

(As of 9/28/22)

Strafford Vermont Unified Bylaw

Draft

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1. Authority and Purpose

1.1 Enactment

Whereas the Town of Strafford, Vermont, has created a Planning Commission and Development Review Board (DRB) and has adopted and has in effect a plan under the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, herein referred to as the Act, there is hereby established a Unified Bylaw for the Town of Strafford.

1.2 Title

This Unified Bylaw shall be known and cited as the Strafford Vermont Unified Bylaw.

1.3 Purpose

It is the purpose of this Unified Bylaw to further the purposes set forth in 24 V.S.A. § 4302 and more specifically:

1. To ensure that development conforms to the policies set forth in the Strafford Town Plan. The DRB shall refer to the goals, objectives, policies, and data contained in the Town Plan in making discretionary decisions.
2. To ensure that all development is compatible with the ecology, topography, geology, natural drainage, surface water runoff, groundwater resources, agricultural resources, historic resources, present and potential uses of land as identified in the maps and text of the Town Plan.
3. To ensure conformity and compatibility of development with other applicable laws, as presently enacted or as from time to time hereinafter enacted, including but not limited to the Flood Hazard Area Zoning Ordinance and the Health Ordinance.
4. To protect and provide for the health, safety, and general welfare of the Town of Strafford, its property owners and its inhabitants.
5. To guide the future growth and orderly development of the Town.
6. To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.
7. To provide for the conservation and protection of the natural, visual, and historic assets of the Town; the preservation of the existing rural character of the Town through the proper arrangement of uses on development parcels; the preservation of adequate open space between developments; and the preservation of land values and an adequate tax base.
8. To provide for the protection of natural habitat and wildlife corridors and to limit forest fragmentation.
9. To ensure that development encourages efficient and economic uses of energy that are consistent with current technology.
10. To ensure that adequate public facilities and services such as parks and open spaces, recreation areas, schools, police and fire protection are provided.
11. To control the rate of growth in Strafford in order to ensure that existing public services and facilities are available and will have a sufficient capacity to serve any proposed subdivision.

1.4 Effective Date

This Unified Bylaw or any amendments thereto, shall become effective upon date of their adoption by a vote of the Selectboard at a duly warned public hearing or by vote of the town by Australian Ballot. 24 V.S.A. § 4442(c)(1)

1.5. Interpretation

In their interpretation and application, the provisions of this Unified Bylaw shall be held to be minimum requirements. Except where this Unified Bylaw specifically provides to the contrary, it is not intended to repeal or annul, or in any way impair any permits previously issued.

However, where this Unified Bylaw imposes a greater restriction than the Vermont Statutes, or any other federal, state, or local permit, the provisions of this Unified Bylaw shall control.

1.6 Severability

The invalidity of any provision of this Unified Bylaw shall not invalidate any other part.

1.7 Status of Prior Ordinance

Upon the effective date of this Unified Bylaw, the Strafford Zoning Ordinance adopted June 1, 2005, as amended, and the Strafford Subdivision Regulation adopted June 15, 1996, as amended, are replaced by this Unified Bylaw.

1.8 Prior Development

An Administrative Permit or approval shall not be required under this Unified Bylaw for any development which has lawfully begun, received a permit, or within which a use has been lawfully established, prior to the adoption of this Unified Bylaw provided that the construction is substantially completed for its intended use within the expiration date of any permit, or if none, one year from the date of adoption of this Unified Bylaw. In the case of a subdivision, when the subdivision is already lawfully in existence, the owner of the property has lawfully filed a plat prior to adoption of this Unified Bylaw, or for which the owner of the property has received a permit or approval from the town shall be considered as prior development and shall not require a new permit under this Unified Bylaw unless such previous approvals have expired.

1.9 Administrative Officer - General Duties

Pursuant to 24 V.S.A. § 4448(a), the Administrative Officer shall be nominated by the Planning Commission and appointed by the Selectboard for a term of three (3) years. The Administrative Officer may be paid for his/her services, and may be removed for cause by the Board of Selectmen, after consultation with the Planning Commission. The Planning Commission may also nominate, and the Selectboard may approve, an Acting Administrative Officer to act in the capacity of the Administrative Officer when the Administrative Officer is absent or unable to conduct his/her duties.

The Administrative Officer is hereby appointed to administer this Unified Bylaw, as provided for in 24 V.S.A. § 4448. The Administrative Officer shall enforce literally the provisions of this Unified Bylaw and in so doing shall receive applications, inspect premises with permission,

maintain records, issue permits and perform other necessary tasks as may be necessary to carry out the provisions of this Unified Bylaw.

1.10 Development Review Board (DRB) - Creation and Powers

The Town of Strafford has established a DRB pursuant to 24 V.S.A. § 4460. Except as specifically provided herein and in accordance with the provisions of 24 V.S.A., Chapter 117, the DRB shall not amend, alter or invalidate this Unified Bylaw.

The DRB shall elect its own officers and shall adopt rules of procedure as it deems necessary to affect the provisions of this Unified Bylaw in accordance with 24 V.S.A. 4461 and 4440(c).

An appeal of a DRB decision shall be made to the Environmental Court.

1.11 Development Review Board (DRB) - General Duties

The DRB shall discharge its duties in accordance with the procedures outlined in this Unified Bylaw. The DRB shall have the power to act on the following:

1. To hear and rule on appeals concerning any order, requirement, decision, or determination made by the Administrative Officer in the administration and enforcement of this Unified Bylaw in accordance with Section 8.3.
2. To hear and approve or deny a request for Conditional Use in accordance with Section 6.1.
3. To hear and approve or deny a request for Site Plan Approval in accordance with Section 6.2.
4. To hear and grant or deny a request for a waiver in accordance with Section 6.3.1.
5. To hear and grant or deny a request for a variance in accordance with Section 6.3.2 and 3.
6. To hear and approve or deny a request for an Administrative Permit under 24 V.S.A. § 4421 (4) (B) relating to the placement of structures within the lines of proposed public facilities.
7. To hear and approve or deny a proposed Planned Unit Development in accordance with Section 5.6.
8. To hear and approve or deny a proposed subdivision in accordance with Section 7.

2. Application of Bylaw

2.1 Administrative Permits - General Requirements

No land development, change in use or subdivision of land may occur within the Town of Strafford without an Administrative Permit issued by the Administrative Officer unless specifically exempted by state or federal law, or Section 2.2 of this Unified Bylaw.

Except where exempted under this Unified Bylaw, no person shall undertake the following without an Administrative Permit as provided for in this Unified Bylaw:

- the division of a parcel into two or more lots;
- the combination of parcels;
- the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure;
- any mining, excavation or fill;
- the construction of a private road or utility;
- any change in the type or intensity of use of any building or other structure, or land;
- any development in the Flood Hazard Overlay District;
- any lot line adjustment.

If an application for an Administrative Permit is for a permitted use in compliance with this Unified Bylaw and is complete, with the correct fee, no hearing will take place on the application and a permit shall be issued the Administrative Officer within 30 days and become valid 15 days after issuance unless appealed.

2.1.1 Application for Permit

An application for an Administrative Permit shall be filed with the Administrative Officer on forms approved by the DRB, and accompanied by fees set by the Selectboard. In addition to the information requested on the form, additional information may be required such as surveys, site plans, or drawings to enable the Administrative Officer or DRB to adequately review the proposed development. An application shall not be accepted unless:

1. signed by the owner(s) of record or the owner's authorized agent and
2. accompanied by the required fees.

2.1.2 Relationship of Administrative Permit to Other Approvals/Permits

An Administrative Permit granted under this Unified Bylaw does not relieve the applicant of the requirement for any other local, state or federal permit under other regulations. When other municipal permits, approvals, or authorizations are required, the Administrative Officer shall notify the applicant and refer the application within 30 days to the appropriate body. The

You need a permit!

See chart on page 32.

Just because a use or type of development is "permitted" it does not mean you don't need a permit. You do!

Permits allow the town to track development throughout town and to be aware of any potential health or safety hazards that might exist.

Some uses are exempted from the permitting process by statute or by the town. See section 2.2 for more information.

If you are unsure whether or not you need a permit, contact the Strafford Administrative Officer.

Administrative Officer should coordinate a unified effort on behalf of the municipality in administering the various local development review programs. These include:

- An Access Permit from the Selectboard if there is a new or modified access onto the property. This is not a permit under this Unified Bylaw, but is a prerequisite to most Administrative Permits.
- Conditional Use, site plan or subdivision approval from the DRB as required under this Unified Bylaw prior to the issuance of an Administrative Permit.
- The Administrative Officer should inform any person subdividing a lot that a state waste water permit or deferred permit on the deed is required.

The Administrative Officer should also inform any person applying for municipal permits or authorizations that the person should contact the regional Permit Specialist employed by the Agency of Natural Resources to fill out a Project Review Sheet in order to assure timely action on any related state permits. The applicant has the legal responsibility to identify, apply for, and obtain relevant state permits.

2.1.3 Completion or Expiration of Permit Application

An application for an Administrative Permit will not be considered complete by the Administrative Officer and acted upon until it includes:

1. all required information and fees,
2. any applicable and necessary approvals as required by law, and
3. any permit required for the development of land within the special flood hazard area under the Strafford Flood Hazard Area Zoning Ordinance.

When additional information is requested from the applicant by the Administrative Officer in order to consider the permit application complete, and such information is not presented within 90 days of the request, the application will expire and be deemed rejected.

2.1.4 Approval or Denial of Permit

Within 30 days of the submission of a completed application under Section 2.1.3, the Administrative Officer shall either issue or deny the Administrative Permit or refer the application to the DRB. If the permit is denied, the Administrative Officer shall notify the applicant in writing, by certified mail stating the reasons for denial, and the procedure for appeal.

If the Administrative Officer fails to act within 30 days, a permit shall be deemed issued on the 31st day.

2.1.5 Effective Date of Zoning Permit and Posting

Administrative Permits shall not take effect until 15 days after issuance by the Administrative Officer, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of the appeal. Each permit or notice of permit issued under this section shall contain a statement of the period of time within which an appeal may be taken.

Within three (3) days following the issuance of an Administrative Permit, the Administrative Officer shall:

1. deliver a copy of the permit to the listers of the municipality;
2. post a copy of the permit at the Town Office until the time for appeal has passed; and
3. deliver to the owner notice of permit on a form prescribed by the DRB to be posted within view from the public right-of-way most nearly adjacent to the subject property.

2.1.6 Filing

After the 15-day appeal period has closed, but within 30 days after an Administrative Permit has been issued, The Administrative Officer shall file a copy of the Administrative Permit, along with any necessary approvals, conditions, maps or drawings in the Town's Permit files in the Town Office where full copies of all municipal land use permits are kept.

For permits granted within the Floodplain Overlay District the Administrative Officer shall properly file and maintain a record of:

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

The Town Clerk may charge the applicant for additional recording fees as allowed by law.

2.1.7 Commencement of Development

All projects as authorized by an Administrative Permit, shall be commenced within a period of two (2) years of the effective date of the permit unless construction has been delayed by litigation. A permit extension may be requested from the Administrative Officer for an additional two (2) years. Projects not commenced by the time of expiration of an Administrative Permit must reapply for a new permit and any other necessary approvals.

2.1.8 Appeal of Administrative Officer's Actions or Administrative Permit

See Section 8.3 for information on the appeals process.

2.2 Exempt Land Development

This Unified Bylaw does not regulate or require an Administrative Permit for the uses or structures noted below; however, if located in a flood hazard area a permit may be required under the Flood Hazard Area Zoning Ordinance.

1. normal maintenance and repair of an existing building or structure that does not result in any change to the footprint or height of the structure or use;
2. interior renovations to a building or structure that does not change the present use of the building or structure;
3. reconstruction of a non-conforming structure, or resumption of a non-conforming use as allowed under Section 3.1;
4. accepted agricultural and forestry practices, including the construction of farm structures, provided setback requirements are met. See 24 V.S.A § 4413(d). Such structures shall meet all setback requirements under this Unified Bylaw unless specifically waived by the Secretary of Agriculture;
5. power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Town Plan;
6. telecommunication facilities which are regulated under 30 V.S.A. §248(a). Such Facilities, however, should conform to policies and objectives specified for such development in Section 3.7.
7. fuel and propane tanks not used for commercial uses;
8. construction of a trail, woods road or driveway (Access Permit may be needed from Town or State);
9. fences or walls not exceeding 8 feet in height;
10. drainage facilities or similar work;
11. dish antennae twenty-four inches or less in diameter, provided setback requirements are met;
12. minor structures with a floor area not more than 120 square feet and less than 35 feet in height that meet setback requirements;
13. small and temporary signs as allowed under Section 5.3; and
14. any use or structure not clearly regulated by this Unified Bylaw and determined by the Administrative Officer to be of such a minimal nature as to have no, or only a negligible (de minimus) impact on the property and surrounding land uses, and in conformance with the Town Plan. Such a

decision is appealable to the DRB.

