and conclusions within forty-five (45) days of the final public hearing. Failure to act within this time shall result in granting of the Appeal.

D. Standard of Review. In an appeal under this Section, the ~~Council Board~~ shall proceed de novo but shall limit its review and decision to the specific decision or action appealed.

E. Matters Not Requiring a Public Hearing. The ~~Board of Trustees~~ City Council shall not be required to hold a public hearing for consideration of the following matters:

1. Review of Staff determination pursuant to Section 506 that a waiver is required from the standards of Chapter 13. The identified matters may be considered by the ~~Board of Trustees~~ City Council and decided at a regular or special meeting of the

Board.

- F. Decisions of the ~~Board of Trustees~~ City Council shall be final.

#### **SECTION 1706: APPEALS FROM ~~BOARD OF ADJUSTMENT~~ DEVELOPMENT REVIEW BOARD DECISIONS**

Decisions of the Development Review Board ~~of Adjustment~~ made pursuant to Sections 1702, ~~and~~ 1703 ~~and 1704~~ may be appealed to the ~~Vermont Environmental Court~~ Environmental Division in accordance with the provisions of 24 V.S.A. §4471. All appeals shall be on the record.

#### **SECTION 1707: ~~APPEALS FROM PLANNING COMMISSION DECISIONS~~**

~~Decisions of the Planning Commission made pursuant to Section 1704 above, may be appealed to The Vermont Environmental Court in accordance with the provisions of 24 V.S.A. §4475. All appeals shall be on the record.~~

#### **SECTION ~~1708~~1707: ON THE RECORD REVIEW**

As provided for in 24 V.S.A. § 4471 (b) the use of on the record review procedures will be followed for all development applications that require review by the ~~Planning Commission or Zoning Board of Adjustment~~ Development Review Board. The procedures outlined in the Municipal Administrative Procedure Act (MAPA) shall govern all Development Review Board ~~Planning Commission and Zoning Board of Adjustment~~ application reviews. Evidence provided and recorded at public meetings and hearings shall follow the Vermont Rules of Evidence as outlined in 24 V.S.A. § 1206 (b).

### **APPENDIX A: PUBLIC WORKS SPECIFICATIONS**

#### **SECTION 101: TITLE, PURPOSE AND APPLICABILITY**

- A. Title. This Chapter shall be entitled the "Public Works Minimum Specifications" of the ~~Village City~~ of Essex Junction.

- B. Purpose. The ~~Village City Trustees Council~~ may adopt, and from time to time, amend, specifications for the design and construction of streets, water distribution facilities, sanitary sewer facilities, storm water facilities, and improvements and facilities appurtenant to any of these facilities. Such standards may apply to new construction and to reconstruction of existing facilities. Such standards may also apply to the construction or reconstruction of such

facilities, whether publicly or privately owned, if such facilities connect to facilities, which are publicly owned. Prior to the adoption of any such standards, the ~~Trustees Council~~ shall consider such standards at a public meeting. Following such consideration, the ~~Trustees Council~~ shall act to adopt, not adopt, or adopt such standards with amendments by appropriate resolution of the Board.

C. Applicability. The provisions of this Chapter shall be applicable to any new construction as well as to reconstruction made necessary by obsolescence or deterioration. Variations from these specifications shall not be permitted without written approval by the ~~Village City~~ Engineer. It shall be the policy that all engineering design be based on the latest methods and technologies when determining sizes, strengths and quantities.

For the purposes of this Chapter, ~~Village-City~~ Engineer shall mean the person or persons appointed by the Trustees in accord with the ~~Village-City~~ Charter to act in that capacity. The ~~Village-City~~ Engineer may authorize alteration in design or materials used when construction conditions justify such changes.

## **SECTION 102: STREET SPECIFICATIONS**

C. Preparation of Subgrade. Objectionable and unsuitable materials shall be removed and replaced with approved material as directed by the ~~Village-City~~ Engineer. Subgrade shall meet the lines and grades shown on the drawings.

3. In areas where soil conditions are poor, the ~~Village-City~~ reserves the right to require that an inert filter fabric be installed beneath the roadbed

## **SECTION 103: GRAVEL BASE - BOTTOM COURSE**

C. Preparation of Subgrade. All boulders, organic material, soft clay, spongy material and any other objectionable and unsuitable material shall be removed and replaced with approved material as directed by the ~~Village-City~~ Engineer. The subgrade shall be complete with all underdrains, sand blanket, or filter fabric in place. Approval of the Village Engineer shall be necessary prior to placing of gravel bottom course.

## **SECTION 105: BITUMINOUS CONCRETE PAVEMENT**

C. Construction Methods. Equipment for spreading and finishing the mixture shall be a mechanical spreading and finishing machine provided with an activated screed and heated if required. The machine shall be capable of spreading the mixture without segregation and shall be approved by the ~~Village-City~~ Engineer before being used.

Application of bituminous concrete pavement shall conform in all respects to Vermont Standard Specifications Section 406. These requirements shall include but not be limited to the following:

1. Weather Conditions, unless otherwise approved by the Village-City Engineer. The plant mixed material shall not be placed between November 1 and May 1. Bituminous wearing course shall not be applied prior to May 15 or after October 15.
- 5) Bituminous concrete pavement and pathways shall be constructed using a mechanical spreading and finishing machine and shall be approved by the Village-City Engineer. After placement, the material shall be thoroughly compacted with rollers or other equipment approved by the Village Engineer.

#### **SECTION 106: CEMENT CONCRETE CURB**

B. Materials. All concrete used in the construction of roadway curbs shall be Air Entrained five percent plus or minus one percent ( $5.0\% \pm 1\%$ ) so determined by an air meter approved by the Village-City Engineer. This concrete shall have a twenty eight (28) day compressive strength of four thousand (4000) psi and meet State of Vermont Standard Specifications for Class A concrete, Section 541.

#### **SECTION 108: CEMENT CONCRETE SIDEWALK**

A. Description. This item shall consist of sidewalk made of one course Portland Cement concrete not less than four (4) inches thick and with a width of not less than five (5) feet. Where physical constraints exist, and at the discretion of the Village-City, existing sidewalks less than five (5) feet may be reconstructed with a width less than five (5) feet.

C. Construction Methods:

4. Placing and Finishing Concrete - Just prior to placing the concrete, the sub-base shall be moistened. The concrete mixed to the proper consistency shall be placed in the forms and thoroughly tamped in place so that all honeycombs will be eliminated and sufficient mortar will be brought to the surface. Unless otherwise approved by the Village City, sidewalk shall be cast in one hundred (100) foot sections with no expansion joints.

#### **SECTION 109: CEMENT CONCRETE DRIVEWAY APRONS (PRIVATE AND COMMERCIAL DRIVES)**

A. Description. This item shall consist of a Portland Cement Concrete driveway apron not less than six (6) inches thick and in some areas not less than eight (8) inches thick at the

discretion of the Village City. The sub-base shall be constructed on the approved subgrade in accordance with these specifications and as shown on the accepted drawings.

C. Construction Methods.

5. Sidewalks - The section of sidewalk at the driveway shall be constructed to a thickness of not less than six (6) inches, but in some areas not less than eight (8) inches at the discretion of the Village City Engineer.

**SECTION 111: RIGHT OF WAY MONUMENTS**

C. Construction Methods.

1. The monuments shall be erected at locations indicated on the Plans, or as directed by the Village City Engineer. . The location of monuments shall be established by a surveyor licensed to practice in the State of Vermont.

**SECTION 112: WATER DISTRIBUTION SPECIFICATIONS**

D. Construction Methods.

14. Chlorination - The Contractor shall thoroughly flush and dechlorinate while flushing the original chlorination of the main to completely remove all the chlorinated water. The Contractor shall coordinate with the Village City of Essex Junction Wastewater Treatment Facility on the disposal of heavily chlorinated water flushed from the main.

**SECTION 113: HYDRANTS**

B. All threads shall be “double start” style and have:

6) Color Code:

Gallons/minute	Color on cap of hydrant
more than 1000	green
500-1000	yellow
less than 500	red

The Village City will test the hydrants and the contractor will paint the CAPS of the hydrant in accordance with the above color code chart. The base of the hydrant shall be painted red for all hydrants by the contractor.

## **SECTION 114: SERVICE CONNECTIONS**

### **C. Construction Methods**

1. Services – One (1) curb stop and one (1) water meter shall be installed for each individual dwelling unit, condominium unit, apartment unit, commercial, or office occupancy. Exceptions will be permitted in cases where a condominium association signs a binding agreement to be responsible for all collections of water bills. In cases where condominiums are converted into separate apartments, separate curb stops and water meters shall be installed for each unit. All water meters shall be purchased through the ~~Village City~~ Water Department and shall be installed by ~~Village City~~ employees. The contractor shall make all necessary taps into the water main and for each lot, install an approved brass corporation stop, connect the three quarter (3/4) inch type "K" copper service pipe to the corporation which pipe shall be connected to the three quarter (3/4) inch type Brass Curb Stop with inlet and outlet for three quarter (3/4) inch type "K" copper service pipe. Such curb stop shall be installed within the strip of Right-of-way between the sidewalk and property line. Curb stops must be located within the public Right-of-way or within a Right-of-way granted to the ~~Village City~~ of Essex Junction for access. The corporation stop shall be left open and the curb stop closed. Such curb stop shall be located not less than five (5) feet below the ground surface and shall be accessible from the surface through an approved valve box.

## **SECTION 117: STORM SEWER SPECIFICATIONS - STORM DRAINS**

A. Description. This item shall consist of catch basins, manholes and pipe ~~and drainage outlets~~ meeting the specifications for the diameter of pipe required, and installed as indicated on the accepted drawings.

### **B. Materials:**

1. Pipe Specifications:

(b) Smooth Interior and Annular Exterior Corrugated High Density

Polyethylene (HDPE) Pipe:

(xviii) Smooth Interior and Annular Exterior Corrugated HDPE Pipe shall be Sure-Lok F477 as manufactured by Hancor, Inc. or a pre-approved equal. All alternate products must be submitted to the ~~Village City~~ Engineer two weeks before bid date for approval.