15. Accessory dwelling units located within single-family unit residential structures, so long as the building footprint (excepting steps/new entryway) and number of bedrooms is unchanged. This exemption does not apply in flood hazard areas.

2.3 Certificate of Compliance

To ensure that all buildings and structures altered, enlarged, moved or constructed and all uses of land, buildings and structures are in accordance with the provisions of the Administrative Permit authorizing such activity, an applicant must obtain a Certificate of Compliance prior to the use or occupation of any land, building, structure or part thereof.

In order to receive a Certificate of Compliance, an applicant must inform the Administrative Officer in writing that the project is completed and meets the requirements of the Administrative Permit and shall provide the Residential Building Energy Standards (RBES) or commercial certification as applicable. The request for a Certificate of Compliance shall be acted upon by the Administrative Officer within fifteen (15) days of receiving the request. A Certificate of Compliance shall be issued by the Administrative Officer upon determination, after such inspection deemed necessary, that the building, structure or use is in substantial compliance with the standards and conditions of the Administrative Permit.

The Certificate of Compliance shall be recorded in the Town Land Records.

If the Administrative Officer refuses to issue a Certificate of Compliance, the reasons shall be stated in writing and sent immediately by certified mail to the applicant at the address indicated on the application. An Appeal from a decision of the Administrative Officer to deny a Certificate of Compliance shall be taken to the DRB. If the Administrative Officer fails to act within 15 days of the applicant's request for a Certificate of Compliance, such failure to act shall be deemed an approval, and the DRB shall issue the Certificate.

2.3.1 Inspections

The Administrative Officer, being duly authorized to enforce this Unified Bylaw, is empowered to enter upon land or ~~any~~ building for the purpose of assuring that any land development, as defined or approved, is in compliance with the requirements of this Unified Bylaw and any Administrative Permit as may have been granted. Prior to entry on private property the Administrative Officer shall obtain permission of the owner and any other involved party of interest.

3. General Regulations

3.1 Existing Small Lots

Any lot held in separate and non-affiliated ownership from surrounding lots and in existence on the effective date of this Unified Bylaw, 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 with a minimum width or depth dimension of forty feet. Nothing in this section shall be construed so as to prevent the sale or transfer of such a lot.

If such non-conforming lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for the purposes of this section. However, such lot shall not be deemed merged and may be separately conveyed, if:

1. the lots are conveyed in their preexisting, non-conforming configuration;
and
2. on the effective date of this Unified Bylaw, each lot has been developed with a water supply and wastewater system; and
3. at the time of the transfer, each water supply and wastewater system is functioning in a lawful manner; and
4. deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater disposal systems in case a wastewater system fails to function as defined under 24 V.S.A. § 4412 (2) (B) (iv). If subsequent to conveyance a waste water system fails, the owner shall be required to obtain from the Agency of Natural Resources, a waste water permit or certification that the system has been modified or replaced and no longer constitutes a failed system.

3.2 Required Frontage On, or Access To, Public Roads or Waters

No land development may be permitted on a lot that does not have at least fifty (50) feet of frontage, or an easement as specified below, on a public road or public water. No lot may be created without such frontage.

A lot that does not have at least 50 feet of frontage on a public road or public water, may be developed if the owner of the lot submits to the DRB and the affected parties an easement acceptable to the affected parties which establishes a permanent right-of-way of at least 50 feet in width, the benefit and burden of which shall run permanently with the lot and the property subject to the easement.

3.3 Lot Line Adjustments

An Administrative Permit shall be required for any lot line adjustment. An Administrative Permit for a minor lot line adjustment between two adjacent lots, when there is no change in the number or use of lots and the adjustment involves less than one acre of land of any involved lot, may be issued by the Administrative Officer. An Administrative Permit for any other lot line adjustment shall may only be issued by the DRB. For the purposes of this Unified Bylaw a lot line adjustment is not considered a subdivision. In no case shall a nonconforming lot be created by a lot line adjustment. All lot line adjustments shall be recorded with the Town Clerk by filing a deed.

3.4 Lot Annexation

An Administrative Permit for lot annexation that results in the merger of any existing adjacent lots in their entirety into a single lot may be issued by the Administrative Officer. All annexations shall be recorded with the Town Clerk by filing a deed and survey. The survey may be of the entire parcel or of the individual parcels which are annexed. Subsequent division of any lots resulting from such an annexation shall require a subdivision approval. Temporary Structures and Buildings

Non-compliant or temporary structures or buildings may be erected or placed on a lot without regard for the lot area, structural height, frontage, and setback requirements of this Unified Bylaw upon approval of the Administrative Officer. Prior to granting an Administrative Permit for a temporary structure or building, the Administrative Officer shall first find that its intended purpose is only temporary and that adequate assurance is established that such a structure or building shall remain on the lot for a period not to exceed twelve (12) months from date of issuance of such permit. Permits for temporary structures or buildings shall be for a period of one (1) year. Permits may be extended once for a period of one (1) year upon application to the Administrative Officer.

3.5 Temporary Structures and Buildings

Non-compliant or temporary structures or buildings may be erected or placed on a lot without regard for the lot area, structural height, frontage, and setback requirements of this Unified Bylaw upon approval of the Administrative Officer. Prior to granting an Administrative Permit for a temporary structure or building, the Administrative Officer shall first find that its intended purpose is only temporary and that adequate assurance is established that such a structure or building shall remain on the lot for a period not to exceed twelve (12) months from date of issuance of such permit. Permits for temporary structures or buildings shall be for a period of one (1) year. Permits may be extended once for a period of one (1) year upon application to the Administrative Officer.

3.6 Sewage Disposal

An applicant for an Administrative Permit for a land use ~~land~~ that requires a Potable Water and Wastewater Permit from the Agency of Natural Resources shall obtain such permit or deferral of permit prior to the issuance of an Administrative Permit.

In addition, pursuant to the Agency of Natural Resources rules related to small scale wastewater treatment and disposal, certain activities require a State permit. These activities include camps, tent sites, and recreational vehicles, campers, and more than three (3) automobile trailers.

3.7 More Than One Principal Building Per Lot

With the exception of Planned Unit Developments, no more than one principal building may be placed on a lot unless the DRB grants Conditional Use Approval. In rendering approval, the Board shall find the following:

1. the lot on which such buildings (and any buildings accessory to such buildings) are located is eligible to be subdivided into two separate and individual lots, and that all lots, their respective uses and structures, conform to all applicable provisions of this Unified Bylaw;
2. a scaled site plan or survey map has been prepared that depicts the location of all existing and proposed buildings, structures, uses, water supply systems, wastewater disposal systems, roads, access drives, and parking areas on the lot;
3. all permanent roads or access drives leading to and from the lot, that connect to Town highways, have been approved by the Town of Strafford for access to such highways;
4. if the construction, alteration, or replacement of onsite sewage disposal systems is incidental and necessary to a proposed building, such systems must satisfy minimum design and construction standards required by the Vermont Agency of Natural Resources. A Wastewater Permit issued by the State or a letter from a Vermont registered engineer stating that the systems are in compliance with such rules and any applicable permit shall satisfy the requirements of this section.

3.8 Height Limitations

Except for farm structures, silos, private home antennae, belfries, steeples, cupolas, water tanks, chimneys, solar equipment, small-scale wind energy systems or other appurtenances not used for human occupancy, all structures, unless otherwise stated, shall not exceed a height of thirty five (35) feet above average ground level unless a waiver is approved by the DRB.

3.9 Exterior Lighting

All lights shall be shielded so that light is directed downward and not into the night sky. Lighting shall be directed towards the property and not towards neighboring properties. Lighting shall be placed to avoid glare or creation of a traffic hazard. Lighting shall be consistent with the character of the neighborhood. For commercial or industrial uses, substantial changes to exterior lighting, as determined by the Administrative Officer, requires site plan review.

3.10 Equal Treatment of Housing

This Unified Bylaw shall not have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing, except on the same terms and conditions as conventional housing is excluded. How does this impact historic village centers?

3.11 Accessory Dwelling Units

Notwithstanding other requirements of this Unified Bylaw, and except for the provisions of the Strafford Flood Hazard Area Zoning and pursuant to 24 V.S.A. § 4412 (1) (E-F), an accessory dwelling unit shall be allowed as a permitted use in districts where one family dwellings are permitted. An accessory dwelling unit shall meet the following requirements:

1. floor space is limited to 50 percent (50%) of the existing net living area of the primary dwelling or 1500 square feet, whichever is larger; and
2. the lot is occupied by the owner; and
3. the property has sufficient proven wastewater capacity to allow the additional housing unit as evidenced by a Vermont Agency of Natural Resources Potable and Wastewater Permit.

The accessory dwelling may be attached or detached from the primary dwelling unit. There may be only one accessory dwelling, whether attached or detached, per primary dwelling. A detached accessory dwelling shall not be subdivided from the lot containing the primary residence unless the resulting lots meet the minimum area and dimensional standards for the district as well as the setback, coverage and parking provisions of this Unified Bylaw.

3.12 Day Care Facilities

A state registered day care facility or licensed family care home serving six or fewer full-time children and four part-time children shall be considered by right to constitute an accessory use to a dwelling and is exempt from local review provided a certified letter of approval from the Vermont Agency of Human Services is filed with the Administrative Officer.

A state registered day care facility or licensed family care home serving more than six full-time and four part-time children shall require Conditional Use Approval and Site Plan Approval.

A day care facility or family care home is defined in 33 V.S.A. § 4902 (3) (A).

3.13 Residential Care and Group Homes

A residential care or group home serving not more than eight persons who are developmentally disabled or physically handicapped shall be considered by right to constitute a single-family dwelling.

3.14 Mobile Home Parks

Mobile home parks shall be constructed and operated in accordance with Title 10 Chapter 153, as follows. In addition to receiving approval from the town DRB, mobile home parks are required to register with the Vermont Agency of Natural Resources.

3.14.1 No mobile home or mobile home park shall be located within 100 feet of any stream, pond, lake or wetlands.

3.14.2 A minimum of 8,000 square feet lot area shall be provided for each mobile home in each mobile home park, including at least 5,000 square feet for each mobile home site plus at least 3,000 square feet for each mobile home in common open space, exclusive of roads. Such open space shall be accessible to all residents of the mobile home park, and shall have a minimum dimension of 30 feet.

These minimums shall be reduced by 5% of total otherwise required for each of the facilities which are provided in the park:

Central recreational building
Central laundry and drying facilities
Central television antenna system
Central maintenance shed
Underground utilities, including fuel storage.

3.14.3 At least 2 trees of at least 1-inch caliper shall be planted on each mobile home site. All trees required under this section shall be suitably maintained by the owner or lessee.

3.14.4 All buildings not physically connected must be at least 15 feet apart, except as otherwise permitted under Site Plan review.

3.15 Nonconformities

3.15.1 Non-Conforming Use

A non-conforming use may be continued, subject to the following conditions:

1. A nonconforming use may be changed to another nonconforming use with the approval of the DRB, subject to conditional use review and a determination by the DRB that the new use is less disruptive and more similar in character and impact with other uses in the district than the pre-existing nonconforming use.
2. If a non-conforming use has been discontinued for a period of one (1) year, it shall not be re-established.

3.15.2 Non-conforming Structures

A non-conforming structure may be continued, subject to the following conditions:

1. Except as allowed by waiver or variance, provided under Section 6.5, non-conforming structures shall not be moved, enlarged, altered, extended, or reconstructed in any way that increases the degree of non-conformity (See definitions: Nonconformity, Degree of. See also: Flood Hazard Area Zoning Ordinance.) Additions to nonconforming structures which result in coverage of additional lot area but do not extend the structure any closer to a roadway or property line are not be considered as an increase in the degree of non-conformity. Additions to a nonconforming structure may not create a greater nuisance, detriment to the public health, safety or welfare than the original nonconforming structure.
2. A non-conforming structure which has been damaged or destroyed by any cause may be reconstructed to its prior condition, but only if such reconstruction is commenced within one (1) year and completed within two (2) years of such damage or destruction. If the nature of the damage or destruction is such that reconstruction within the foregoing time period would create a hardship, the DRB may permit such reconstruction within such time as it deems reasonable.
3. Non-conforming signs may not be continued.

3.16 Buffer Requirements

No structures shall be allowed within 50 feet of wetlands (100 ft. for Class I wetlands), surface waters, or the top of the bank of designated permanent streams, except those that by their nature must be located near streams. No ground disturbance, except for agriculture uses, shall be allowed within 35 feet of wetlands, surface water or the top of the banks of designated permanent streams, excepting that which is incidental to bridge or culvert construction, or permitted bank stabilization. This provision shall apply to all rivers and streams that appear on USGS topographical maps.

3.17 Emergency Services

Land development shall be designed to ensure adequate provision of facilities necessary for emergency services. Access drives, including appropriate turnarounds, shall be designed to safely accommodate emergency vehicles. Fire ponds and/or dry hydrants may be required when determined necessary for water supply by the Strafford Fire Department.

3.18 Wireless Telecommunication Facilities Policies

3.18.1 Town Policies

1. It is the policy of the Town to oppose siting of telecommunication structures, including ones which are preempted from Town regulations under 30 V.S.A. § 248(a), that undermine the public investment in land use planning, including the identification, protection, and preservation of natural, agricultural, scenic and historic features, open space preservation, scenic roads, waterways and views, outdoor recreation, tourism, public facilities and services, and land resources.

2. It is the policy of the Town that siting of telecommunication structures shall be treated in a manner consistent to the siting recommendations of energy generation and transmission facilities set forth in the Town Plan, Chapter X: Energy.
3. It is the policy of the town consistent with state planning goals identified in 24 VSA 4302 {c}(5) & (6) that Telecommunication structures shall be sited to avoid negative impacts on important natural and historic features of the Town of Strafford, VT landscape, and on forest blocks, wildlife and habitat connectors-

3.19 Wireless Communication Facilities

3.19.1 Purpose: The purpose of this Section is to protect the public health, safety and general welfare of the Town of Strafford. This Section shall:

- A. Preserve the character and appearance of the Town of Strafford while allowing adequate telecommunications services to be developed.
- B. Protect the scenic, historic, environmental, and natural resources of the Town of Strafford.
- C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of telecommunications facilities and towers.
- D. Minimize tower and antenna proliferation by requiring the sharing of existing communications facilities, towers and sites where possible and appropriate.
- E. Minimize the adverse visual effects of towers through careful design and siting standards.
- F. Encourage, through performance standards and incentives, the location of towers and antennas in non-residential areas and away from other sensitive areas such as schools, hospitals and childcare facilities.

3.19.2 Authority: Pursuant to 24 V.S.A. Section 4401 et seq. the DRB of the Town of Strafford is authorized to review, approve, conditionally approve, and deny applications for telecommunications facilities, including sketch, preliminary and final plans, and installation. Pursuant to 24 V.S.A. Section 4440 (d), the DRB is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for reasonable costs thereof.

3.19.3 Consistency with Federal Law: In addition to other findings required by this Section, the DRB shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. This Section does not:

- A. Prohibit or have the effect of prohibiting the provision of personal wireless services.
- B. Unreasonably discriminate among providers of functionally equivalent services.
- C. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

3.19.4 Permits: Telecommunications towers or facilities may be permitted as conditional

uses upon compliance with the provisions of this Section in the Rural Residential I & II Zoning Districts.

An applicant for a telecommunications tower or facility permit must be a Telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the Administrative Officer at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

No construction, alteration, modification (including the installation of antennas for new uses) or installation of any telecommunications tower or facility shall commence without a conditional use permit first being obtained from the DRB.

In addition to information otherwise required in the Town of Strafford's Unified Bylaw, applicants for telecommunications towers or facilities shall include the following supplemental information:

- A. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and its principal office location shall be provided.
- B. The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
- C. The names and addresses of the record owners of all abutting property.
- D. A report, which includes an engineer's stamp and registration number from:
 1. A qualified and State of Vermont licensed professional structural engineer that describes the facility height, design and elevation.
 2. A qualified, professional radio frequency (RF) engineer that documents the height above grade for all proposed mounting positions for antennas to be co-located on a telecommunications tower or facility and the minimum separation distances between antennas.
 3. A qualified and State of Vermont licensed professional structural engineer that describes the tower's proposed capacity, including the number, height, and type of antennas that the applicant expects the tower to accommodate.
 4. A qualified, professional RF engineer that documents steps the applicant will take to avoid interference with any established public safety telecommunications, and includes both an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies.
 5. A qualified and State of Vermont licensed professional engineer that, in the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures within 30 miles of the proposed site cannot adequately be modified to provide adequate coverage and adequate capacity to the Town of Strafford.
 6. A qualified, professional RF engineer that describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.

7. A qualified, professional RF engineer that describes the output frequency, number of channels and power output per channel for each proposed antenna.
 8. A qualified, professional RF engineer that includes written five-year plan for use of the proposed telecommunications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.
 9. A qualified and State of Vermont licensed professional engineer that demonstrates the tower's compliance with the municipality's structural standards and setbacks for towers and support structures.
 10. A qualified and State of Vermont licensed professional engineer that describes the radio frequency radiation (RFR) at the site, whether or not the applicant is regulated by the FCC and the basis for the statement pertaining to the RFR.
 11. A qualified and State of Vermont licensed professional engineer that provides proof that at the proposed site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR). The DRB may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.
 12. A qualified and licensed professional engineer that includes other information required by the DRB that is necessary to evaluate the request.
- E. A letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Section.
 - F. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Administrative Officer at the time an application is submitted).
 - G. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
 - H. A copy of the application or draft application for an Act 250 permit, if applicable.
 - I. The permit application shall be signed under the pains and penalties of perjury.

3.19.5 Site Plan Requirements: In addition to the site plan requirements found elsewhere in the Town of Strafford's Unified Bylaw, site plans for telecommunication facilities shall include the following supplemental information:

- A. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed tower site.
- B. Vicinity Map showing the entire vicinity within a 2,500-foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall

indicate the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower.

- C. Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.
- D. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
- E. In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
- F. Construction sequence and time schedule for completion of each phase of the entire project.
- G. Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.

3.19.6 Co-Location Requirements: An application for a new telecommunications tower shall not be approved unless the DRB finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

- A. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
- B. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost.
- C. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFI in violation of federal standards or requirements.
- D. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFR in violation of federal standards or requirements.
- E. Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Vermont.
- F. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
- G. There is no existing or approved tower in the area in which coverage is sought.
- H. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

3.19.7 Tower and Antenna Design Requirements: Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista,

historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for its intended use and public safety.

- A. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color.
- B. In order to protect public safety, and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the DRB that the additional height is necessary in order to provide adequate coverage in the Town of Strafford or to accomplish co-location of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.
- C. All buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the DRB) shall meet the minimum setback requirements of the underlying zoning district or setback requirements specified in this bylaw. If the minimum setbacks of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum distance from the tower to any property line shall be no less than the height of the tower, including antennas and other vertical appurtenances.
- D. Ground mounted equipment or antennas as well as buildings and structures that are accessory to a tower, shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding area. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

3.19.8 Amendments to Existing Telecommunications Facility Permit: An alteration or addition to a previously approved telecommunications facility shall require a permit amendment when any of the following are proposed:

- A. Change in the number of buildings or facilities permitted on the site;
- B. Material change in technology used by the telecommunications facility; or
- C. Addition or change of any equipment resulting in greater visibility or structural windloading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

3.19.9 Tower Lighting, Signage and Noise Generated by Facility: Towers shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA or other federal or state authority for a particular

tower because of its height. Any lighting required solely as a result of height may be subject to review by the DRB. Heights may be reduced to eliminate the need for lighting or another location selected. No commercial signs or lettering shall be placed on a tower. Noise at the site perimeter from the operation of any machinery or equipment shall be minimized.

3.19.10 Antennas Mounted on Structures, Roofs, Walls, and Existing Towers: The placement of telecommunications antennas on existing buildings, structures, roofs or walls in conformance with other sections of this Unified Bylaw may be approved by the Administrative Officer, provided the antennas met the requirements of this Section, upon submission of:

- A. A final site and building plan.
- B. A report prepared by a qualified engineer, licensed to practice in the State of Vermont, indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.

3.19.11 Temporary Wireless Communication Facilities: Any telecommunication facility designed for temporary use is subject to the following:

- A. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town of Strafford.
- B. Temporary telecommunications facilities are permitted for no longer than five days use during a special event.
- C. The maximum height of a temporary facility is 50 feet from grade.
- D. Temporary facilities must comply with all applicable portions of these regulations.

3.19.12 Interference with Public Safety Telecommunications: No new telecommunications facility shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing or operating new service or changes in existing service, telecommunications providers shall notify the municipality at least ten calendar days in advance of such changes and allow the municipality to monitor interference levels during that testing process.

3.19.13 Continuing Obligations: Upon receiving a permit, the permittee shall ~~annually~~ demonstrate annually that he or she is in compliance with all FCC standards and requirements regarding RFR, and provide the basis for his or her representations. The permittee shall provide a list of the most recent RFR readings at the site, there distances from the tower/transmitter, dates of the readings and the name of the person or company who took the readings.

3.19.14 Abandoned, Unused, Obsolete, Damaged or Dangerous Towers or Portions of Towers: Abandoned or unused towers or portions of towers and their facilities shall be removed as follows:

- A. The owner of a facility/tower shall annually, ~~on January 15,~~ file a declaration with the Town of Strafford's Zoning Administrator annually, on January 15, certifying the continuing safe operation of every facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and considered abandoned.
- B. Abandoned or unused towers and associated facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the DRB. In the event the tower is not removed within 180 days of the cessation of operations at a site, the Town shall notify the owner and may remove the tower and all associated facilities. Costs of removal shall be assessed against the property or tower owner.
- C. Unused portions of towers shall be removed within 180 days of the time that such portion is no longer used for antennas. The replacement of portions of a tower previously removed requires the issuance of a new telecommunications facility permit.
- D. An owner who has failed to file an annual declaration with the Zoning Administrator by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.

3.19.15 Maintenance of Telecommunications Facilities Insurance and Escrow for Dismantlement: The telecommunications facility owner shall maintain adequate insurance on all telecommunications facilities. All facility sites shall be properly fenced and identified by signage that indicates the presence of RFR and any other appropriate warnings required by permit conditions. Permittee shall provide the Town with an Escrow payment to be determined by the Town, based on a percentage of the cost of the tower and on the degree of difficulty in reaching the location of the tower, to be held ~~for~~ to covering the costs of dismantling abandoned tower facilities.

3.19.16 Fees: Fees for filing an application to build or alter a telecommunications facility shall be based on the Town of Strafford's fee schedule plus the reasonable costs of an independent technical assessment of the application.

3.19.17 Definitions:

Adequate Capacity: Capacity is considered to be "adequate" if the grade of service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).

Adequate Coverage: Coverage is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit error rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least 90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

Affiliate: When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

Alternative Design Tower Structure: Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers (see also Stealth Facility).

Antenna: A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna Support Structure: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

Applicant: A person who applies for a telecommunications facility siting. An applicant can be the telecommunications service provider or the owner of the property.

Available Space: The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

Base Station: The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

Bulletin 65: Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.

Cell Site: A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include others uses associated with and ancillary to cellular communications transmission.

Cellular Service: A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

Cellular Telecommunications: A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

Cellular Telecommunications Facility: Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Channel: The segment of the radiation spectrum to or from an antenna, which carries one signal. An antenna may radiate on many channels simultaneously.

Co-location: Locating wireless communications equipment from more than one provider on a single site.

Common Carrier: An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated rates.

Communication Equipment Shelter: A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.

Communication Tower: A guyed, monopole, or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment,

containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

Communications Facility: A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers or accessory buildings.

dBm: Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

dBu: Unit of measure of the electric field strength of a signal, expressed in an absolute measure for describing service areas and comparing different transmitting facilities independent of the many variables (see dBm above) introduced by different receiver configurations.

Directional Antenna: An antenna or array of antennas designed to concentrate a radio signal in a particular area.

Dish Antenna: A dish like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

Electromagnetically Able: The determination that the signal from and to the proposed new antenna will not significantly interfere with the existing signals from and to other facilities or antennas located on the same tower or structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

Facility Site: A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

FCC: Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

FCC 97-303: A Report and Order that sets new national standards for exposure to radio frequency emissions from FCC-regulated transmitters.

Frequency: The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

GHz: Gigahertz: One billion hertz.

Grade of Service: A measure of the percentage of calls that are able to connect to the base station during the busiest hour of the day. Grade of service is expressed as a number, such as p.05 - which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better grade of service.

Hertz: (Hz): One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

Location: References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

MHZ: Megahertz, or one million hertz.

Micro-Cell: A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

Microwave: Electromagnetic radiation with frequencies approaching 1,000 MHZ, including UHF, extending to infrared frequencies; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

Microwave Antenna: A dish like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

Modification of an Existing Telecommunications Facility: Any change, or proposed change, in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit.

Modification of an Existing Tower: Any change, or proposed change, in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.

Monitoring: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure from telecommunications facilities, towers, antennas or repeaters.

Monitor Protocol: The testing protocol, such as the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which is to be used to monitor the emissions and determine exposure risk from telecommunications facilities.