### **C. Construction Methods**

4. Installing Catch Basins and Manholes - All construction of sewer manholes must be carried out to ensure watertight work. Any leaks in manholes shall be completely



repaired to the satisfaction of the ~~Village~~City Engineer or the entire structure shall be removed and rebuilt. All manhole lift holes shall be grouted inside and out with expandable grout. The pipe opening in the precast manhole riser shall have a cast-in- place flexible gasket or an equivalent system for pipe installation, as approved by the ~~Village~~City Engineer.

5. Drainage outlets - Drainage outlets of the stormwater system being conveyed to the ~~Village~~City along roadways must comply with the Vermont General Permit 3-9040 for Stormwater Discharges from Municipal Roads requirements and specifications.

## **SECTION 118: RESTRICTIONS AND CONDITIONS OF RIGHT-OF-WAY**

All work relating to the ~~Village~~ City of Essex Junction Rights-of-way shall be approved by authorized official before any construction commences.

### **B. Poles, Wires, Overhead Structures, and Cutting and Trimming of Trees:**

1. No trees, fences, phone booths, or other structures shall be erected in the Right-of-way unless authorized by the ~~Village~~ City.

## **SECTION 119: INSPECTION**

These inspections shall be required of the Developer and work shall not proceed until each check has been made with work reviewed by the ~~Village~~ City Engineer. The developer pays for the cost of all of these inspections.

## **SECTION 120: FINAL INSPECTION CHECK LIST**

### **E. As Built Plans:**

One set of mylars and two paper copies of plans showing all as built utilities, and water and sewer house connections must be submitted to the ~~Village~~ City Engineer by the developer in accordance with Chapter 9. In addition, the developer shall provide to the Village the record drawings in an AutoCAD™ compatible electronic format; as well as a complete set of the record drawings in PDF format.

## **SECTION 121: VARIATIONS AND WAIVERS**

Requests for waivers of any provisions of this Chapter, or for approval of variations to those provisions, shall be submitted to the ~~Village~~ City Engineer in writing, along with technical information supporting the request. The ~~Village~~ City Engineer must approve, modify, or deny such requests, and all decisions by the ~~Village~~ City Engineer shall be in writing.

## APPENDIX C: ~~TRUSTEES~~ CITY POLICY FOR FUNDING ENGINEER PLAN REVIEW AND INSPECTIONS

### **Engineering Plan Review and Inspections Policy**

Upon adoption of this policy applicants will now be required to pay the actual cost for engineering plan review and inspections. The ~~Village-City~~ Engineer will bill the municipality for services rendered and the municipality will then bill the applicant based on the actual cost of providing engineering plan review and construction inspection.

#### *Plan Review*

All bills for plan review are due prior to the issuance of the first zoning permit for a project. A zoning permit will not be issued until all costs for engineering plan review have been paid. The ~~Village-City~~ reserves the right to deny issuance of a zoning permit until the fees for engineering plan review have been paid. The applicant must also pay for engineering review for any site plan amendments that require engineering review. A zoning permit will not be issued for a site plan amendment until all engineering bills have been paid. The municipality will provide the applicant with a bill for engineer plan review including the number of hours spent on review.

#### *Inspections*

The applicant must pay for all costs for construction inspection by the ~~Village-City~~ Engineer. All current bills must be paid before a certificate of occupancy can be issued. For projects that involve residential units being constructed over time, no certificate of occupancy will be issued unless all current bills for construction inspection have been paid. The ~~Village-City~~ Engineer, at his/her discretion, may allow applicants to use their own project engineer to conduct construction testing upon determination the project engineer is qualified to do so. The applicant will be required to provide all testing data to the ~~Village-City~~ Engineer for review and approval and shall pay for all costs of the ~~Village-City~~ Engineer's time to review the testing data.

The ~~Village-City~~ of Essex Junction reserves the right to deny issuance of a certificate of occupancy until all current engineering bills have been paid. The ~~Village-City~~ engineer will provide the applicant with a bill including the number of hours spent on inspection and what was inspected.

## *Summary*

The following is a summary of the policy for funding engineering plan review and construction inspections:

- The applicant is responsible for payment of all costs for engineering plan review
- All bills for engineering review must be paid prior to the issuance of the first zoning permit
- The applicant is responsible for the payment of all costs for construction inspection
- The Village-City will provide applicants with an engineering bill including the costs and hours spent on review
- All current bills for construction inspection must be paid prior to the issuance of a certificate of occupancy. All bills for construction inspection must be paid prior to the issuance of the last certificate of occupancy
- The Village-City of Essex Junction reserves the right to withhold issuance of a zoning permit of certificate of occupancy if there are outstanding bills for engineering services
- The Village-City Engineer, at his/her discretion, may allow applicants to use their own project engineer to conduct construction testing upon determination the project engineer is qualified to so. The applicant shall pay for the cost for the Village-City Engineer to review and approve the testing data

## **APPENDIX D: TRUSTEES COUNCIL POLICY FOR FUNDING DEVELOPMENT REVIEW BY THE VILLAGE ATTORNEY**

### Village City Attorney Development Review

Upon adoption of this policy applicants will now be required to pay the actual cost for review of development proposals by the Village City Attorney including, but not limited to homeowners association documents, condominium documents, easements and street dedications. The Village City Attorney will bill the municipality for services rendered and the municipality will then bill the applicant based on the actual cost of providing legal review.

### *Plan and Document Review*

All bills for plan and document review are due prior to the issuance of the first zoning permit for a project. A zoning permit will not be issued until all costs for legal plan review have been paid. The Village City reserves the right to deny issuance of a zoning permit until the fees for legal review have been paid. The applicant must also pay for legal review for any site plan amendments that require legal review. A zoning permit will not be issued for a site plan amendment until all bills have been paid. The municipality will provide the applicant with a bill for legal review including the number of hours spent on review.

The Village City of Essex Junction reserves the right to deny issuance of a certificate of occupancy until all current legal bills have been paid. The Village City Attorney will provide the applicant with a bill including the number of hours spent on review of the legal documents.

#### *Summary*

The following is a summary of the policy for funding legal plan and document review:

- The applicant is responsible for payment of all costs for legal plan review.
- All bills for legal review must be paid prior to the issuance of the first zoning permit.
- The Village City Village will provide applicants with a legal bill including the costs and hours spent on review.
- The Village City of Essex Junction reserves the right to withhold issuance of a zoning permit or certificate of occupancy if there are outstanding bills for legal services.

## APPENDIX B: FEE SCHEDULE<sup>[RM1]</sup>

Effective Date: ~~July 1~~, 20~~19~~22

**NOTE: ALL FEES ARE DUE UPON SUBMITTAL OF APPLICATIONS. APPLICATIONS SHALL NOT BE CONSIDERED COMPLETE NOR RECEIVED WITHOUT PAYMENT OF REQUIRED FEES. ALL FEES WILL BE ACCORDING TO THE CURRENT VILLAGE FEE SCHEDULE AT THE TIME THE APPLICATION IS SUBMITTED AND APPROVED, FEES ARE NON-REFUNDABLE. ALL APPLICATION FEES SHALL BE DOUBLE THE AMOUNT LISTED BELOW FOR APPLICATIONS SUBMITTED AFTER THE ACTIVITY HAS COMMENCED FOR WHICH APPROVAL IS BEING SOUGHT WITH THE EXCEPTION OF SCHOOL IMPACT FEES, SEWER AND WATER FEES.**

### **SUBDIVISION APPLICATION:**

**A \$15 per application recording fee, and \$25 per plat recording fee, will be assessed in addition to the following fees:**

Boundary Line Adjustments	<del>\$100</del> <u>200</u>
Lot Consolidation or Vacation of Property Line	<del>\$100</del> <u>200</u>
Subdivision, Conventional <sup>i</sup>	
A. Sketch Plan	\$50 per lot/unit
B. Preliminary Plat	<del>\$50</del> <u>100</u> per lot/unit
C. Final Plat	<del>\$100</del> <u>200</u> per lot/unit
Planned Residential Development <sup>1</sup>	
A. Conceptual Plan	\$50 per lot/unit
B. Preliminary Plan	<del>\$50</del> <u>100</u> per lot/unit
C. Final Plan	<del>\$100</del> <u>200</u> per lot/unit
Planned Commercial Development <sup>1</sup>	
A. Conceptual Plan	\$.10 per sf
B. Preliminary Plan	<del>\$.10</del> <u>15</u> per sf
C. Final Plan	<del>\$.15</del> <u>20</u> per sf
Agriculture Planned Development	
A. Conceptual Plan	\$50 per lot/unit
B. Preliminary Plan	<del>\$50</del> <u>100</u> per lot/unit
C. Final Plan	<del>\$100</del> <u>200</u> per lot/unit
Amendments <sup>2</sup>	
A. Subdivisions	<del>\$200</del> <u>400</u>
B. Planned Development	

1. Major	<del>\$250</del> <u>450</u>
2. Minor	<del>\$150</del> <u>250</u>
3. Minimal	<del>\$50</del> <u>150</u>

### **EXPOSITION CENTER PLANNED DEVELOPMENT:**

**A \$15 per application recording fee will be assessed in addition to the following fees.**

Conceptual Plan	\$150
Major Activities Permit	<del>\$300</del> <u>400</u>
Annual Activities Permit	<del>\$750</del> <u>850</u>
Temporary Activities Permit	<del>\$100</del> <u>150</u>
Concert Application	<del>\$200</del> <u>250</u>

### **SITE PLAN APPLICATION:**

**A \$15 per application recording fee will be assessed in addition to the following fees.**

#### **Commercial and Industrial**

A. Conceptual Plan	\$150
B. Less than 1,000 sq. ft. of improved area	\$200
C. 1,001 to 2,500 sq. ft. of improved area	<del>\$300</del> <u>350</u>
D. 2,501 to 5,000 sq. ft. of improved area	<del>\$500</del> <u>550</u>
E. 5,001 to 10,000 sq. ft. of improved area	<del>\$750</del> <u>850</u>
F. Greater than 10,000 sq. ft. of improved area	<del>\$1000</del> <u>1200</u>
G. Design Review (no increase in footprint)	<del>\$250</del> <u>450</u>

#### **Residential**

A. Multi-Family, Townhouse, Duplex, Apartments	<del>\$400</del> <u>150</u> per unit
B. Accessory Apartments	<del>\$200</del> <u>100</u>
C. Conceptual Plan	\$150

#### **Public and Semi-Public<sup>1</sup>**

A. Less than 1,000 sq. ft. of improved area	\$150
B. 1,001 to 2,500 sq. ft. of improved area	<del>\$40</del> <u>15</u> per sf
C. 2,501 sq. ft. to 5,000 sq. ft. of improved area	<del>\$40</del> <u>15</u> per sf
D. 5,001 to 10,000 sq. ft. of improved area	<del>\$40</del> <u>15</u> per sf
E. Greater than 10,000 sq. ft. of improved area	<del>\$40</del> <u>15</u> per sf
F. Greater than 100,000 sq. ft. of improved area	<del>\$40</del> <u>15</u> ,000

Land Disturbance Only	\$.10 per sf
Amendments	
A. Major	<del>\$150</del> <u>250</u>
B. Minor	<del>\$100</del> <u>150</u>

## **ENGINEER PLAN REVIEW AND INSPECTIONS**

The applicant will pay the actual cost for engineering plan review and construction inspections by the Village Engineer. The Village Engineer will bill the municipality for services rendered and the municipality will bill the applicant. All bills for plan review must be paid in full prior to the issuance of a zoning permit for the project. All inspection fees must be paid prior to the issuance of a Certificate of Occupancy for the Project (For larger projects the fee must be paid prior to the issuance of a final Certificate of Occupancy).

If combination application for Planned Development and Subdivision Review, only one application fee is required. Fees charged will be the higher of each individual fee.

Fees shall be waived for projects paid for by the ~~Village~~ City of Essex Junction General Fund and for projects in Village parks, but all associated recording fees shall be paid.

<sup>2</sup> Fee based on area affected by proposed amendment.

## **CONDITIONAL USE AND SPECIAL USE PERMIT:**

A \$15 per application recording fee will be assessed in addition to the following fees.

Conditional Use	\$200
Special Use	\$200

## **SIGN PERMIT:**

A \$15 per application recording fee will be assessed in addition to the following fees.

Temporary Sign	No Fee
Temporary Sign in Right-of-Way	<del>\$25</del> <u>50</u>
Wall Sign	<del>\$35</del> <u>50</u>
Projecting Sign	<del>\$35</del> <u>50</u>
Freestanding Sign	<del>\$35</del> <u>50</u>
Home Occupation Sign	<del>\$25</del> <u>50</u>

## **ZONING/BUILDING PERMIT:**

A \$15 per application recording fee will be assessed in addition to the following fees.



## Commercial and Industrial

A. Less than 1,000 sq. ft. of improved area	\$150
B. 1,001 to 2,500 sq. ft. of improved area	\$150 or .10/sf whichever is greater
C. 2,501 to 5,000 sq. ft. of improved area	\$.10 per sf
D. 5,001 to 10,000 sq. ft. of improved area	\$.10 per sf
E. Greater than 10,000 sq. ft. of improved area	\$.10 per sf
F. Greater than 100,000 sq. ft. of improved area	\$10,000
G. Design Review (no increase in footprint)	\$200

## Residential

A. Single Family Detached	
1. New Principal Dwelling	<del>\$200</del> <u>300</u>
2. Addition	
a. Less than 500 sq. ft.	<del>\$50</del> <u>100</u>
b. 500 sq. ft or greater	<del>\$100</del> <u>200</u>
3. Accessory Structures	
a. Detached Garage	<del>\$60</del> <u>100</u>
b. Storage Sheds, Decks, Swimming Pools, Driveways, etc.	<del>\$25</del> <u>50</u>
B. Accessory Apartments	<del>\$100</del> <u>200</u>
C. Multi-Family, Townhouse, Duplex, Apartments	<del>\$200</del> <u>300</u> /unit
D. Land Filling/Regrading	\$100

## Public and Semi-Public<sup>3</sup>

A. Less than 1,000 sq. ft. of improved area	\$150
B. 1,001 to 2,500 sq. ft. of improved area	\$150 or .10/sf whichever is greater
C. 2,501 to 5,000 sq. ft. of improved area	\$.10 per sf
D. 5,001 to 10,000 sq. ft. of improved area	\$.10 per sf
E. Greater than 10,000 sq. ft. of improved area	\$.10 per sf
F. Greater than 100,000 sq. ft. of improved area	\$10,000
New Use or Change of Use	<del>\$150</del> <u>200</u>
Demolition or Relocation	<del>\$150</del> <u>200</u>
Home Occupation	<del>\$35</del> <u>50</u>
Certificate of Occupancy	<del>\$35</del> <u>50</u>
Temporary Certificate of Occupancy	<del>\$35</del> <u>50</u>

## **TEMPORARY USE, STRUCTURE OR ACTIVITY PERMIT**

Temporary Use	\$50
Temporary Sale of Vehicles	\$50
Temporary Structure	\$50
Sidewalk or Tent Sale, Commercial	\$50
Yard or Garage Sale	No Fee
Peddlers, Door to Door	\$25
Move Structure on <del>Village</del> City Streets	\$100

## **EXCAVATION AND RIGHT-OF-WAY PERMIT**

Excavation permits are classified as major or minor permits.

Major Excavation Permit \$100.00 per project application

Major Excavation Permit is issued for work within the public right-of-way which will disturb the roadbed, pavement, sidewalk or curbing.

If the cut is under 100 sq. ft., the Public Works Department will perform the repair and bill the applicant for the time and material costs (see PUBLIC WORKS TIME AND MATERIALS FEE SCHEDULE) or as otherwise agreed to by the Public Works Superintendent.

If the cut is over 100 sq. ft., the applicant will be required to hire a qualified contractor to make the repair in accordance with Essex Junction Public Works specifications.

Minor Excavation Permit \$30.00 per project application

Minor Excavation Permit is for other work within the right-of-way which will not disturb the roadbed, pavement, sidewalk, or curbing.

**NOTE:** Excavations for water and sewer services are not included in the fees for WATER SERVICE and SEWER SERVICE

## **SEWER SERVICE**

Municipal	\$1,000/new unit
Private Septic System	
A. Conventional	\$100
B. Mound	\$150
Private Packaged Treatment System	\$250

Capacity maintenance fee: beyond expiration of initial approval 50% initial capacity fee/year

extension may not exceed 10 years

### **WATER SERVICE**

Tap, Curb Stop, Meter and Final Installation to be done by the Municipality. Excavation provided by the applicant. Meter will be supplied by the Municipality.

A. 3/4" Service (existing curb stop)	\$550 per meter
B. 3/4" Service, tap and curb stop	\$650 per meter
C. 1" Service, tap and curb stop	\$700 per meter
D. 1 1/2" Service, tap and curb stop	\$1,100 per meter
E. 2" Service	\$1,400 per meter
New 5/8" meter without tap or replace existing 5/8" meter	\$300 per meter

### **For a Meter Above 2"**

Tap, Gate Valve, Installation of the Meter, and Excavation shall be done by the applicant under the supervision of the **VillageCity** Engineer. If a metering vault is required, it shall be the responsibility of the applicant. The Municipality will purchase the meter and provide it to the applicant at cost, plus \$500.

Water meter test - 5/8" to 1 1/2" meter	One hour cost of labor
Water meter test - large meter	Cost

**NOTE: If meter is defective there is no charge for meter test**

Shut water off at curb stop - Regular time	\$10
Turn water on at curb stop - Regular time	\$10
Turn on or shut off during overtime hours per call-in	\$100

These rates shall not apply to delinquent account reconnections, which shall be in accordance with the maximum amount allowed by Vermont state law.

[RM2]

### **OTHER PERMITS AND FEES**

Written Administrative Determinations	\$25
Fee for Returned Check or Other Form of Payment	\$25

### **RELIEF AND APPEALS**

Appeal of Administrative Determination	\$100
Appeal of Staff Decision to Zoning Board of Adjustment	\$100
Appeal of Staff Decision to Planning Commission	\$100
Appeal of Staff Decision to Board of Trustees	\$100
Request for Variance	\$100
Waivers to General Development Standards	\$100
Waivers to Subdivision Standards	\$100
Waivers to Public Works Standards	\$100

**COPY FEES**

## Text

A. Comprehensive Plan	Cost
B. Developers Handbook	\$5
C. Unified Development Code	Cost

## Photo Copies

A. 8 2 X 11 (each side)	\$0.10
B. 11 X 14 (each side)	\$0.25
C. 11 X 17 (each side)	\$0.25

## Maps

A. Village Map	\$1.50
B. Plats, Large Maps	\$5

**PUBLIC WORKS TIME AND MATERIALS FEE SCHEDULE**

Labor - Regular Time	\$25/hr
Labor - Overtime	\$37.50/hr set at true 1.5 times OT
Materials	Cost
Compactor	\$10/hr
Compressor	\$15/hr
Dump Truck	\$25/hr
Loader	\$35/hr
Pickup Truck	\$10/hr
Roller	\$10/hr
Sweeper	\$55/hr
Trailer	\$10/hr
Power broom	\$10/hr
Loader backhoe	\$50/hr

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

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

A. **Interpretation:**

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

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

C. **General Definitions:**

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



~~38.46.~~ *"Catering Services"* shall mean any facility which prepares food for delivery and consumption off the premises.

~~39.47.~~ *"Cemetery"* shall mean a parcel of land use for the burial of the dead for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries.

~~40.48.~~ *"Change in Intensity of Use"* shall mean any change in the use of a structure or land that results in an increase or decrease in any standard established in Chapters 6 or 7 of this Code as applied to the subject use.

~~41.49.~~ *"Church,"* or *"Other Place of Worship"* shall mean any premises used and operated as a non-profit operation principally as a place of worship and religious education.

~~42.50.~~ *"Circus,"* or *"Carnival"* shall mean any temporary entertainment facility open to the general public with or without a fee which provides rides, shows, food booths, animal entertainment or other shows.

~~43.51.~~ *"Clinic, Medical"* shall mean any facility which provides medical services by licensed professionals to individuals on an out-patient basis and which does not provide facilities for the care of patients on an overnight basis.

~~44.52.~~ *"Clinic, Veterinary"* shall mean any facility which provides medical care to animals which may include facilities for keeping animals overnight as part of veterinary care. Facilities which provide for the overnight boarding or caring of animals which are not part of veterinary care are deemed to be animal boarding facilities.

~~45.53.~~ *"Commercial PUD"* shall mean a Planned Unit Development (PUD) located in the Village Center, Highway Arterial, or Transit Oriented Development Districts.