Monopole: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

Omnidirectional Antenna: An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.

Personal Communications Services or PCS: Digital wireless telephone technology such as portable phones, pagers, faxes, and computers. Such mobile technology may allow each consumer the same telephone number wherever he or she goes. Also known as Personal Communication Network (PCN).

Personal Wireless Services: Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

Preexisting Towers and Antennas: Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

Radial Plots: Radial plots are the result of drawing equally spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial. A threshold plot uses a mark to indicate whether that point would be strong enough to provide adequate coverage - i.e., the points meeting the threshold of adequate coverage. The drawback is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.

Radiated-Signal Propagation Studies or Coverage Plots: Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tools for determining whether the telecommunications equipment will provide adequate coverage for that site.

Repeater: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

Roof and/or Building Mount Facility: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

Scenic View: A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or a nearby object.

Self-Supporting Tower: A communications tower that is constructed without guy wires.

Spectrum: Relating to any transmissions or reception of electromagnetic waves.

Stealth Facility: Any communications facility that is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof mounted antennas, building mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also Alternative Design Tower Structure.)

Structurally Able: The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

System: The communications transmission system operated by a telecommunications service provider in the municipality or region.

Telecommunications Facility: All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

Telecommunications Provider: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

Temporary Wireless Communication Facility: Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

Tiled Coverage Plots: Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over the area of interest, usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots, but is preferable for comparative analysis.

Tower: A vertical structure for antenna(s) that provide telecommunications services.

View Corridor: A three dimensional area, extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360 degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Whip Antenna: A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more). Also called omnidirectional, stick or pipe antennas.

3.20 Wind Energy Generation Facilities

Except as preempted by 30 V.S.A. Section 248a wind energy generation facility shall be considered a Conditional Use under this Unified Bylaw. Accordingly, no such facility shall be constructed, erected, installed, or altered unless Conditional Use Approval is first granted by the DRB and an Administrative Permit issued.

In rendering approval for such facility, the Board shall find that:

- A. height of the facility does not exceed 75 feet;
- B. minimum setbacks are met

4. Zoning District Regulations

4.1 Zoning Map

The boundaries of the zoning districts established in Section 4.4 are depicted on a map designated as the Town of Strafford Zoning District Map. This map is made a part of this Unified Bylaw, together with all future amendments or attachments.

A copy of the Zoning District Map, with attachments, shall be used and interpreted by the DRB in the administration and enforcement of this Unified Bylaw and shall be on file with the Administrative Officer and Town Clerk.

While not an official part of the Zoning District Map, prospective applicants whose land may be subject to flooding should consult the Flood Hazard Area and Fluvial Erosion Hazard Maps on file with the Town Clerk. Wetlands may exist in all districts. Prospective applicants should consult the Agency of Natural Resources for jurisdictional determinations and further regulations and information about wetlands regulations.

4.2 Determination and Interpretation of District Boundaries

If uncertainty exists with respect to the location of boundaries of any District on the Official Zoning District Map, the location of such boundary shall be determined by the Administrative Officer as follows: a) boundaries indicated as following roads, railroad or utility rights-of-way shall be interpreted to follow the centerlines of such features; b) boundaries indicated as following rivers or streams shall be interpreted to follow the channel centerline and shall move with the centerline of such features; c) boundaries indicated as following shorelines shall be interpreted as the normal mean water level.(In the event of change in the shoreline the boundary shall move with the shoreline.); d) boundaries indicated as following lot lines shall be interpreted to follow the delineated property boundary as it existed as of the effective date of the Zoning District Map as adopted or amended; e) boundaries indicated as parallel or perpendicular to, or extensions of the above features, shall be so interpreted on the ground.

If a lot is located in two or more districts, the portion of land in each district shall be governed by the rules of that district, provided that there is sufficient acreage in such district to allow for a conforming lot. When lots only have a complying portion in one district, the entire lot shall be treated as being in that district. Lots without conforming dimensions in any district will be treated as being entirely in the district with the majority of the lot acreage.

An applicant or an interested party may appeal the Administrative Officer's determination of a zoning district boundary to the DRB.

4.3 Uses in Various Districts

Table 1 of Zoning Districts and Uses, on page 32, designates the uses allowed and the kind of approval necessary for specified activities within each district. In addition, Table 2, on page 33, specifies minimum lot area, frontage requirements, set backs and height limitations in each of the districts. The column on the left lists types of land uses. The zoning districts are listed on the top of the chart. Land uses permitted, site plan required or conditionally permitted are identified as P, SP, or CU, respectively. Uses that are prohibited are identified X.

Uses not listed in the Zoning Districts and Uses chart but of a similar type or character to those listed within the district, may be conditionally permitted following a determination by the DRB that the use achieves the purpose of the district.

4.4 Establishment of Zoning Districts

For the purpose of this Bylaw, the following zoning districts are hereby established within the Town of Strafford:

| | |
|--------------------------------------|-------|
| VILLAGE CENTERS | VC |
| RURAL RESIDENTIAL I | RR I |
| RURAL RESIDENTIAL II | RR II |
| LAND & FOREST CONSERVATION | LFC |
| RIVER CORRIDORS | RC |
| MILLER POND SHORELINE | MP |
| ELIZABETH MINE WATER QUALITY OVERLAY | EM |
| FLOOD HAZARD OVERLAY | |

4.5 Purpose and Definition of Zoning Districts

It shall be the purpose of this Unified Bylaw to implement the goals and policies of the proposed land use areas as set forth in Strafford Town Plan.

The specific purposes of the zoning districts established in Section 4.4 shall be as follows:

4.5.1 Village Centers - "VC"

Purpose: To provide for the continuance of areas known as Strafford and South Strafford villages as social and physical centers of community services, to enable higher density residential and non-residential uses in the traditional village setting and to protect and enhance their character and quality in the future.

District Descriptions:

South Strafford - Beginning at the intersection of TYSON RD. AND RTE 132 along Tyson Rd. to Mine Rd. and down Mine Rd. to Rte. 132 to include dwellings within 300 feet on both sides of the roads. Thence, in a northerly direction on Highways No. 1 (Route 132) and No. 4 to the northern end of the Village Center. Stopping on Route 132 by the New England Telephone Company Building and on Town Highway No. 2 (Justin Morrill Highway) to the property line between 19 Justin Morrill Highway and 23 Justin Morrill Highway.

The village boundaries extend 300 feet on each side of the center line on the above designated roads

Strafford - From Eastburn Rd. to the intersection of Justin Morrill Highway with Old City Falls Road, extending to 300 feet on each side of the centerline of Justin Morrill Highway. And from the power lines west of Odell Road to the intersection with Justin Morrill Highway also extending 300 feet from the centerline of Brook Road

4.5.2 Rural Residential I - "RR I"

Purpose: To provide for and to maintain an environment outside the villages which is primarily residential/agricultural in use and rural in character. This goal is to be accomplished by permitting: a moderate density of residences compatible with agricultural uses, preserving land with agricultural and silvicultural potential, permitting other land uses which can augment the local economy by providing services or sources of employment, and promoting patterns of land use which preserve or improve open space.

District Description: See Current & Prospective Land Use map #1, Town Plan 2021.

4.5.3 Rural Residential II - "RR II"

Purpose: To provide for very low-density residential development while allowing for continued use of agricultural and forested lands. Only those commercial enterprises directly connected to farming, agriculture, forestry and outdoor recreation and small-scale home occupations are to be allowed. The concentration of planned unit developments of not more than five units is encouraged to maximize the land area available for farming, forestry and wildlife habitat, including the preservation of plant species.

District Description: See Current and Prospective Land Use map #1, Town Plan 2021.

4.5.4 Land and Forest Conservation - "LFC"

Purpose: To identify lands which are subject to development restrictions due to public ownership or to conservation easements or covenants; to encourage a pattern of land and forest conservation which sustains the rural and natural characteristics of the Town.

District Description: All lands which are owned by the State of Vermont or the Town of Strafford; all privately-owned lands subject to conservation easements held by land trusts or any other conservation organizations. See overlay

District Description: See Current and Prospective Land Use map #1, Town Plan 2021.

4.5.5 River Valley Conservation - "RV"

Purpose: To lessen or avoid the hazards to persons and damage to property caused by floods; to ensure conservation of lands bordering rivers and streams.

District Description: This area consists predominantly of agricultural and open land making up the valley floor between the villages of South Strafford and Strafford and extending along the West Branch of the Ompompanoosuc east of South Strafford village.

Additionally, the area includes FEMA Flood Hazard Areas and Fluvial Erosion Hazard Areas.

4.5.6 Miller Pond Shoreline District - "MP"

Purpose: To protect the high quality of water and to maintain high standards for permitted development so as to protect the pristine character of the pond, and the scenic, and recreational assets of the shore land. This is accomplished by protecting and preserving the shore lands which are unsuitable for

development; maintaining a low density of development on those shore lands suitable for development; and providing compatible use of the public water by the general public.

Shoreline buffer and agricultural setbacks: a 50-foot strip of permanent vegetation of natural character shall be maintained from the mean water mark, or a 25 foot strip from the highest known water level, whichever distance is the greater, to retard runoff and reduce erosion.

Additional Conditional Use Standards: when reviewing an application for conditional use approval, the DRB shall evaluate the following issues in addition to matters set forth in Section 6.1:

1. the requirement of the Vermont Shoreline Protection Act, 10 V.S.A. § 1441 et seq., restricting activities within 250 feet of the shoreline;
2. the need for the proposed use to be located in the shore land area;
3. maintenance of safe and healthful conditions;
4. the prevention of water pollution;
5. the erosion potential of the site based upon the degree and direction of slope, soil type, and vegetative cover;
6. existing topographic and drainage features;
7. the use's compatibility with uses on adjacent land.

District Description: A belt of land with Town Highway #3 (Miller Pond Road) as the eastern boundary and extending 750 feet from mean water level around the remaining area of pond as shown on the Current and Prospective Land Use Map #1, Town Plan 2021.

4.5.7 Elizabeth Mine Water Quality Overlay

As a result of possible ground water contamination from mining activities, permits may be required from the Agency of Natural Resources of the State of Vermont for any development in the district. No zoning permits will be issued by the Administrative Officer or the DRB until written evidence of permit approvals or letters of no concern from the Agency of Natural Resources of the State of Vermont are provided.

District Description: See attached map for description of area affected. (Map will be made available upon completion by the EPA)

TABLE 1

| Districts & Uses | | | | | | | |
|--|------------------------|--|---|--|----------------------------------|------------------------------|-------------------------------------|
| Use | Village Centers | Rural Residential I¹ | Rural Residential II² | Land & Forest Conservation* | River Valley Conservation | Miller Pond Shoreline | Elizabeth Mine Water Quality |
| Accessory Dwelling Unit | P | P | P | P | P | P | CU |
| Accessory Use or Building | P | P | P | P | SP/CU | SP/CU | CU |
| Bed & Breakfast | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | X | CU |
| Church | SP/CU | SP/CU | X | X | SP/CU | X | CU |
| Commercial Summer Camp | X | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | CU |
| Commercial Accessory | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | X | CU |
| Commercial, Light | SP/CU | SP/CU | X | X | X | X | CU |
| Commercial, Medium/Heavy | SP/CU | SP/CU | X | X | X | X | CU |
| Day Care Facility | SP/CU** | SP/CU** | SP/CU** | SP/CU** | SP/CU** | SP/CU** | CU |
| Dwelling, Two Family | P | P | P | SP/CU | SP/CU | SP/CU | CU |
| Dwelling, Three Family | P | P | SP/CU | SP/CU | SP/CU | SP/CU | CU |
| Dwelling, Multi-Family | SP | SP/CU | X | X | X | X | CU |
| Dwelling, One Family | P | P | P | P | CU | CU | CU |
| Guest House | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | X | CU |
| Home Occupation | P | P | P | P | P | P | P |
| Industrial, Light | SP/CU | SP/CU | SP/CU | SP/CU | X | X | CU |
| Industrial, Medium/Heavy | X | SP/CU | SP/CU | X | X | X | CU |
| Lodge/Inn | SP/CU | SP/CU | X | SP/CU | X | X | CU |
| Mobile Home Park | X | CU | X | X | X | X | CU |
| Museum | SP/CU | SP/CU | SP/CU | SP/CU | X | X | CU |
| Non-Exempt Agriculture | P | P | P | P | P | P | CU |
| Occasional Use Structure | X | P | P | P | CU | CU | CU |
| Outdoor Camping Facilities | X | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | CU |
| Outdoor Recreation Facilities | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | CU |
| Permanent Signs | P | P | P | P | P | P | CU |
| Planned Unit Development | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | X | CU |
| Professional Office | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | X | CU |
| Public Building | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | X | CU |
| Repair or Service Shop | SP/CU | SP/CU | SP/CU | SP/CU | X | X | CU |
| Resource Extraction (Gravel, Soil, Sand, Minerals) | X | SP/CU | SP/CU | SP/CU | SP/CU | X | CU |
| Restaurant | SP/CU | SP/CU | X | X | X | X | CU |
| Retail Establishment | SP/CU | SP/CU | X | X | X | X | CU |
| School | SP/CU | SP/CU | SP/CU | SP/CU | X | X | CU |
| Small Enterprise | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | CU |

| | | | | | | | |
|--------------------------------------|---|-------|-------|-------|-------|-------|----|
| Temporary Structure | P | P | P | P | P | P | CU |
| Wind Energy Generation Facility | X | SP/CU | SP/CU | X | X | X | CU |
| Wireless Telecommunications Facility | X | SP/CU | SP/CU | SP/CU | SP/CU | SP/CU | CU |

¹PUDs of up to ten (10) units may be allowed in this district. Senior housing PUDs adjacent to a village may have more than ten (10) units.