~~46.54.~~ *"Commercial Vehicle"* shall mean any vehicle designed (or modified) for business purposes for an individual or business; any vehicle which is used primarily to transport tools of a trade or supplies; any vehicle which has attached advertising materials.

~~47.55.~~ *"Common Household Pet"* shall mean any domesticated animal commonly associated with and cared for in individual homes. Wild animals, livestock or other domesticated farm animals are not common household pets.

~~48.56.~~ *"Common Improvements"* shall mean all streets, driveways, parking bays, or other vehicle use areas, and all uses, facilities, structures, buildings and other improvements or portions thereof, which are designed and provided for the common use, benefits and enjoyment of all residents or occupants of a development or portion thereof.

~~49.57.~~ *"Common Ownership"* shall mean ownership of common open space or common improvements which grants at least some undivided and common rights in such lands or improvements to the residents or occupants of a development or a neighborhood, either directly or indirectly, through shares or other interests in the property.

~~50.58.~~ *"Common Open Space"* shall mean all open space, or portions thereof, including landscaping, screening, and buffering, which is designated and provided for the common use, benefit and enjoyment of all residents or occupants of all or a designated portion of a development or neighborhood, or which is required as a buffer to protect adjacent property.

~~51.59.~~ *"Comprehensive Plan," "Village Plan" or "Plan"* shall mean the Village Comprehensive Plan for the Village of Essex Junction as adopted pursuant to Title 24, Chapter 119, Section 4385 of Vermont Statutes and filed with the Village Clerk.

~~52.60.~~ *"Conditional Use"* shall mean a use, as designated on the Use Chart, which may be appropriate at a particular location following specific standards of review and approval as specified in this Code.

~~53.61.~~ *"Congregate Housing"* shall mean a facility containing two or more dwelling

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

~~54-62.~~ *"Construction"* shall mean any earthmoving activity or grading activity; the erection, placement or assembly of any building or structure or additions thereto on any lot or parcel; the moving and placement of any building, structure or materials onto any lot or parcel.

~~55-63.~~ *"Construction Service Establishment"* shall mean any facility which provides off-site services for the construction or building of any development and which stores construction materials or equipment used by business on the property.

~~56-64.~~ *"Contiguous"* shall mean adjoining or separated by no more than a street, railroad, property line, brook, stream, easement or other feature.

~~57-65.~~ *"Cul-de-sac"* shall mean a dead-end street designed to provide a vehicular turnaround at the end of the street.

~~58-66.~~ *"Cultural Facility"* shall mean the use of land, buildings, or structures to provide educational and informational services to the general public, which shall include, but not be limited to, children's museums, schools, art galleries, libraries, or similar facilities.

~~59-67.~~ *"Dark Sky Compliant"* shall mean hooded or shielded outdoor lighting fixtures that allows no light emission above a horizontal plane.

~~60-68.~~ *"Day Care Facility"* shall mean a facility in which care is provided on a regular basis for seven (7) or more children under twelve (12) years of age, at one time. Such facilities include those commonly known as "day care center", "day nurseries", "play groups", and "preschool".

~~61-69.~~ *"Day Care Home"* shall mean a facility which provides care in the owner's residence on a regular basis for six (6) or fewer children at any time, excluding children of the owner.

~~62-70.~~ *"Dead-end Street"* shall mean a street open at one end only without provision for a turnaround and which may be extended into adjoining property.

~~63-71.~~ *"Density Bonus"* shall mean an increase in the number of residential units, lot size or the size of a non-residential structure specifically granted to a single development.

~~64-72.~~ *"Design Storm"* shall mean the maximum storm expected to occur once during the interval specified in this Code.

~~65-73.~~ *"Development"* shall mean the carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, a change in the intensity or use of land, or the filling of land or the dividing of land into two or more parcels.

~~66-74.~~ *"Development Standards"* shall mean the engineering, construction, and design standards, procedures and practices necessary for approval and review of development proposals.

~~67-75.~~ *"Discharge, Storm Water"* shall mean any stormwater which leaves a site and subsequently enters any artificial or natural drainage system or drainage way.

~~68-76.~~ *"Domestic Vehicle"* shall mean an automobile or non-commercial vehicle designed and used for personal purposes.

~~69-77.~~ *"Dormitory"* shall mean a building that is owned and/or operated by an educational institution whose primary purpose is to provide living accommodations for individuals associated with the institution.



~~70-78.~~ *"Double Frontage Lot"* shall mean a lot with street frontage on two boundaries.

~~71-79.~~ *"Drainage Facilities"* shall mean any drainage way or facility designed and constructed to control the surface flow of water and may include surface and sub-surface components.

~~72-80.~~ *"Driveway"* shall mean the portion of a lot and right of way used for vehicular access between an abutting street and a vehicular parking area. A driveway serving multiple units on one lot shall not be considered a private drive or private street.

~~73-81.~~ *"Dry Cleaner"* shall mean an establishment which provides laundry, dyeing or dry cleaning services to individual customers. Drop-off facilities for cleaning off-the-premises shall be deemed "personal service establishments".

~~74-82.~~ *"Dumpster"* shall mean an enclosed container or a container with a lid used to temporarily store waste. A container used for domestic waste for single family shall not be deemed a dumpster.

~~75-83.~~ *"Dwelling, Mobile Home or Manufactured Home"* shall mean a dwelling unit constructed off site on a chassis or frame and moved or placed on a lot and connected to utilities.

~~76-84.~~ *"Dwelling, Multi-Family"* shall mean a building or structure designed to contain three or more dwelling units.

~~77-85.~~ *"Dwelling, Single-Family"* shall mean a building or structure designed to contain no more than one dwelling unit.

~~78-86.~~ *"Dwelling, Two-Family or Duplex"* shall mean a building or structure designed to contain no more than two dwelling units. *"Dwelling Unit"* shall mean a dwelling structure, or portion thereof, designed, constructed or used as living quarters for one family, and which includes facilities for food preparation, sleeping and sanitation.

~~79-87.~~ *"Easement"* shall mean a grant by a property owner of one or more of the rights associated with the property for use by the public, a corporation or another person or entity. Easements shall not be subtracted from the total lot area.

~~80-88.~~ *"Eating and Drinking Establishment"* shall mean any establishment which provides, for compensation, food or drinks primarily for consumption on the premises. This term does not include establishments which provide drive-through facilities or whose primary business is the preparation of food to be consumed off the premises.

~~81-89.~~ *"Eating Establishment, Drive-Through"* shall mean any facility which provides one or more windows which allow patrons to buy and pick up food from their vehicle for consumption off premises.

~~82-90.~~ *"Emergency Shelter"* shall mean any building, structure, residence or place for the temporary housing or care of individuals or families (including limited counseling) for a period not to exceed thirty (30) days. This term shall not be deemed to include day care facilities, day care homes, family care homes, family care facilities, nursing, rest or convalescent homes, halfway houses or similar facilities.

~~83-91.~~ *"Existing"* shall mean in existence on or before the effective date of this Code.

~~84-92.~~ *"Family"* shall mean one or more persons occupying a dwelling and living as a single housekeeping unit. Family may include a group of not more than five (5) unrelated persons living as a single housekeeping unit or foster children living with one or more unrelated persons.

~~85-93.~~ *"Family Care Facility"* shall mean a facility in which care is provided on a regular basis for seven (7) or more adults, including limited counseling and medical care, and commonly known as group care facilities, hospices, half-way houses, and similar facilities.

~~86.94.~~ *"Family Care Home"* shall mean a facility which provides for care in the owner's residence on a regular basis, for six (6) or fewer adults at any time, excluding residents of the dwelling.

~~87.95.~~ *"Fence"* shall mean a freestanding structure of metal, masonry, stone, wood or any combination, which is attached to the ground and used for confinement, screening, or partitioning purposes.

~~88.96.~~ *"Fill"* or *"Filling"* shall mean the placement of material or soil on any property in any manner which increases or alters the flow of stormwater on any adjacent lot. Soil preparation for gardening purposes shall not be deemed "fill".

~~89.97.~~ *"Flea Market"* shall mean any premises where the principal use is the sale of new and used household goods, personal effects, tools, art work, handicrafts, and small appliances or equipment in small quantities on a temporary or limited basis. Spaces or booths may be rented or leased to individuals for the sale of products.

~~90.98.~~ *"Floor Area"* shall mean the square footage of the horizontal floor area within any building or structure measured from the interior walls.

~~91.99.~~ *"Formula-Based Restaurant"* shall mean a restaurant that is required by contractual or other arrangement to offer any of the following: standardized menu, employee uniforms, interior and/or exterior color schemes, architectural design, signage or similar standardized features, or which adopts a name or food presentation format that causes it to be substantially identical to another restaurant regardless of ownership or location.

~~92.100.~~ *"Formula-Based Retail"* shall mean a retail use that is required by contractual or other arrangement to offer any of the following: standardized inventory, employee uniforms, interior and/or exterior color schemes, architectural design, signage or similar standardized features, or which adopts a name or product presentation format that causes it to be substantially identical to another store regardless of ownership or location.

~~93.101.~~ *"Freight Rail Distribution Center"* shall mean a facility or a group of facilities that perform consolidation, warehousing, packaging, decomposition and other functions linked with handling freight. Their main purpose is to provide value-added services to freight. They can also perform light manufacturing activities such as assembly and labeling. They can accommodate warehouses designed to store goods for longer periods of time.

~~94.102.~~ *"Frontage"* shall mean the length of the front lot line for a single parcel of land which runs contiguous to and parallel with public right-of-way or private street or easement which it borders.

~~95.103.~~ *"Funeral Home"* shall mean any building or structure, or part thereof used for human funeral services which may include a chapel or facility to be used for funeral services. A funeral home and funeral home services shall not include cremation services.

~~96.104.~~ *"Gas Pump"* shall mean any device used for the sale of fuel where no service or repair activity is provided. The sale of fuel may be secondary or incidental to the sale of other goods or products.

~~97.105.~~ *"Group Housing"* shall mean any premises where the principal use is the housing of two or more individuals not living as a single housekeeping unit and which does not have individual cooking and eating facilities or separate apartments. This term shall be deemed to specifically include sororities, fraternities, retreat houses, camps, convents or similar uses but does not include hotels, family care facilities, family care homes or boarding houses.

~~98.106.~~ *"Hard Surfaced"* shall mean surfaced with asphalt, concrete, paving stones and



similar material. Gravel is not considered hard surfaced.

~~99-107.~~ *"Historic Property,"* or *"Historic Resource"* shall mean any property, building, structure, or place identified as having local, state or national historic significance.

~~100-108.~~ *"Home Occupation"* shall mean any activity undertaken or intended for financial gain by the occupants of any dwelling unit.

~~101-109.~~ *"Home Owners Association"* shall mean a formally constituted nonprofit association or corporation made up of the property owners and/or residents of fixed place and responsible for the costs and upkeep of common facilities.

~~102-110.~~ *"Hotel, Motel"* shall mean a facility designed and constructed to provide sleeping facilities for travelers for a fee and for limited periods of time. Common terms include inn, motor inn, motor lodge, tourist cabin, and tourist court. A hotel may have limited cooking facilities in individual rooms provided, however, that no more than fifteen (15) percent of all the units may provide cooking facilities.

~~103-111.~~ *"Hotel, Motel – Extended Stay"* shall mean a facility that contains six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation including but not limited to such facilities as refrigerators, stoves, and ovens. Guests primarily stay for periods of one week or more. Extended stay hotels/motels shall not be occupied by children in the local school system. Extended stay hotels/motels shall not be used as permanent residences.

~~104-112.~~ *"Impervious Surface"* shall mean that portion of a lot or parcel of land which has been compacted or covered in such a way to resist the infiltration of water. This shall include any building, structure, roof, sidewalk, street, driveway or similar uses.

~~105-113.~~ *"Incinerator"* shall mean any facility designed to be used for the disposal by combustion of products or materials.

~~106-114.~~ *"Infrastructure"* shall mean road, water, sewer, storm water, street lights, drainage systems or similar facilities.

~~107-115.~~ *"Junk Vehicle"* shall mean any vehicle, trailer, semi-trailer or other motorized conveyance which, for a period exceeding thirty (30) days is inoperable or in a condition that would not be allowed to operate upon public roads in its present condition under the law of the State of Vermont. Vehicles which are used for salvage or parts are specifically deemed to be junk vehicles. Vehicles that are being repaired or restored shall be excluded if the owner demonstrates that efforts to bring the vehicle to an operable condition have been made and will be completed within thirty (30) days. The restoration or repair of one antique vehicle, owned by the resident, and repaired or restored within an enclosed structure, shall not be deemed a junk vehicle.

~~108-116.~~ *"Junk Yard"* shall mean any place which is maintained, operated or used in connection with a business for storing, keeping or processing, buying or selling junk for processing or use on or off the premises. Also included is any facility designed or used for the storage or sale of unlicensed vehicles or parts from vehicles. This does not include a garage or service station where wrecked or damaged vehicles are stored for less than thirty (30) days, or a recycling or waste collection center approved under provisions of this Code, or new or used car sales establishments where vehicles for sale are unlicensed.

~~109-117.~~ *"Landfill Collection Site"* shall mean any premises, facility, structure, or building designed and utilized for the temporary storage or sorting of materials for later removal to a landfill or recycling center.

~~110-118.~~ *"Landscape Service"* shall mean any establishment which provides

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

~~111.119.~~ *"Livestock or Other Domesticated Farm Animals"* shall mean animals typically associated with farm or agricultural practices. Livestock or domesticated animals shall include but not limited to the following: bison, chickens, cows, ducks, geese, goats, horses, ostrich, llamas, sheep, swine, etc.

~~112.120.~~ *"Lot"* shall mean a definable parcel of land occupied or capable of being occupied by one or more structures or uses as regulated and approved by this Code.

~~113.121.~~ *"Lot Area"* shall mean the area within the property lines of a lot, calculated from dimensions of the boundary lines of the lot, exclusive of any portion of the lot that is within a public or private street.

~~114.122.~~ *"Lot Consolidation"* shall mean a procedure used to combine two or more lots into a single lot.

~~115.123.~~ *"Lot, Corner"* shall mean a lot abutting two (2) or more intersecting public or private streets.

~~116.124.~~ *"Lot Coverage"* shall mean that portion of the area (square footage) which is covered by buildings, structures, parking areas, sidewalks, driveways or other impervious surfaces.

~~117.125.~~ *"Lot Depth"* shall mean the distance between the front and rear lot lines.

~~118.126.~~ *"Lot Line"* shall mean the boundary which separates the lot from adjoining lots or streets.

~~119.127.~~ *"Lot Line, Front"* shall mean a lot line which separates the lot from a public or private street or approved easement.

~~120.128.~~ *"Lot Line, Side"* shall mean a lot line which separates a lot from adjoining properties.

~~121.129.~~ *"Lot Line, Rear"* shall mean the lot line intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

~~122.130.~~ *"Lot, Reverse Frontage"* shall mean any lot, intentionally designed so that the front lot line faces a local street rather than facing a parallel major street and which provides no access to the major street.

~~123.131.~~ *"Lot Width"* shall mean the horizontal distance between the side lot lines of a lot measured along a straight line, parallel to the front line at the minimum required building setback line.

~~124.132.~~ *"Mail Services"* shall mean any establishment which engages in the distribution of mail or parcels.

~~125.133.~~ *"Manufacturing, Heavy"* shall mean any land use where a principal activity is the assembly or creation of products from raw materials. Specifically included are asphalt batch plants, commercial incinerators (not accessory to a permitted use), oil, gas or coal fired facilities used to process raw products, and other similar uses which potentially generate water or air-borne pollutants.

~~126.134.~~ *"Manufacturing, Light"* shall mean any business where the principal use is the assembly of materials or parts to be used in the manufacture or assembly of consumer products including small appliances, electronics, computers, and other products. Research and development of new products, or improvements to existing products is permitted.

~~127.135.~~ *"Massage Therapy"* shall mean the scientific manipulation of the soft



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

~~128.136.~~ *"Material Change in Use"* shall mean a change from:

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

~~129.137.~~ *"Medical and Dental Lab"* shall mean any establishment whose principal business is the processing, testing, or analysis of materials for medical purposes and which provides limited direct client service. Clients or patients shall not be examined or treated on the premises.

~~130.138.~~ *"Mini Warehouse"* shall mean a storage facility designed and constructed for rent of individual storage spaces to customers where each rented or leased space has an individual door or gate. The storage or lease of spaces for commercial storage shall be deemed a warehouse.

~~131.139.~~ *"Motor Vehicle Maintenance Service"* shall mean a facility which provides vehicle maintenance, including oil changes and lubrication, tire sales and replacement, and minimal work while the customer is on the premises. Sale of gasoline, oil, tires or parts for use off premises is not permitted.

~~132.140.~~ *"Motor Vehicle Repair Services"* or *"Service Station"* shall mean any facility which provides repair service to individual vehicles including the installation of new or used parts. Repair and installation includes engine repair, transmission repair, body repair, and the installation or replacement of any mechanical parts. Car washing, maintenance services, tire installation and sale of parts may be an incidental or accessory use. The sale of gasoline may be permitted

~~133.141.~~ *"New Unit"* shall mean a dwelling unit approved and constructed pursuant to the Land Development Code without credit or consideration for whether it replaces any pre-existing dwelling unit. With respect to any section of this Code, there shall be no credit or reduction of any kind for an existing dwelling unit that is replaced by a new unit.

~~134.142.~~ *"Nursing, Rest, or Convalescent Home"* shall mean an institution other than a hospital for the care of children, the aged, the infirm, or those suffering long-term bodily ailments and whose residents require on-going professional care and assistance.

~~135.143.~~ *"Occupancy"* shall mean the use of any structure, premises, or portion thereof which is leased, rented, or owned, for any conditional, permitted, or non-conforming use.

~~136.144.~~ *"Office"* shall mean any building, structure, room, suite or portion thereof where the occupant transacts business or carries on a stated occupation. An office shall not include the manufacture, assembly, cleaning, testing, processing, or repair of any product.

~~137.145.~~ *"Office, Home"* shall mean any business use of a room, or portion thereof, within a dwelling, which meets the home occupation standards.

~~138.146.~~ *"Office, Incidental"* shall mean any suite, room or occupancy within a

building used for the purposes of meeting customers or processing paperwork for the permitted business.

~~139.147.~~ *"Office, Professional"* shall mean any building or structure where the principal use is the conduct of business by professionals such as engineers, architects, planners, land surveyors, artists, attorneys, accountants, insurance agents, real estate brokers, and limited dental and medical services. Facilities which provide overnight care to any customer shall not be deemed a professional office.

~~140.148.~~ *"Off-Site Improvements"* shall mean improvements to public infrastructure required as a condition of approval of a development which created the need for the improvements.

~~141.149.~~ *"Open Space"* shall mean that area within the boundaries of any lot or development that is intended to provide light and air and upon which no improvement which creates impervious surfaces may be installed, erected, or constructed. Open space shall in general be available for entry and use by the occupants of the lot. Ordinarily, open space shall be maintained with vegetative cover.

~~142.150.~~ *"Ownership"* or *"Owner of Record"* shall mean the individual, group, or corporation with legal title to the land or with a contract to obtain legal title, or an individual, group, or corporation given specific ownership rights by a lease.

~~143.151.~~ *"Parcel"* shall mean a lot or tract of land.

~~144.152.~~ *"Parking Area"* shall mean any area outside of any street right-of-way or easement specifically allocated and designed to accommodate the parking or storage of domestic vehicles.

~~145.153.~~ *"Parking, Commercial"* shall mean the use of land or structures as a principal use for the parking of vehicles for a fee.

~~146.154.~~ *"Parking Space"* shall mean a striped or signed space designed to accommodate one vehicle. Spaces may be marked for handicapped vehicles, small cars, recreational vehicles, or other type of motorized vehicle.

~~147.155.~~ *"Personal Service Establishment"* shall mean a facility which provides care to a person or a person's apparel, barber shops, beauty shops, seamstress shops, shoe repair shops, coin-operated laundries, optician shops, diet centers, health clubs, spas, pet grooming shops and similar uses. Sales of products must be clearly incidental to the services provided.

~~148.156.~~ *"Planned Unit Development"* or *"PUD"* shall mean one or more parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses in non-residential Districts. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to the area, density or dimensional requirements or allowable number of structures and uses per lot as established in any one or more districts created under the provisions of these regulations. The specific requirements of a PUD and the area, density and dimensional provisions that may be modified are further defined in each district in which PUDs are allowed.