²PUDs of no more than five (5) units may be considered.

P = Permitted Use

SP = Site Plan Review Required

CU = Conditional Use

X = Prohibited

* More restrictive deed covenants automatically override any permitted uses and/or requirements of this Unified Bylaw.

** Some Day Care facilities are considered single family homes for the purpose of this Bylaw. See page 14 for details.

Table 2

Minimum Lot Area, Frontage Requirements, Set Backs and Height Limitations

| Dimension Requirements | VC | RR I | RR II | L&F Cons | RV Cons | MP | EM |
|--|--------|---------|---------|----------|---------|-------------|-----|
| Lot Area Minimum | 1 acre | 3 acres | 3 acres | 3 acres | 3 acres | 2-10 acres | N/A |
| Lot Frontage Minimum | 80 ft. | 300 ft. | 300 ft. | 300 ft. | 300 ft. | 100 ft. | N/A |
| Front Setback Minimum | 45 ft. | 50 ft. | 50 ft. | 50 ft. | 50 ft. | 50 ft. | N/A |
| Side Setback Minimum | 15 ft. | 20 ft. | 20 ft. | 20 ft. | 20 ft. | 20 ft. | N/A |
| Rear Setback Minimum | 15 ft. | 20 ft. | 20 ft. | 20 ft. | 20 ft. | 20 ft. | N/A |
| Building Height Maximum | 35 ft. | 35 ft. | 35 ft. | 35 ft. | 35 ft. | 35 ft. | N/A |
| Waterfront Setback Minimum | N/A | N/A | N/A | N/A | N/A | 200-400 ft. | N/A |
| Optional Requirements | PUD | PUD | PUD | PUD | PUD | PUD | N/A |
| | | | | | | | |
| *Front setback minimum is measured from the road centerline. | | | | | | | |
| **See section 5.7 for PUD requirements. | | | | | | | |

5. Specific Regulations

5.1 Home Occupation

This Unified Bylaw provides the right for any resident to use either a minor portion of the dwelling in which he or she resides, or its accessory building, for an occupation which is customary in a residential area, does not have an undue adverse impact on the character of the area, and meets the following standards:

1. The conduct of a home occupation shall be clearly secondary to the principal or residential use of the premises.
2. The home occupation shall be conducted by the resident and may employ only full-time residents of the house and/or two (2) other full-time-equivalent (forty-hour work week) non-residents working on site.
3. The home occupation (excluding home day care centers) shall be operated entirely within either the residence or accessory building; if operated in the residence, it shall not exceed fifty percent (50%) of the total floor area of that building.
4. The home occupation shall not result in a significant increase in annual average daily traffic or alterations ~~in~~ of historic traffic patterns. No home occupation shall cause unsafe conditions or result in an undue increase in congestion on highways in the vicinity of the site.
5. Storage of goods, parts, supplies, and machinery used in the home occupation shall be inside a building or screened from public view and adjoining properties.
6. Obnoxious or excessive noise, vibration, heat, dust, glare, smoke, odors, or other forms of interference not characteristic of residential uses and intruding beyond the property lines of a home occupation shall not be permitted.
7. Home occupations may not include businesses engaging in on-site retail sales (except sales of agricultural or hand-crafted products assembled and produced on the premises). Examples of uses not considered home occupations include auto and heavy equipment service repair and restaurants.

5.2 Rural Small Enterprise

Small enterprises are encouraged provided that their size, type, appearance and setting fit with the overall character of the community and do not cause undue or unnecessary hardship on community services such as highways or fire protection. In order to protect the rural character of the area, the impact of additional traffic on the rural highway system and hours of travel shall be an important factor

in the review process. Many of the town's rural roads cannot support additional traffic especially during mud season and snow season.

Rural Small Enterprises shall meet the following standards:

1. The owner of the enterprise shall work on the property.
2. No more than five (5) on-site employees shall be permitted, exclusive of the owner. Notwithstanding the above, the DRB may authorize additional employees on finding that their work on the property will not materially impair the purposes of this section or other requirements of this Unified Bylaw.
3. Exterior displays and signs, other than those normally permitted in the district, and exterior storage of materials in public view shall be prohibited.
4. The enterprise shall not result in a significant increase in Annual Average Daily Traffic or alterations in historic traffic patterns. No enterprise shall cause unsafe conditions or result in an undue increase in congestion on highways in the vicinity of the site.
5. Design and placement of structures and buildings shall be compatible with the rural character of Strafford and complement architectural values of surrounding buildings and the neighborhood. Structures or buildings that are highly visible from town roads and are not intended to be screened, as well as relatively large structures or buildings that are dominant features of the landscape shall be closely evaluated under this provision.

5.3 Signs

Unregulated outdoor advertising is detrimental to the scenic resources of Strafford which are considered vital to the town's prosperity and social culture. It is also hazardous to highway uses and adversely affects property values. For these reasons, it is the policy of the Town to regulate the size, type, number, and location of signs erected in the town.

Except for signs necessary for public safety or signs exempted from an Administrative Permit, no person shall construct, erect, display, or change the location or size of an outdoor sign without first obtaining an Administrative Permit.

1. No sign shall be larger than 12 sq. feet on each side or extend more than 5 feet above the ground unless attached to a building.
2. No sign shall be placed in such a way as to obstruct visibility or create a safety hazard.
3. No sign attached to a building shall extend beyond or above that building by more than 4 feet.
4. All signs, other than directional, must be located on the premises to which they refer.
5. No sign shall contain any moving parts, nor be illuminated by neon or flashing light.

The following signs are permitted without an Administrative Permit:

1. up to two real estate "for sale" signs on a single parcel not to exceed 6 square feet each;
2. one sign not to exceed 3 square feet for home identification, instructional or directional purposes; and
3. temporary signs advertising an event or activity sponsored by a civic or community organization.

5.4 Extraction of Gravel, Sand, Soil and Minerals

State permits may be required.

The extraction of gravel, sand, soil and minerals or the extension of such activities from existing operations shall require Conditional Use Approval. The DRB, in its review of such projects, shall require the following plans of operation in addition to the provisions of Section 6.1.4:

1. Plans for the restoration of the disturbed portions of the site during and following the operation shall be adequate to ensure that a safe, attractive and useful condition results.
2. Plans for the operation of the facility, including frequency and duration, shall be sufficient to ensure that the operation will not have an undue adverse impact on neighboring uses, water quality, drainage patterns, or create excessive dust, traffic, vibration, and noise at the site or areas in close proximity to the site. If power activated crushing or sorting operations are to be allowed on the site, such activity shall not unduly affect the character of the immediate neighborhood area.
3. Plans for operation of the facility to prevent the creation of excessively steep slopes, overhangs, exposed boulders, uprooted stumps, and other debris.
4. Plans for limiting the scale and intensity of the operation to prevent excessive demands on bridges, culverts, and roadways leading to and from the project site.
5. Plans to ensure that the rehabilitation of the site is properly managed, which may require a performance bond or other forms of surety acceptable to the Selectboard.

5.5 Flood Hazard Area Zoning Ordinance

The Town of Strafford has a Flood Hazard Area Zoning Ordinance (which includes Fluvial Erosion Hazards as well as FEMA flood plains) that specify provisions to be followed for proposed land development in areas subject to flooding.

No Administrative Permit shall be issued under this Unified Bylaw for any development that requires a Flood Hazard Area permit until such permit is issued by the Selectboard.

5.6 Planned Unit Development

5.6.1 General Intent and Purposes

The purpose of a Planned Unit Development (“PUD”) is to encourage growth and development that are in harmony with the Town Plan. PUDs allow the DRB to relax dimensional and spatial standards such as setback and density requirements to encourage clustering and concentrated development in order to protect open space, improve energy efficiency and promote affordable housing. A PUD is designed to:

1. encourage a range of housing options, emphasizing availability of affordable homes typically underrepresented in the commercial housing market;
2. promote the highest standards of energy-efficient building that retains value and respects the need for energy conservation;
3. conserve and enhance natural resources that sustain agriculture, wildlife, water quality and recreation in a manner consistent with the Strafford Open Space Plan; and
4. retain the distinct character of Strafford’s village centers and rural areas, encouraging mixed use developments, business opportunities and rural development that are sensitive to the town of Strafford’s character and heritage.

5.6.2 Applicability

PUD provisions may be applied to any sized parcel within any district. Any change to an approved PUD shall require an amendment to the prior approval in accordance with this Section. Adjoining landowners may combine all or a portion of contiguous parcels for the purpose of submitting a joint PUD application provided such property owners intend that each of their properties will be subject to all requirements and conditions of PUD approval.

5.6.3 Application Requirements

An application for a PUD shall include the following plans and supporting documents:

1. A map showing the location of the property within the Town and its relationship to existing public roads and highways.
2. A statement identifying the uses of adjacent property, and the names and current addresses of all abutting owners of land including those directly across all public highways from the property at issue.
3. An analysis of the compatibility of the proposed development with adjacent land uses, both existing and proposed.
4. A proposed site plan, drawn to an appropriate scale, showing the location, height, spacing, uses, and the relationship of all existing and proposed buildings, open spaces, landscaping, utility lines, streets, drive-ways, off-street parking facilities, unique or manmade features and the physical conditions of the site.

5. Quantitative data on the number and types of dwelling units and or other uses, parcel size, proposed coverage of buildings, structures, roads, driveways, and parking areas; area of proposed open space not to include roads, utilities, rights of way, parking and loading areas or small yards.
6. A development schedule indicating the approximate dates when construction of the project or stages of the project is expected to begin and be completed.
7. Existing and proposed future ownership of the property involved.
8. In the event land development is proposed which involves condominium ownership, the proposed Declaration of Condominium and the Condominium Association Bylaws.
9. The DRB may require additional documentation, information or professional review at the applicant's expense to assist in the review and evaluation of the proposal.

5.6.4 General Standards

In its review and approval of a proposed PUD, the DRB shall make written findings in its decision that the PUD meets all of the following criteria and/or standards:

1. The PUD involves only those Permitted or Conditional Uses as provided for in the Village Centers or Rural Residential Districts I and II. PUD shall be limited to no more than ten (10) units in RRI District and no more than five (5) units in the RR II District.
2. The minimum parcel area for PUD is as follows:

| | |
|--------------------------|---------|
| Village Centers | 2 acre |
| Rural Residential I & II | 6 acres |
3. It shall be a condition of any PUD that a Vermont Residential Building Energy Standards certification be filed with the Town Clerk and the Vermont Department of Public Service in accordance with 21 V.S.A. § 266.
4. The PUD shall be consistent with the goals and objectives of the Town Plan.
5. The PUD shall result in no greater burden on present and planned municipal services and facilities than would result from traditional development of the parcel with the same number of units as proposed in the PUD. The available public or private facilities and services, including schools, streets, emergency services, and utilities, will be adequate to provide service to the proposed PUD. The DRB shall require written certification from town departments that the town has adequate resources to support any proposed PUD with five (5) or more units, and may also require this certification for any proposed PUD with less than five (5) units.
6. The PUD is in conformance with any duly adopted Capital Budget, Plan or Program of the Town of Strafford.

7. In considering a PUD the DRB shall determine that highway access has been or will be permitted by the Strafford Selectboard.

5.6.4.1 Uses

Any residential use permitted in the district in which the PUD is located is permissible under the PUD, including home based businesses allowed in Sections 5.1. A PUD may include, at the discretion of the DRB, dwelling units of varied types, including single and two-unit dwellings and multi-unit dwellings in districts where permitted.

Non-residential uses that are permitted or conditional uses in the district may be allowed in the PUD provided that the DRB determines that they are appropriate to the character and purpose of the PUD, its open space and surrounding area.