~~149.157.~~ *"Planning Commission"* or *"Commission"* shall mean the Planning Commission created under provisions of Title 24, Chapter 117 of Vermont Statutes appointed by the Village Board of Trustees with the responsibilities as specified by Vermont Statutes, the Village Charter and the provisions of this Code.

~~150.158.~~ *"Pollution"* shall mean the presence in the air, water, or soils of any substance, contaminants or noise which may be harmful or hazardous to human health or



welfare or animal and plant life or property as defined by Federal and State law.

~~151.159.~~ *"Principal Building"* shall mean a building or structure in which is conducted the main or principal use of the lot or parcel upon which said building is located.

~~152.160.~~ *"Principal Use"* shall mean the main use which is conducted on a lot or parcel or within a building or structure located on the lot or parcel.

~~153.161.~~ *"Private Community Use"* shall mean any structure used, owned or operated by a profit or non-profit organization for the sole benefit of its membership. Food and beverages may be provided on the premises if the facility is so designed and constructed. Membership may be recreational or social.

~~154.162.~~ *"Private Street"* shall mean any street which has not been accepted as a public street.

~~155.163.~~ *"Private Yard"* (condo, townhouse, etc.) shall mean any yard fenced, screened or walled to provide private space on the lot for the owners or occupants of a dwelling of any type.

~~156.164.~~ *"Public"* shall mean any use, land, structure, building, or facility used by any state or local governmental entity for use by the general public regardless of ownership.

~~157.165.~~ *"Public Hearing"* shall mean any duly noticed hearing on an application or use as specified by this Code.

~~158.166.~~ *"Public Meeting"* shall mean any duly noticed meeting at which a quorum (a majority) is present to conduct business.

~~159.167.~~ *"Public Street"* shall mean a street owned by the municipality.

~~160.168.~~ *"Public Works Standards"* shall mean the construction and installation standards adopted herein for infrastructure or connection to or use of existing public infrastructure.

~~161.169.~~ *"Recreation Use, High Intensity"* shall mean any public, quasi-public or private property where the principal use is a zoo, aquarium, amusement park, stadium, drive-in facility, golf course, exposition center, or similar use or activity.

~~162.170.~~ *"Recreation Use, Low Intensity"* shall mean any public, quasi-public or private facility where the principal use is for active or passive recreation in a park, playground, athletic field, tennis court, bike path, or similar facility for indoor and outdoor activities. Indoor recreation structures may have accessory uses or structures such as snack bars, locker rooms, and pro shops that are designed and intended for use by the patrons of the primary use. A private club house restricted to use by development residents may be a low intensity recreation use.

~~163.171.~~ *"Recreation Use, Medium Intensity"* shall mean any recreation facility or use such as billiards, bowling, miniature golf course, in-door shooting range, arcade, pool halls, theaters and similar facilities.

~~164.172.~~ *"Recreation Use, Temporary"* shall mean any recreation use which is established on a temporary basis including circuses, carnivals, booths, festivals, and similar uses.

~~165.173.~~ *"Recreational Vehicle"* shall mean any vehicle built and used primarily for recreation purposes (including boats) and designed to be pulled behind another vehicle or any motorized vehicle which accommodates sleeping and/or eating. Common terms include camper, topper, trailer, motor home, and RV.

~~166.174.~~ *"Recreational Vehicle Site"* shall mean any parcel or portion thereof designed and constructed to accommodate the parking of one or more recreational

vehicles for a fee.

~~167.175.~~ *"Recycling Center"* shall mean a facility designated for the delivery and pick-up of recyclable materials.

~~168.176.~~ *"Redevelopment"* shall mean the alteration, conversion, reconstruction, structural alteration or enlargement of any structure or the change in any use.

~~169.177.~~ *"Repair Service Establishment"* shall mean a business in an enclosed structure whose principal use is the repair and replacement of common household items such as appliances, watches, musical instruments, computers, bicycles, radios, televisions, refrigerators, air conditioners and similar uses. Product sales shall be incidental to the repair business.

~~170.178.~~ *"Residential Development"* shall mean any subdivision, apartment, cluster home, carriage home, condominium, or townhouse designed and constructed for residential occupancy.

~~171.179.~~ *"Re-Subdivision"* shall mean the creation of a new subdivision whose boundaries or lot lines have changed from a previously approved subdivision and excluding "lot division", "lot consolidation" or "boundary adjustment".

~~172.180.~~ *"Retail, Convenience"* shall mean an establishment whose principal use is the sale of products in small quantities for the daily use of customers including but not limited to bakeries, food stores, newsstands, tobacco shops, card shops, liquor stores, delicatessens, musical supply stores, pet stores, jewelry stores, camera and photography supplies, ice cream parlors, meat and seafood shops, and florist shops.

~~173.181.~~ *"Retail, Sales,"* shall mean an establishment whose principal use is the sale of products for consumption or use by the customer off the premises. This shall include but not be limited to hardware, department, paint, office equipment, sporting goods, trading stamp and redemption outlets, television (including satellite dishes), automotive supply and major household appliance stores (including refrigerators, stoves, ovens, air conditioners, furnaces).

~~174.182.~~ *"Right-of-way"* shall mean any parcel of land deeded or for which an easement is granted for the current or future construction of a public or private street. A right of way shall be subtracted from the total lot area.

~~175.183.~~ *"Roadside Sale of Agricultural Products"* shall mean the use of any lot or portion thereof for the display or sale of locally grown or produced agricultural products on a temporary or seasonal basis.

~~176.184.~~ *"Sales, Outdoor"* shall mean the use of any lot or parcel or portion thereof for the sale and storage of any product or the exchange or swapping of any product among customers.

~~177.185.~~ *"Sales, Temporary"* shall mean the use of any structure, lot or parcel for limited sales events which are conducted on private or public property for brief periods of time.

~~178.186.~~ *"Salvage"* shall mean the recovery of any product from the waste stream with intent to recycle or sell for any purpose.

~~179.187.~~ *"School"* shall mean any establishment certified by the Vermont Department of Education, including parochial, private, public and nursery schools, colleges, universities and accessory uses, but specifically excluding commercially operated schools of beauty, culture, business, dancing, driving, music and other similar establishments.

~~180.188.~~ *"Service Bay"* shall mean a space designed and constructed for the placement of any motor vehicle for repair, servicing, or washing. Service bays may be



located outside of structures.

~~181.189.~~ *"Service Station"* See *"Motor Vehicle Repair Services"*.

~~182.190.~~ *"Setback"* shall mean the required minimum horizontal distance from the property line to the nearest point of a structure.

~~183.191.~~ *"Sewer Allocation"* shall mean the granting of specific rights to discharge sewage into a sewer for treatment at the Village's Waste Water Treatment Plant.

~~184.192.~~ *"Shopping Center"* shall mean a structure or series of structures which contain a variety of commercial outlets for purchasing goods and services.

~~185.193.~~ *"Site Plan"* shall mean a plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principle site development features proposed for a specific parcel of land.

~~186.194.~~ *"Small Scale Facility"* shall mean any Wireless Telecommunication Facility that is installed on the ground and does not exceed 20 feet in elevation and/ or that is installed on an existing building or structure and does not extend more than 20 feet from the building or structure.

~~187.195.~~ *"Solar Collector"* *"Solar Receptor"* shall mean a device designed and used for collecting solar energy and converting it to heat or electrical energy.

~~188.196.~~ *"Solid Waste Collection Point"* shall mean an area or facility designated for the temporary collection and transfer of waste to an approved landfill.

~~189.197.~~ *"Stable, Public"* shall mean any boarding and grooming facility for horses or other livestock with stalls for rent to the general public. A stable may include riding facilities and trails.

~~190.198.~~ *"Staff"* shall mean any Village employee or other personnel retained on a contractual basis to whom is delegated the authority to take specific actions as provided herein.

~~191.199.~~ *"Storage, Outdoor"* shall mean any facility whose principal use is the storage of products, equipment, recreation vehicles or supplies and which does not include storage of vehicles for sale to the general public.

~~192.200.~~ *"Stormwater Retention Facility"* shall mean any facility designed and constructed to hold stormwater runoff.

~~193.201.~~ *"Stormwater Runoff"* shall mean water from precipitation which is not absorbed into the soil, does not evaporate and which runs across the land during periods of precipitation.

~~194.202.~~ *"Story"* shall mean a portion of a building between an upper surface of a floor and the upper surface of the floor above, or if there is no floor above it, the space between such floor and ceiling above it. A basement shall be considered as a story when the distance from grade to the finished surface of the floor above the basement is more than six (6) feet for more than 50 percent of the perimeter or more than twelve (12) feet at any point.

~~195.203.~~ *"Street"* shall mean any public or private way designed for use by motorized and non-motorized vehicles and pedestrians; and providing access to adjoining lots.

~~196.204.~~ *"Structure"* shall mean the assembly or placement of any materials for occupancy or use including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence (except a wall or fence on an operating farm and fences less than six (6) feet in height) and tanks for storage of gas and/or oil consistent with Section 4303 of Title 24, Chapter 117 of Vermont Statutes Annotated.

~~197-205.~~ *"Subdivision"* shall mean any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, plots, units or interests for the purpose of offer for sale, lease or development. Multi-Family developments of 5 or less units shall not be considered a subdivision.

~~198-206.~~ *"Substantial Improvement"* shall mean any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started (b) if the structure has been damaged and is being restored, the value of the structure before the damage occurred. The term does not, however, include (1) any improvement to comply with existing State or local health, safety or sanitary code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places

~~199-207.~~ *"Taxi-cab and Limousine Service"* shall mean a parcel, building or space designated for use by any company providing transportation for a fee. Incidental office space, structures designed for the storage of vehicles and the outdoor storage of vehicles not currently in service may be included.

~~200-208.~~ *"Temporary Permit, Champlain Valley Exposition"* shall mean any permit authorized herein and issued for specific events at the Champlain Valley Exposition Fairgrounds.

~~201-209.~~ *"Temporary Structure"* shall mean any structure in place greater than six months in any 12 month period shall not be considered a temporary structure.

~~202-210.~~ *"Temporary Use"* shall mean an identified use permitted on an occasional basis for a specific length of time.

~~203-211.~~ *"Temporary Use Permit"* shall mean a permit authorizing the establishment of a specific temporary use.

~~204-212.~~ *"Traffic Impact Study"* shall mean a study which analyzes the traffic generated by a specific development proposal and describes the impact of the traffic generated on adjacent streets, intersections and driveways. A traffic impact study may also include a study of impact on streets or intersections not immediately adjacent to the proposed development.