5.6.4.2 Design and Character

1. The character, architectural features and siting of buildings in the development shall be consistent with the purpose of this section.
2. When reviewing character, design and siting, the DRB shall consider the following:
 - a. siting, visual focal points, use of existing physical features such as topography, building orientation, variation in building groups such as clusters;
 - b. design features, architectural styles, harmonious use of building materials, landscaping, and pedestrian ways; and
 - c. extent and location of open space reservation relative to total project area, proposed plans for the use and management of such areas, and the degree of preservation of natural features for any unimproved areas;
3. PUDs involving mixed commercial and residential uses shall be designed and arranged so as to provide both visual and acoustical privacy to residents of the development and the neighborhood;
4. The design and layout of the project shall preserve any recognized historic sites or structures and to the greatest extent feasible any natural features or resources of the site;
5. The PUD shall be designed so as to minimize or eliminate negative impacts on surrounding properties whether presently developed or not;
6. The PUD shall not cause unreasonable traffic congestion, safety problems, or a significant reduction in the existing level of service on adjacent or connecting roadways.
7. It shall be a condition of any permit that surface waters and wetlands shall be protected as outlined in Section 7.7.4.

Time Line

1. Pre-application conference.
2. Within 45 days of acceptance of a complete application, a public hearing scheduled.
3. DRB decision to approve or disapprove within 45 days from conclusion of public hearing.
4. Commencement of substantial development of the PUD must occur within one (1) year of the PUD approval.
5. Substantial completion of the PUD must occur within four (4) years of the PUD approval.

5.6.4.3 Density

The overall density of a PUD may not exceed the number of units permitted if the land were subdivided into lots in accordance with the standards for the district(s) in which the land is located.

5.6.4.4 Affordable Housing and Senior Housing

To encourage the development of affordable housing, and housing for the elderly, the DRB may offer a density bonus of up to 25% for any PUD containing senior and/or affordable housing units. The density bonus shall be calculated based on the percentage that senior and/or affordable units bear to the total number of units otherwise allowed in the PUD. Thus, a maximum bonus of 25% would be awarded if 100% of the units are either affordable or for seniors.

5.6.4.5 Open Space Protection

The protection of open space is encouraged. The DRB may offer a density bonus for any PUD that preserves open space in accordance with the Strafford Open-Space Plan. This bonus may not exceed a

25% increase in the number of units allowed and may be fewer based on other features of the land to be developed.

5.6.5 General Procedures

The DRB invites prospective applicants to meet informally with it to learn how their project might be structured as a PUD. One or more pre-application conferences are encouraged at which the DRB and interested Town officials may exchange information with the applicant in order to understand the nature and scope of the applicant's proposal.

5.6.5.1 Upon receipt of an application for a PUD, the Administrative Officer, in consultation with the DRB, shall ascertain if the application is complete or if any items require correction or completion, as described in Section 5.6.3.

5.6.5.2 Upon acceptance of a completed application for PUD approval the DRB shall schedule a public hearing within 45 days for comment and testimony.

5.6.5.3 The DRB shall ~~act to~~ approve or disapprove the proposal by written decision setting forth both findings and conclusions of law within a period not to exceed forty-five (45) day from the conclusion of the final public hearing. Failure to act within 45 days shall constitute approval of the PUD by the DRB.

The DRB in its discretion may attach such reasonable conditions to its approval of a PUD as it finds necessary to protect the public health, safety, and general welfare of the Town of Strafford and to further the purposes of this Unified Bylaw and 24 V.S.A., Chapter 117.

If the PUD application includes land for park, recreation, open space or other municipal purposes, the DRB, as a condition to its approval, may establish such conditions on the ownership, uses, and

maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. The DRB may determine that grants or sales of fee interests or conservation easements to the Town or a qualified conservation organization are acceptable methods for meeting approval conditions.

- 5.6.5.4** Within 30 days of approval of the PUD by the DRB, the applicant shall apply for an Administrative Permit. No land development for which PUD approval has been granted shall commence until the Administrative Officer has issued an Administrative Permit for such land development.
- 5.6.5.5** The Administrative Officer shall issue an Administrative Permit following the submission of a complete application upon finding that the application is in compliance with the PUD requirements as applied for and approved by the DRB.
- 5.6.5.6** No material changes to the PUD approved by the DRB shall be permitted unless the DRB grants, following public hearing, an amendment to the original approval and/or any preceding amendments thereto.
- 5.6.5.7** Commencement of substantial development shall occur within one year of approval of PUD unless delayed by litigation or extended by the DRB.
- 5.6.5.8** No amendments to the original PUD approval shall have the effect of extending the time period within which substantial development must commence.
- 5.6.5.9** In the event that substantial development has not commenced within one year of PUD approval, PUD approval shall be void and any Administrative Permits or amendments to the PUD approval shall be considered to have been canceled.
- 5.6.5.10** In its approval of a PUD, the DRB shall limit the period in which the PUD must be substantially completed, such period not to be in excess of four (4) years.
- 5.6.5.11** Prior to the expiration date for commencement of substantial development or for substantial completion, the permittee may request an extension. In deciding whether to grant such extension, the DRB shall consider the standards and condition on which original approval was authorized and any new or changed conditions on the site or in proximity to the site that potentially may affect the proposed project. The DRB shall consider such action at a Public Hearing

5.6.6 Common Facilities and Land to be Conserved

5.6.6.1 Common Facilities and Land

Land to be dedicated to shared facilities (e.g., private road, community wastewater and water supply systems, or other community facilities), may be held in common or individual ownership or it may be conveyed to the Town, should the Town choose to accept it. Land and/or facilities to be held in common shall be subject to appropriate deed restrictions and/or covenants stipulating their allowed use, and establishing the person or entity responsible for their regular maintenance and long term management. All costs associated with administering and maintaining common land and associated facilities shall be the responsibility of the applicant and subsequent property owners.

5.6.6.2 Land to be Conserved

Land to be dedicated to the preservation and maintenance of significant wildlife habitat, forest resources or agricultural land may be held in common or individual ownership, and may be located on one or more lots, although concentrating such resources on a single lot is preferred by the Town. The ownership of the land, or the benefit of an easement preserving such land, shall be in a manner and form approved by the DRB; such ownership or easement may be held by the municipality or a nonprofit land conservation organization, if such entities choose to accept such ownership or easement. Conservation and agricultural easement areas ("open space areas") shall be indicated with an appropriate notation on the final plat.

5.7 Legal Requirements

Documentation shall be provided that all required improvements and associated rights-of-way and easements and other common facilities and land will be adequately maintained either by the applicant, subsequent or other landowners, a homeowners' association, or through other accepted legal mechanism. Such documentation shall be in a form approved by the DRB.

All required improvements shall be constructed to approved specifications and in accordance with a construction schedule approved by the DRB. The DRB may require that all such improvements be completed prior to the issuance of an Administrative Permit for subsequent development on approved lots. The DRB may require that a performance bond, or other forms of surety acceptable to the Selectboard, be furnished and filed with the Treasurer of the Town of Strafford to guarantee that the various stages and elements of the total development will be constructed as planned and approved. Where public and/or private roadways or other common amenities are to be constructed or acquired following erection of buildings or other structures, such financial guarantees shall be of sufficient amount to cover in full the estimated construction costs and engineering of such amenities.

6. Development Review

6.1 Conditional Use Approval

For certain kinds of development (as listed under each district in Section 4), Conditional Use Approval by the DRB is required before an Administrative Permit may be issued by the Administrative Officer. Conditional Use Approval entails written conditions on development in order to achieve certain goals.

6.1.1 Application for Conditional Use Approval

Application for Conditional Use Approval must be made on forms approved by the DRB. Applications shall be accompanied by such materials as determined by the Administrative Officer to be necessary for conditional use review by the DRB and accompanied by fees as determined by the Selectboard. When additional information is requested from the applicant by the Administrative Officer or the DRB and such information is not presented within 90 days, the application will be deemed rejected.

6.1.2 Hearing for Conditional Use Approval

At least one public hearing is required prior to approval of a conditional use. When site plan review is also required, the two processes shall be combined into a single conditional use review that also includes the standards for site plan review.

6.1.3 Purpose of Conditional Use Review

The purpose of conditional use review is to ensure compliance with standards addressing the potential impacts of development on adjoining properties and town facilities and services and thereby avoid or mitigate adverse impacts of the development.

6.1.4 Conditional Use Standards

In reviewing an application for conditional use approval the DRB shall apply the following standards:

- 1. The character of the area affected.** The development shall not result in an undue adverse effect on the character of the area affected, as defined by the purposes of the district the development is located in and the policies and standards of the Town Plan.
- 2. Traffic on roads and highways in the vicinity.** Adequate travel and pedestrian lanes on the site must allow residents, employees, business vehicles and delivery/service vehicles to safely enter and exit the site. The DRB shall determine that the traffic generated by the proposed development shall not result in unreasonable traffic congestion or exceed the capacity of roads and intersections in the vicinity of the development. The DRB may request the preparation of a traffic impact study to identify impacts and mitigation measures necessary to ensure road safety and efficiency and may require that mitigation measures be implemented.
- 3. The utilization of renewable energy resources.** The proposed development shall not interfere with the sustainable use of renewable energy resources, including access to, direct use of, or future availability of such resources.

- 4. Compliance with other regulations and Town Plan.** The development shall be in compliance with all Town bylaws and ordinances and the Town Plan.
- 5. Exterior storage.** Outside storage of materials, supplies, equipment or vehicles incidental to a commercial use shall be adequately screened from view to avoid undue adverse impact to the scenic character of the area.
- 6. Growth.** Businesses must state anticipated numbers of customers, deliveries, and employees. Limitations shall be put into the approval. Increases above the approved limits shall require seeking a revised approval and permit.
- 7. Scenic resources.** Development shall be located and configured to avoid undue adverse impacts to the scenic character of the area.
- 8. Lighting.** Exterior lighting (including type of lights, location and direction of lighting) shall be limited in order to reduce light pollution.
- 9. Historic resources.** Land development located within areas recognized as containing a historically significant site or structure shall be required to be designed to retain or enhance the unique characteristics of the site or structure.
- 10. Forestry and agricultural resources.** Conservation of productive forestland and primary agricultural soils shall be incorporated in development planning. Land development affecting these resources shall be approved on a determination that it has been planned to maximize the agricultural and silvicultural potential of the land and minimize forest fragmentation through the use of cluster planning concepts, and the layout of roads, utilities, or similar improvements on land less suited to agriculture.
- 11. Significant Wildlife Habitat and Plant Communities.** The development shall be designed to protect significant wildlife habitat and plant communities.
- 12. Mass and scale.** Multi-unit residential and non-residential structures shall be required to resemble the general size, style, and shape of structures in the same district.
- 13. Community facilities.** Development shall not result in an undue adverse effect on existing or planned community facilities.
- 14. Landscaping.** Landscaping, screening or the retention of vegetation shall be required of new development, or any expansion of conforming and nonconforming uses, to lessen its visual effect from public roads.
- 15. Stormwater and erosion control.** Appropriate drainage must control stormwater run-off, prevent erosion and protect neighboring land, water, and roads from undue impacts. Erosion control measures shall comply with the latest standards by the Vermont Department of Environmental Conservation.
- 16. Noise.** Persistent discernible noise, except that customary and incidental to residences, beyond the property line is not permitted from 7 PM until 7 AM, or on weekends. From 7 AM to 7 PM, such noise shall be limited to 70 decibels (DbA) at the property line.

17. Dust/smoke and odor. No visible dust/smoke or discernible objectionable odor beyond the property line is permitted, excepting as is incidental and customary to residences, farms or permitted burning.

18. Vibration. Ongoing vibration which is readily discernible without instruments on adjacent property is prohibited.

In conditional use approval, the DRB may attach such additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Unified Bylaw and the Town Plan.

6.1.5 Provision for Independent Consultants

To assist the DRB in its review of technical issues in applications under this section, it may, after consultation with the applicant, retain independent consultants and require the applicant to pay the reasonable cost of their services. Any final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding.

6.1.6 Approval or Denial

The DRB must grant or deny the application for conditional use approval within 45 days of the close of the final hearing on the application, or approval will be automatically given on the 46th day. Any approval or denial shall contain written findings of fact setting forth reasons for approval or denial, list any conditions, and address each of the standards relevant to the proposed development. Copies of the decision approving or denying the conditional use will be promptly mailed to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Administrative Officer and the Town Clerk.

Conditional Use Approval by the DRB is not a permit for the approved use. An Administrative Permit is still needed. The conditional use approval shall be attached to the application for an Administrative Permit.

6.1.7 Expiration of Approval for Conditional Use Approval

Any conditional use approval granted under this Unified Bylaw shall expire one (1) year from the date of the written decision granting such approval, unless an Administrative Permit has been issued by the Administrative Officer for the approved project.

6.1.8 Appeal for Conditional Use Approval

The approval or denial of a conditional use approval by the DRB may be appealed by an interested party to the Environmental Court in a manner specified in 24 V.S.A. § 4471. See Section 8.5 for further details on appeals.

6.2. Site Plan Approval

6.2.1 Uses Where Site Plan Approval is Not Required

One- or two-family dwellings including accessory dwellings, temporary or seasonal dwellings, and Home Occupations do not require site plan approval.

6.2.2 All Other Uses

Before an Administrative Permit may be issued for any use other than one specified in Section 6.4.1, a site plan must be approved by the DRB.

6.2.3 Change or Intensification of Use

Any change or intensification of use shall require a review of the existing site plan approval.

6.2.4 Application for Site Plan Approval

An application for site plan approval shall be accompanied by a site plan map, and survey if required by the DRB, and supporting data, including the following:

- a. lot, block and section number or other description of the subject property, as shown on the current tax records;
- b. existing features including contours, structures, large trees, streets, utility easements, rights of way, and any land use or deed restrictions;
- c. the location of existing and proposed structures and land use areas, streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks;
- d. any landscaping plans, including site grading, landscape design, site lighting and proposed screening; and
- e. a proposed sequence of construction and time schedule for completion of all improvements to the subject property, including buildings, parking spaces and landscaping.
- f. whenever a proposed site plan involves access to a ~~state~~ town highway the application for site plan approval shall include a highway access permit from the Selectboard.

6.2.5 Requirement for Public Hearing

The DRB must hold at least one public hearing before site plan approval is granted.

6.2.6 Standards for Approval of Site Plan

In reviewing an application for site plan approval, the DRB shall require the applicant to demonstrate the following:

- a. The adequacy and safety of parking and loading facilities.
- b. The access for fire equipment, and on-site pedestrian safety.

- c. The adequacy of landscaping, screening and setbacks to achieve maximum compatibility with, and protection of other properties in the area.
- d. The adequacy of exterior lighting and avoidance of excessive glare.
- e. The adequacy of surface drainage facilities.
- f. The protection of the utilization of renewable resources and natural resources.
- g. The provision of municipal services.
- h. The maximum safety of vehicular and pedestrian circulation between the site and street network and adjacent traffic generators.

6.2.7 Decision by DRB

The DRB must approve or deny the application for a site plan approval within 45 days of the close of the final hearing on the application or approval will automatically be given on the 46th day.

6.2.8. Appeal for Site Plan Approval

The approval or denial of a site plan approval by the DRB may be appealed by an interested party to the Environmental Court in a manner specified in 24 V.S.A. § 4471 of the Act. See Section 8.5 for further details on appeals.

6.3 Waivers and Variances

There are times when a proposed use does not fit the requirements of a permitted or conditional use. In such circumstances this Unified Bylaw provides limited remedies to an applicant but only within the provisions that follow. Nonconforming uses and structures, which predate this Unified Bylaw, may be modified in limited circumstances as specified in Section 3.15. Applications for new development requiring only a dimensional change from the established standards (such as a reduction in setback) may be eligible for a waiver. An application for development that is not eligible for a waiver and cannot be permitted in strict conformance with this Unified Bylaw may be eligible for a variance from the DRB after meeting a rigorous five-part test (see 6.3.2).

6.3.1 Waiver Standards

In all districts, waivers may be granted by the Administrative Officer without a hearing for:

1. reductions in front or side setbacks as necessary to allow for disability access;
2. reductions in side setbacks to allow for necessary life safety improvements (e.g., emergency egress).

In all districts, waivers may be granted after a public hearing by the DRB if the waiver will not result in a greater than 50% decrease in any dimensional requirement (provided that the structure does not enter the right-of-way), and any one or more of the following criteria are met:

1. the waiver allows for the siting of structures within the proposed development to more effectively preserve open land, forest land, wetlands, scenic vistas; or other policies of the town plan; or
2. the waiver allows for the installation of energy conservation or renewable energy structures; or
3. the proposed development maintains the existing pattern of lot layouts in the area in which it is located and cannot be reasonably accommodated within the dimensional standards of the Unified Bylaw; or

4. the proposed development will result in new affordable housing.

Renewable energy generation facilities (excluding wind towers) are not subject to the 50% maximum decrease provision of this waiver standard, and in districts where setbacks would not allow the placement of such a facility, the dimensional standards shall be reduced to the minimum amount necessary to accommodate the structure.

6.3.2 Appeal for Variance

When approval for a permit for a structure or use has been denied, an applicant may appeal to the DRB for a variance under 24 V.S.A. § 4469(a). Except as specified in 24 V.S.A. § 4469(b) for renewable energy structures, variances shall only be granted after a public hearing upon a written finding that ALL of the following facts are true:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of this Unified Bylaw, in the neighborhood or district in which the property is located.
2. That because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Unified Bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That the unnecessary hardship has not been created by the appellant. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
4. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Unified Bylaw and from the Town Plan.

In rendering a decision in favor of an appellant under this section, the DRB may attach such conditions to the variance as it may consider necessary and appropriate under the circumstances to implement the purposes of 24 V.S.A. Chapter 117 and the Town Plan. The DRB must grant or deny the variance within 45 days of the final hearing or approval will be automatically given on the 46th day. Copies of the decision will be promptly mailed to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Administrative Officer and the Town Clerk.

6.3.3 Variances for Renewable Energy Resource Structures

The DRB shall hear and decide an appeal for a request for a variance from the provisions of a Unified Bylaw for a structure that is primarily a renewable energy resource structure as required by 24 V.S.A. § 4469(b). After a public hearing the DRB shall grant a variance and render a decision in favor of the appellant if **all of the following facts are found**, and the findings are specified in its written decision:

1. it is unusually difficult or unduly expensive for the applicant to build a suitable renewable energy resource structure in conformance with the Unified Bylaw;
2. the hardship was not created by the applicant;
3. the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable resources, or be detrimental to the public welfare; and
4. the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from this Unified Bylaw and from the Town Plan.

7. Subdivision Review

7.1 Definition of Subdivision

A subdivision is the division of any parcel or lot of land into two or more lots. A road running through a lot does not constitute a legal division of the lot. Division of a parcel or lot constitutes a subdivision regardless of the number of owners or the form of ownership of the lot.

A Major Subdivision is ~~any~~ a subdivision creating three or more lots, requiring a new road in excess of 800 feet in length, or creating a lot for commercial, industrial, commercial recreational, multifamily housing or planned unit development.

A Minor Subdivision is a subdivision creating two lots that does not qualify as a major subdivision. A series of minor subdivisions of a lot occurring within a period of five years creating a total of three or more lots shall be treated as a major subdivision.

A landowner, or his or her authorized representative, must secure approval of a subdivision in accordance with the standards and procedures set forth in this section prior to the subdivision of any land, before any permit may be issued authorizing subdivision, and before any subdivision plat may be filed with the Town Clerk.

7.2 DRB Review

Except as otherwise provided in this section, the DRB has the authority (a) to review major subdivision applications and determine whether to approve, subject to any appropriate conditions, a major subdivision, and (b) when the Administrative Officer refers a minor subdivision application to the DRB, to review and determine whether the application for a minor subdivision should be granted, subject to any appropriate conditions.

7.3 Review of Minor Subdivisions

The Administrative Officer has authority to review and approve minor subdivision applications without the involvement of the DRB, provided the minor subdivision meets the requirements of this Unified Bylaw. If, in the opinion of the Administrative Officer, a proposed minor subdivision requires greater scrutiny, the Administrative Officer may refer the application to the DRB, which may treat the application as either a minor or a major subdivision. A deed and survey plat for a minor subdivision must be presented to the Administrative Officer for review before an Administrative Permit may be issued.

7.4 Exemptions

Lot line adjustments allowed under Section 3.3 and annexations allowed under Section 3.4 do not require subdivision approval.

7.5 Subdivision Waivers

The DRB may waive or vary, subject to appropriate conditions, any application or review procedures and submittal and development requirements as in its judgment, based on the special circumstances of a

particular application, are not requisite in the interest of public health, safety and general welfare, nor required by the Act. It shall be the responsibility of the applicant to provide sufficient information to justify the request for a waiver. The DRB shall impose conditions which, in its judgment, secure substantially the objectives of the requirements varied or waived. Waivers shall be in writing and included in the permit file.

7.6 Subdivision Application Procedures In Summary

7.6.1 Major Subdivision Overview

1. Pre-Application Meeting: public meeting with DRB for informational purposes. Refer to Section 7.6.2 for information required. Applicant can waive this Meeting. No binding decisions.
2. Within six (6) months after the Pre-Application Meeting: Preliminary Plan application.
3. Within 45 days after Preliminary Plan application: Public Hearing.
4. Within 45 days after Public Hearing: Action on application.
5. Within six (6) months after Preliminary Plan approval: Final Plan application submitted.
6. Within 45 days after Final Plan application: Final public hearing (including evidence of applications for all government permits required for the project).
7. Within 45 days after final public hearing: Action on Application
8. Within 180 days after approval: Plat Recording
9. Within 30 days of recording Final Plat: Administrative Officer ~~to~~ issues an Administrative Permit.
10. On project completion: Written request for Certificate of Compliance and Submission of as-built drawings, if applicable.

7.6.2 Pre-Application Meeting

Potential applicants for subdivision are encouraged to meet with the Administrative Officer and the DRB when considering a project in order to avoid misunderstandings and to ensure a smooth application process.

An applicant for a subdivision will attend the Pre-Application Meeting, unless this phase is waived ~~at~~ by the applicant. The purpose of the meeting is to discuss the overall description of the project, familiarize the applicant with the regulations, and answer basic questions of procedure. The discussion shall be conducted at a public meeting held by the DRB. No written findings, conclusions or decisions shall be provided to the applicant and any comments by the DRB, the applicant and interested parties are non-binding.

To proceed with a pre-application meeting, the potential applicant shall, at least 12 days prior to a regular meeting of the DRB, submit to the Administrative Officer at least the following:

1. The name and address of the owner, the name and address of the potential applicant if different from the owner, the names and addresses of all abutters, the Book and Page number from the Town Land Records of the parcel proposed to be subdivided, and the Parcel ID Number. In addition, the applicant shall include a

brief written description of the proposed subdivision (single-family dwellings, commercial, industrial, or other), the number and size of the lots, the anticipated type of water supply and sewage disposal systems, and the anticipated timing of any construction including initiation and completion of the development.

2. A map showing the location of the proposed subdivision within the town of Strafford relative to the town highway system and including general topographic features.
3. A plan of the parcel drawn to adequate scale showing any existing structures and roads; a general layout of proposed roads, lots, and building sites; the general locations of streams, ponds, wetlands, and fields; and approximate locations of abutting properties.

7.6.3 Preliminary Plan Application

Within 6 months after the Pre-Application Meeting, the applicant shall submit to the DRB an application for approval of a Preliminary Plan which shall include the following:

- A. A completed application form, which may be obtained from the Town Clerk, together with the required fee.
- B. All information required for the Pre-Application meeting under Section 7.6.2
- C. A statement of the compliance of the proposed subdivision with the Town Plan, this Unified Bylaw, including reference to any zoning waivers, variances and other regulations in effect.
- D. A draft survey plat drawn to a scale adequate for showing the subdivision boundary with lot lines and lot sizes, dimensions, and abutters' names. If construction is proposed, the plat shall also show at least the location(s) of proposed leach fields, existing or proposed wells, existing buildings, proposed new buildings, flood hazard areas, primary agricultural soils, any land in pasture, stone walls, and existing and proposed roads
- E. Description of proposed water supply system(s). All design criteria shall be in accordance with applicable State and local health regulations.
- F. A description of proposed sewage disposal system(s). If onsite sewage disposal is proposed, a registered professional engineer's or certified site technician's report, and plans prepared in conformance with State and local health regulations, shall be submitted.
- G. Preliminary grading plans showing areas of cut and fill and revised contours at a contour interval not greater than 5 feet.
- H. A storm water drainage plan, drawn at a contour interval not greater than 5 feet, indicating the methods of collecting and discharging of drainage, as well as methods for temporary and permanent erosion control.
- I. All existing and proposed right of way lines, widths of roads, typical road profiles, dimensions of all lot lines and sizes of all lots, locations of all buildings, walkways, amenities, utilities and other manmade improvements.
- J. Calculation of sight stopping distances for new road or driveway intersections with Town highways.
- K. Typical landscaping plans showing plant types, ground cover, lighting and signage.
- L. Identification of all land proposed to be dedicated to open or public uses or to

be reserved for screening and buffer purposes, and the methods for assuring and maintaining such dedication or reservation.

- M. A description of any proposed covenants, and/or deed restrictions which are intended to cover all or part of the subdivision.
- N. A description of the homeowner's association or other form of management organization, if such is proposed.
- O. Any other information as deemed necessary for the DRB to make its decision.