~~205-213.~~ *"Transfer of Development Rights"* shall mean a process by which the right to develop one portion of a parcel of land (sending area) is transferred to another portion of the same parcel (receiving area). The right to develop the sending area of land is eliminated.

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

~~206-214.~~ *"Utility Uses, Utilities"* shall mean any public regulated company or governmental entity which provides specific public services including electricity, natural gas, telephone, cable television, water, sewer, storm sewer and similar facilities.

~~207-215.~~ *"Variance"* shall mean a procedure by which a waiver of Code requirements may be obtained from the Zoning Board when the strict application of the Code to a specific parcel will cause undue hardship.

~~208-216.~~ *"Vehicle Sales"* shall mean the sale of cars, sport utility vehicles and light trucks.

~~209-217.~~ *"Visibility Triangle"* shall mean a designated area located adjacent to the intersection of two or more streets or driveways which shall be kept free from visual obstruction.

~~210-218.~~ *"Warehouse"* shall mean a facility where the principle use is the storage of



merchandise, products, or materials for a fee or for distribution or sale to other businesses. Storage of materials incidental to a permitted use is not a warehouse.

~~211-219.~~ *"Wild Animals"* shall mean any non domesticated animals.

~~212-220.~~ *"Wireless Telecommunication Facility"* shall mean any tower or other support structure, including antennae, that will extend 20 or more feet vertically, and any accompanying structure, building, access road, service utility or equipment that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services.

~~213-221.~~ *"Wireless Telecommunication Service"* shall mean any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

~~214-222.~~ *"Wireless Telecommunication Service Provider"* shall mean any person or entity providing Wireless Telecommunication Services.

~~215-223.~~ *"Yard"* shall mean the required open space area located on the same lot with a building or structure, unoccupied and unobstructed from the ground up. The minimum depth or width of a yard shall be the horizontal distance between the lot line and the nearest point of the structure.

~~216-224.~~ *"Yard, Special"* shall mean the required front, side or rear lot area normally required for setbacks which, due to unusual lot configurations, cannot meet the standard side, front, or rear yard definitions.

~~217-225.~~ *"Zero Lot Line"* shall mean a piece of real estate in which the structure comes up to, or very near to the edge of the property line.

~~218-226.~~ *"Zoning Board of Adjustment," "Zoning Board," "Board of Adjustment,"* or *"Board"* shall mean the Board as appointed by the Village Trustees which has the specific authority to act on variances, conditional uses, and Code interpretations as specifically delegated by this Code and provisions of the State of Vermont Statutes.

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

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

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

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

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

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

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

7. *"Parking Structure"* shall mean a building containing two or more stories of parking. Parking structures shall have liner buildings for the full height of the parking structure.
8. *"Pedestrian Oriented Design"* shall mean the design of community neighborhoods, streetscapes, sites, and buildings that emphasizes pedestrian access, comfort, and visual interest. Transit-Oriented Design that includes design and intensity of land use to support transit in addition to pedestrians.
9. *"Plaza"* shall mean a public open space at ground level wholly or partly enclosed by a building or buildings. It is continuously accessible to the public and has openings to the sky.
10. *"Rowhouse"* shall mean a single-family dwelling that shares a party wall with another of the same type and occupies the full frontage line.
11. *"Square"* shall mean an open space available for unstructured recreation and civic purposes. A square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important thoroughfares. The minimum size shall be 1 acre and the maximum shall be 5 acres.
12. *"Streetscape"* shall mean the urban element that establishes the major part of the public realm. The streetscape is composed of thoroughfares (travel lanes for vehicles and bicycles, parking lanes for cars, and sidewalks or paths for pedestrians) as well as the visible private frontages (building facades and elevations, porches, yards, fences, awnings, etc.) and the amenities of the public frontages (street trees and plantings, benches, streetlights, etc.).
13. *"Transit Oriented Development"* shall mean a development pattern characterized by a mix of uses surrounding a transit platform where streets have a high level of connectivity, blocks are small, and streetscape, buildings, and uses cater to the pedestrian.
14. *"Transit Park and Ride"* shall mean a facility designed for the temporary parking of automobiles, the occupants of which transfer to public transit or other automobiles to continue their trips.

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

1. *"Base Flood"* shall mean the flood having a one percent chance of being equaled or exceeded in any given year.
2. *"Base Flood Elevation (BFE)"* shall mean the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.
3. *"Basement"* shall mean any area of the building having its floor elevation subgrade (below ground level) on all sides.
4. *"Existing Manufactured Home Park or Subdivision"* shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
5. *"Expansion to an Existing Manufactured Home Park or Subdivision"* shall mean



the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

6. *"Flood"* shall mean either:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; or
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

7. *"Flood Insurance Rate Map (FIRM)"* shall mean an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

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

9. *"Floodplain or Flood-Prone Area"* shall mean any land area susceptible to being inundated by water from any source (see definition of "flood").

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

11. *"Floodway"* shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

12. *"Historic Structure"* shall mean any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) By an approved state program as determined by the Secretary of the Interior; or

- (ii) Directly by the Secretary of the Interior in states without approved programs.
13. *"Legislative Body"* shall mean the selectboard in the case of a town, the trustees in the case of an incorporated village, and the mayor, alderpersons, and city council members in the case of a city, and the supervisor in the case of an unorganized town or gore.
14. *"Lowest Floor"* shall mean the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.
15. *"Manufactured Home"* shall mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
16. *"Manufactured Home Park or Subdivision"* shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
17. *"New Construction"* shall mean, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
18. *"New Manufactured Home Park or Subdivision"* shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.
19. *"Recreational Vehicle"* shall mean a vehicle which is:
- (a) Built on a single chassis; or
  - (b) Four hundred (400) square feet or less when measured at the largest horizontal projection; or
  - (c) Designed to be self-propelled or permanently towable by a light duty truck; or
  - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
20. *"Special Flood Hazard Area"* shall mean the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".
21. *"Start of Construction"* includes substantial improvement, and shall mean the date the building permit was issued, provided the actual start of construction, repair,



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

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

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

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

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

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

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

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

- 1. "Biochemical Oxygen Demand (BOD)" shall mean the quantity of oxygen utilized

in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) Celsius, expressed in milligrams per liter.

2. *"Building Drain"* shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3. *"Building Sewer"* shall mean the extension from the building drain to the public sewer or private sewer or other place of disposal. Each building sewer is a private line and must be maintained by the property owner.

4. *"Combined Sewer"* shall mean a sewer receiving both surface runoff and sewage.

5. *"Garbage"* shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

6. *"Industrial Wastes"* shall mean liquid or gaseous wastes from industrial manufacturing processes, trade, or businesses as distinct from sanitary sewage.

7. *"Natural Outlet"* shall mean an outlet into a water-course, pond, ditch, lake, or other body of surface or ground water.

8. *"Person"* shall mean any individual, firm, company, association, society, corporation, or group.

9. *"pH"* shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

10. *"Properly Shredded Garbage"* shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension.

11. *"Public Sewer"* shall mean a sewer in which all owners have equal rights which is controlled by public authority.

12. *"Sanitary Sewer"* shall mean a sewer which carries sewage not including storm, surface, and ground waters.

13. *"Sewage"* shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

14. *"Sewage Treatment Plant"* shall mean any arrangement of devices and structures used for treating sewage.

15. *"Sewage Works"* shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

16. *"Sewer"* shall mean a pipe or conduit for carrying sewage.

17. *"Slug"* shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

18. *"Storm Drain or Storm Sewer"* shall mean a sewer which carries storm and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

19. *"Superintendent"* shall mean the manager of the Sewage Department or his authorized deputy, agent or representative.

20. *"Suspended Solids"* shall mean solids that either float on the surface of, or are



suspended in water, sewage, or other liquids, and which are removable by laboratory filtering.

21. *"Water-Course"* shall mean a channel in which a flow of water occurs, either continuously or intermittently.

22. *"Secretary"* shall mean the Secretary of the Agency of Natural Resources, State of Vermont, or his representatives.

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

1. *"Billboard"* shall mean an off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

2. *"Directional sign"* shall mean a free-standing sign used at driveway entrances to direct traffic flow which includes no advertising or logos.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. *"Sign, Permanent"* shall mean any sign as defined herein, permanently affixed to a building or the ground.

18. *"Sign, Portable"* shall mean a free-standing sign not permanently affixed, anchored or secured to the ground or structure on the lot it occupies, including trailered signs.

19. *"Sign, Projecting"* shall mean any sign which is attached to a building or other structure and which projects from the wall or roof surface of that portion of the building or structure to which the sign is attached.

20. *"Sign, Roof"* shall mean a sign on a roof that has a pitch of less than one-to-four. Signs on a roof with a pitch of greater than one-to-four shall be considered a wall sign.

21. *"Sign, Wall"* shall mean a permanent sign securely affixed to and parallel to the face of a wall of a building.

22. *"Sign, Window"* shall mean signs painted or posted on any glass or translucent surfaces.

23. *"Sign, On-Premises"* shall mean a sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, enterprise or activity that exists or is conducted, offered, sold, maintained, or provided on the lot where the sign is located.

24. *"Sign, Temporary"* shall mean a sign which is used in connection with an event that is designed, intended, or expected to take place or to be completed within a short or definite period. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary

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

1. *"Alter"* shall mean any site activity that measurably changes the ability of the ground surface area to absorb water or will change existing surface drainage patterns. Alter may also be represented as the alteration of drainage characteristics or conducting any activity that disturbs the land.

2. *"Best Management Practices" (BMP)* shall mean any structural or non-structural site improvements that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point and non-point source pollution and promote stormwater quality improvement with protection to the environment. *"Structural"* BMPs are devices engineered and constructed to provide treatment and temporary storage of stormwater runoff. *"Non- Structural"* BMPs use natural measures involving site characteristics to reduce the volume of stormwater or



eliminating the source of the pollutant. Non-structural BMPs do not require extensive construction effort in order to promote pollutant reduction.

3. "*Erosion and Sediment Control Plan*" shall mean a plan that indicates the specific measures and their sequencing for use to control sediment and erosion on a development site during and after construction.

"*Existing Development*" shall mean a development that was built prior to the effective date of the adoption of this Code.

4. "*Illicit Connection*" shall mean either of the following:

(a) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency.

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

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

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

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

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

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

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

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

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

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

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

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

15. "*Sediment*" shall mean soil, sand, and minerals washed from land into water, usually after rain. Sediment can destroy fish nesting areas, clog animal habitats, and cloud water so that sunlight does not reach aquatic plants.

16. "*Stormwater*" shall mean any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

17. "*Stormwater Management*" shall mean the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

18. "*Stormwater System*" shall mean storm sewers; outfall sewers; surface drains; natural and manmade wetlands; channels; ditches; wet and dry bottom basins; rain gardens; and other control equipment necessary and appurtenant to the collection, transportation, conveyance, pumping, treatment, disposal, and discharge of regulated stormwater runoff.

19. "*TMDL*" shall mean Total Maximum Daily Limit as established by the State of Vermont Water Quality Division for management and restoration of impaired waterways. TMDLs are contained within applicable impaired watersheds that have been determined to not meet water quality criteria under Section 303d of the Clean Water Act.

20. "*Vermont Stormwater Management Manual – Volumes I and II (as amended)*" shall mean the guidance manual referenced in this Code that includes regulatory requirements for the management of stormwater and technical guidance to assist in the design of stormwater treatment systems.

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

1. "*Riparian Buffer*" shall mean a vegetated area, including trees, shrubs and herbaceous vegetation, which exists or is established to protect a stream or wetland. Alteration of this natural area is strictly limited. The buffer setback is defined as the horizontal distance from a stream bank or channel, shoreline or wetland area, to the nearest part of a building, structure or impervious surface on the property.

2. "*Non-Point Source Pollution*" shall mean pollution which is generated by various land use activities rather than from an identifiable or discrete source, and is conveyed to waterways through natural processes, such as rainfall, stormwater runoff, or ground water seepage rather than direct discharge. This may include surface run off from individual sites or properties.

3. "*Stream*" shall mean the full length and width, including the bed and banks, of



any moving watercourse including creeks, brooks, rivers, branches, and kills. A stream has a channel, whether natural or artificial, that periodically or continuously contains moving water, has a defined bed, and has banks that serve to confine water at low to moderate flows. Streams include intermittent streams that have a defined channel and evidence of sediment transport, even if such streams do not have surface water flow throughout the year and/or throughout the channel.

4. "*Stream Banks*" shall mean the physiographic features that normally contain streams within a channel. The bank is distinct from the streambed, which is normally wetted and provides a substrate that supports aquatic organisms.

5. "*Top of Bank*" shall mean the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

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

7. "*Wetlands*" shall mean lands that are inundated or saturated by surface water or groundwater with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to: marshes, swamps, sloughs, potholes, river and lake overflows, mud flats, fens, bogs, and ponds. These areas are directly regulated under the State of Vermont and Federal regulations directly relating to wetland classification and delineation.

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

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

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

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

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

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

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



**SECTION 620  
USE TABLE**

DISTRICT/ USE	R1	R2	MF1	MF2	MF3	MCU	LI	MF- MU1	MF- MU2	NLSO	TOD	HA	RO	VC	PE	PA	OS
SINGLE FAMILY DWELLING	X	X	X	X	X	X		X	X				X	X		X	
TWO FAMILY DWELLING			X	X	X	X		X	X				X	X		X	
THREE FAMILY DWELLING			X	X	X	X		X	X		X		X	X		X	
FOUR FAMILY DWELLING			X	X	X	X		X	X		X		X	X		X	
MULTI-FAMILY DWELLING			X	X	X	X		X	X		X	X		X		X	
AGRICULTURE																X	
AGRICULTURE PRODUCTS SALES															S	X	
ANIMAL BOARDING FACILITY															C	X	
ANIMAL EXHIBITS															S	C	
ANIMAL SHELTER	X	X	X	X	X	X	X			X			X		X	X	
ANTENNA TOWER							X										
BANK						X		X	X		X	X		X			
BANK W/ DRIVE THROUGH						X		X	X		X	X		X			
BED AND BREAKFAST	X	X	X	X	X	X		X	X		X	X	X	X		X	
BOARDING HOUSE	C	C	C	C	C	X		C	C		X	C	C	X			
BUILDING MATERIALS						X	X			X		X					

DISTRICT/USE	R1	R2	MF1	MF2	MF3	MCU	LI	MF-MU1	MF-MU2	NLSO	TOD	HA	RO	VC	PE	PA	OS
ESTABLISHMENT																	
BUSINESS SERVICE						X		X	X		X	X	C	X		X	
CANNABIS RETAIL ESTABLISHMENT											X	X					
CANNABIS WHOLESALE ESTABLISHMENT											X	X					
CANNABIS MEDICAL DISPENSARY											X	X					
CANNABIS CULTIVATOR ESTABLISHMENT																X	
CANNABIS MANUFACTURING ESTABLISHMENT (TIER 1)	X	X	X	X	X	X		X	X		X	X	X	X			
CANNABIS MANUFACTURING ESTABLISHMENT (TIERS 2 & 3)							X										
CANNABIS TESTING LABORATORY ESTABLISHMENT							X										
CAR WASH, INCIDENTAL															S		
CAR WASH												X					
CATERING SERVICES						X	C	X	X		X	X	C	X			
CHURCH	X	X	X	X	X	X		X	X		X	X	X	X	X	X	
CIRCUS, CARNIVAL						X									S		
CLINIC, MEDICAL						X	X	X	X	X	X	X		X			
CLINIC, VETERINARY						X		X	X		X	X				X	
CONGREGATE HOUSING	C	C	X	X	X	X		X	X		X		X	X		X	

DISTRICT/USE	R1	R2	MF1	MF2	MF3	MCU	LI	MF-MU1	MF-MU2	NLSO	TOD	HA	RO	VC	PE	PA	OS
CONSTRUCTION SERVICES ESTABLISHMENT						X	X				C						
CULTURAL FACILITY						X		X	X		X	X	S	X	S		
DAY CARE HOME	X	X	X	X	X	X		X	X		X	X	X	X			
DAY CARE FACILITY	C	C	C	C	C	X	C	X	X		X		C	C	C		
DORMITORY						X		X	X		S	X		C			
DRY CLEANER						X	X	X	X		X	X					
EATING ESTABLISHMENT DRIVE THROUGH											X	X					
EATING AND DRINKING ESTABLISHMENT						X	X	X	X		X	X		X	S		
FAMILY CARE HOME	X	X	X	X	X	X		X	X		x	X	X	X			
FAMILY CARE FACILITY	C	C	C	C	C	C	C	X	X		S	X	C	C	C		
FLEA MARKET						X				X					X		
FREIGHT RAIL DISTRIBUTION CENTER							X										
FUNERAL HOME						X				X			C	X			
GAS PUMPS											C	C					
GROUP HOUSING	C	C	C	C	C	X				X				X			
HOME OCCUPATION	X	X	X	X	X	X		X	X		X	X	X	X			
HOTEL, MOTEL – EXTENDED STAY						X		X	X		X	X		X	C		
HOTEL, MOTEL						X		X	X		X	X		X	C		
JUNK YARD																	

DISTRICT/USE	R1	R2	MF1	MF2	MF3	MCU	LI	MF-MU1	MF-MU2	NLSO	TOD	HA	RO	VC	PE	PA	OS
LANDFILL COLLECTION SITE							C									C	
LANDSCAPE SERVICE						X	X			X						X	
MAIL SERVICES						X		X	X		X	X		X			
MANUFACTURING - LIGHT						C	X				X	X					
MANUFACTURING - HEAVY							C										
MASSAGE THERAPY	C	C	C	C	C	C		C	C		C	C	C	C		C	
MEDICAL AND DENTAL LAB						C	X	C	C		X	X	C	C			
MINI-WAREHOUSE						C	X			X							
MOTOR VEHICLE MAINTENANCE SERVICE							C			X		X					
MOTOR VEHICLE REPAIR SERVICES							C					X					
NURSING, REST, CONVALESCENT HOME	C	C	C	C	C			X	X		X					C	
OFFICE, HOME	X	X	X	X	X								X	X		X	
OFFICE, PROFESSIONAL						X	X	X	X		X	X	C	X	S		
PARKING, COMMERCIAL						X	X				X			X	S		
PERSONAL SERVICES ESTABLISHMENT						X		X	X		X	X	C	X			
PRIVATE COMMUNITY USE	C	C	C	C	C	X		X	X		X	X		X		X	

DISTRICT/ USE	R1	R2	MF1	MF2	MF3	MCU	LI	MF- MU1	MF- MU2	NLSO	TOD	HA	RO	VC	PE	PA	OS
RECREATION USE, LOW INTENSITY	X	X	X	X	X	X	X	X	X		X	X	X	X	S	X	X
RECREATION USE, HIGH INTENSITY						X		X	X		X	X			S		
RECREATION USE MEDIUM INTENSITY						X		X	X		X	X		X	S		
RECREATIONAL VEHICLE SITE										X					S		
RECYCLING CENTER							C			X					C	C	
REPAIR SERVICES ESTABLISHMENT							X	X	X	X	X	X					
RETAIL, SALES W/ DRIVE-THROUGH						C	X	X	X		X	X			S		
RETAIL SALES						X	X	X	X		X	X		X	S		
ROADSIDE SALE OF AGRICULTURAL PRODUCTS																X	C
SALES, TEMPORARY						X		X	X		X	X		X	S		
SALES, OUTDOORS						X				X				X	S		
SCHOOLS	X	X	X	X	X	X		X	X		X	X	X	X	X	X	X
SHOPPING CENTER						X					X			X			
SMALL SCALE WIRELESS FACILITY						X	X	X	X	X	X	X	X	X	X		
SOLID WASTE COLLECTION POINT							C								C	C	
STABLE, PUBLIC															S	X	



DISTRICT/USE	R1	R2	MF1	MF2	MF3	MCU	LI	MF-MU1	MF-MU2	NLSO	TOD	HA	RO	VC	PE	PA	OS
STORAGE, OUTDOOR							X			X					S		
TAXI-CAB LIMOUSINE SERVICE						C	C			X				C	S		
TRANSIT PARK AND RIDE											X				X		
VEHICLE SALES												C			S		
WAREHOUSE						C	X			X		C					
WIRELESS TELE-COMMUNICATIONS FACILITY						C	C	C	C		C	C			C		