The Secretary of the DRB must receive the completed application and all information specified in this Section not less than twenty (20) days before a hearing date.

7.6.4 Hearing and Decision on Preliminary Plan

Within 45 days after formal submission of all Preliminary Plan information required under Section 7.6.3, the DRB shall conduct a public hearing to be publicly warned at least 15 days in advance of the hearing date. Within 45 days of the date of adjournment of the final hearing, the DRB shall approve, with or without modification, or disapprove the Preliminary Plan. The ground, for approval, including any conditions of the approval, or the grounds for disapproval shall be set forth in a written notice of decision. A Preliminary Plan hearing may be recessed to a date certain in order to secure additional information.

7.6.5 Phasing

At the time the DRB grants Preliminary Plan approval, it may require the plan to be divided into two or more phases and may impose such conditions upon the filing of applications for Final Plan approval for each phase as it deems necessary to ensure the orderly development of the plan and to avoid overburdening Town facilities and services.

7.6.6 Validity of Preliminary Plan Approval

Approval of the Preliminary Plan by the DRB shall not constitute final approval of the subdivision plan. Prior to approval of the final subdivision plan, the DRB may require additional changes, as a result of further study.

Subsequent to the approval of the Preliminary Plan, the applicant shall submit the approved plan to such regional, State, and Federal agencies as may be required by law.

The approval of a Preliminary Plan shall be effective for a period of 6 months from the date of the written notice of approval.

7.6.7 Final Plan Application

Within six (6) months of Preliminary Plan approval, the applicant shall submit an application for approval of a Final Subdivision Plan. If the applicant fails to do so, he shall be required to resubmit a new ~~plat~~ application for Preliminary Plan approval subject to any new provisions of this Unified Bylaw.

The final application must conform to the requirements of this Unified Bylaw, and shall conform to the layout shown on the Preliminary Plan plus any recommendations made by the DRB and shall include:

- A. Four copies of a final plat plan and project description.

- B. All information required for the Preliminary Submittal shall be submitted in final form, including any revision or additional detail requested by the DRB.
- C. In the event of granting of easements to the municipality, a written acknowledgement of the applicant's responsibility for maintenance of easement areas is required until such land has been legally accepted by the Town.

7.6.8 Final Plan Hearing

A Public Hearing shall be held by the DRB within 45 days after receipt of the final plan application along with any information requested by the DRB in the preliminary approval. The public hearing shall be publicly warned at least 15 days in advance of the hearing date. The Secretary of the DRB must receive the request for a hearing at least 20 days prior to any hearing date along with any information requested by the DRB in the preliminary approval.

7.6.9 Final Plan Approval

The DRB shall, within 45 days from the adjournment of the Final Plan Hearing, approve, modify, or disapprove the Final Plan. Failure to act within such 45 day period shall be deemed approval. A final plan hearing may be recessed to a date certain in order to secure additional information. In the event that the applicant has no plans for development, the DRB may establish conditions for future development based on steepness of slopes, ridgeline protection, preservation of important agricultural lands, and establishment of buffer zones around wetlands and streams, protection of wildlife habitat, prevention of forest fragmentation, as well as access by safety and emergency vehicles and any other items listed in section 7.7.

Where applicable to a specific subdivision application, the following may be required prior to approval of the Final Plan:

- A. an agreement to convey to the Town land to be used for roads, open space and other public purposes;
- B. an agreement to maintain roads, parks, recreation areas and other improvements in the future and to waive any claims regarding the Town's obligation to accept said improvements as Town facilities;
- C. descriptions of easements and rights of way over property to remain in private ownership; and
- D. descriptions of easements to drain onto or across other property.

7.6.10 Signing of Approved Final Plat for Major Subdivisions

The Final Plat must be a mylar copy of the survey, and must not differ in any material way from the plat approved at the final public hearing. Prior to filing for recording, but after the appeal period has expired, the plat must be reviewed at a regularly scheduled meeting of the DRB for compliance with the final plan approval, and signed by the chair or vice chair of the DRB. The authorized members of the DRB may not sign the mylar plat unless the applicant has provided any required items of approval, including bond or surety, a written agreement with the Selectboard, or an easement or covenant.

Any changes, erasures, modifications or revisions made to any final mylar plat after it has been approved and signed by the DRB shall render the subdivision approval null and void.

7.6.11 Filing of Approved Final Plat and Effect of Failure to File Within 180 Days for Major Subdivisions

Within 180 days following the date of approval of a subdivision, the applicant must submit the final signed mylar plat to the Town Clerk for filing in the land records of the Town of Strafford. The plat to be recorded shall be in compliance with state law 27 V.S.A., Chapter 17. Filing fees shall be paid directly to the Town Clerk.

If an accurate mylar map is not filed within 180 days following approval of the subdivision, the subdivision approval shall be rendered null and void. It is the responsibility of the applicant to present the mylar in a timely manner.

7.6.12 Administrative Permit

Following recording of the Final Plat, the Administrative Officer shall promptly issue an Administrative Permit for the actions described in the approval.

7.7 General Planning Standards

In carrying out its under responsibilities under this section, the DRB shall authorize the creation of lots, and the siting of structures and improvements on those lots in accordance with the following planning standards. Through the use of these standards, the DRB will seek to implement the Town Plan. ~~That~~ The Plan is designed to reinforce two principal features of the Town: the historical, rural character of Strafford and the natural beauty of its setting. These features will be strongly affected by future patterns of land subdivision and development siting. Accordingly, the DRB shall consider the Town's special features, landscape patterns, natural resources and the relationship of land use to road access in rendering its decisions. The DRB may require the hiring of outside professional assistance, to be paid for by the Applicant, to assist in their review of the Application.

7.7.1 Character of the Land

All land to be subdivided shall be, in the judgment of the DRB, of such a character that it can be used for the intended purposes without danger to public health or safety, to the environment or to critical resources, as identified in the Town Plan. Land designated as flood hazard areas or characterized by poor drainage or steep slopes, or subject to other hazardous conditions shall not ordinarily be subdivided.

Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit stormwater runoff and conserve the natural cover and soil.

Irregularly shaped lots shall be avoided unless warranted due to topographic constraints, or to minimize the fragmentation of natural, scenic or cultural features. All land to be subdivided shall be, in the judgment of the DRB, of such a character that it can be used for the intended purposes without danger to public health or safety, to the environment, or to critical resources as identified in the Town Plan.

The DRB shall require a program of landscaping, soil stabilization and the establishment of appropriate, permanent vegetative cover following excavation or grading. The DRB may also require embankments to be planted with a stabilizing shrub or groundcover to prevent erosion.

7.7.2 Preservation of Existing Features

The applicant shall demonstrate that reasonable steps to preserve and protect of existing features such as, but not limited to, trees, scenic points and roads, brooks, streams, rock outcroppings, water bodies, forest resources, other natural resources, wildlife habitat and corridors, historic resources, prime agricultural soils, and open pastureland.

7.7.3 Surface water including Wetlands

No development will be allowed within 50 feet of surface waters, except stream crossings which should be avoided when practical. Wetlands, as identified and defined by the State of Vermont shall not be drained, filled or altered to accommodate subdivision. Any activity within a Class I or Class II wetland or buffer zone which is not exempt or an allowed use under Vermont Wetland Rules requires a state wetland's permit. Proposals for the subdivision of a lot involving or adjacent to an identified wetland shall provide for adequate setbacks of roads, buildings, structures and sewage systems from the wetland. Adequate setbacks shall be no less than 100 feet, but may be increased by the DRB to protect the following wetland values:

- A. water quality control;
- B. groundwater supply;
- C. flood and erosion control;
- D. flora and fauna; and
- E. education and recreation.

This provision shall not apply to the use of such areas for the growing of food or crops in connection with farming activities.

7.7.4 Scenic Qualities

Subdivisions visible from public highways shall be designed to ensure that the subdivision and resulting proposed structures or site alterations, including grading, filling, removal of trees, stonewalls or contributing landscape features are consistent with the scenic quality of the highway and roadside areas in order to minimize any adverse effects on views or vistas afforded from the highway. Subdivisions shall be designed so that location of any subsequent utilities maintain and protect the character of scenic areas.

7.7.5 Agricultural Lands and Pastureland

Subdivision of prime agricultural soils and pasturelands shall be permitted only where the DRB makes the following findings:

- A. The subdivision
 1. retains the maximum possible soils/pastureland for agricultural use through such means as clustering under PUD provisions, reduction in allowable density, sale or donation of development rights; and
 2. maximizes the use of the least productive land and the protection of primary agricultural soils.
- B. The subdivision shall not conflict with existing or potentially viable

agricultural uses in the area.

7.7.6 Forest Use Land

Preservation of productive forest land, significant wildlife habitat and corridors, and the economic viability of the forest industry are matters of public good. A subdivision, which significantly impairs the management or use of forest resources (including wildlife habitat), shall only be permitted when the public interest is clearly benefitted thereby.

Subdivision of forest resource areas shall be permitted only where the DRB finds that the applicant has demonstrated that the subdivision has been planned to minimize the loss of forestry potential and significant wildlife habitat.

7.7.7 Energy Conservation

Land subdivision shall promote energy efficient site planning and layout. Methods that can be used to achieve energy efficiency in site planning include:

- A. Buildings may be oriented to take advantage of shade and airflows for cooling in summer, and of passive solar energy for heating and wind protection in winter.
- B. Windows may be placed, and appropriately shaded, to maximize solar gain during the winter months and minimize solar gain during the summer months.
- C. Landscaping may be designed to provide shading and cooling during the summer months while minimizing reduction of solar heat penetration during the winter months.

7.7.8 Parking

The DRB shall require a parking plan sufficient to accommodate the proposed development.

7.7.9 Pedestrian Access

The DRB may require a public right of way to facilitate pedestrian circulation within a subdivision.

7.7.10 Power and Telephone

The DRB may require the underground installation of power and telephone lines wherever it is necessary to maintain and protect the existing visual character of a scenic area. A diagram showing location of utility lines shall be submitted with the as-built drawings.

7.7.11 Drainage and Erosion Control

Subdivisions shall be designed to avoid unreasonable soil erosion, storm water run-off, or a reduction in the capacity of the land to hold water so that a dangerous condition might result. The DRB may require that the applicant submit drainage and erosion control plans prepared by a professional engineer or erosion control specialist. The site shall be planned to minimize the use of pavement, make use of

retention ponds and berms, and employ phased construction to reduce runoff and erosion. Use of innovative permeable materials is encouraged.

The DRB may require such temporary and permanent drainage and erosion control techniques measures as may be necessary to control surface runoff. Factors to be considered in determining the types of controls necessary shall include vegetation and ground cover, slopes, soil types, percentage of land covered by impermeable surfaces, distances to streams, and impact on adjacent properties.

The DRB may require the phasing of construction to reduce the amount of land disturbed by construction at any one time, and may stipulate deadlines for the installation of erosion control or soil stabilization measures.

For the purposes of calculating the amount of surface runoff, a minimum 25 year storm precipitation factor shall be used.

The DRB may request determination of the effect of the subdivision on the existing downstream drainage capacity outside of the area of the subdivision. Where the DRB anticipates that the increased runoff will overload the capacity of the downstream system, it may request the applicant to delay construction until capacities are adequate, and may request the applicant to assist in the capacity improvements deemed necessary.

7.7.12 Emergency Services

Subdivisions shall be designed to ensure adequate provision of facilities necessary for adequate fire protection. Access drives shall be designed to safely accommodate emergency vehicles. Design of access drives shall be coordinated with the Strafford Fire Department. On major subdivisions, the DRB may require the provision of storage ponds and dry hydrants necessary for adequate fire protection.

7.7.13 Lighting

Subdivisions shall be designed to minimize glare, light trespass and sky glow by using fixtures that project downward. Lighting designs shall provide adequate outdoor site lighting for pedestrian and vehicular safety but illumination shall be confined to the property. Use of energy efficient fixtures is required.

7.7.14 Provision of Buffer Areas

The DRB may require greater setbacks from property boundaries than specified in the Unified Bylaw in order to create buffer zones. Conditions for requiring buffer areas may include, but not be limited to, lack of dense vegetation; proximity to streams, wetlands, or surface waters; heightened visibility due to differences in elevation; concentration of uses on the site as permitted by PUD and cluster provisions of the Unified Bylaw; and incompatibility of adjacent uses or other aesthetic considerations. The DRB may require buffer zones on the parcel to be subdivided and on adjoining parcels in order to provide a continuous system of greenbelts and wildlife corridors.

7.8 Roads

7.8.1 Layout

All private roadways and intersections shall be designed to ensure the safe and efficient movement of vehicles. Roads shall be logically related to the topography so as to produce usable lots and reasonable road grades. Wherever extensions of proposed roads could rationally provide public access to adjacent properties or connection to existing public State or Town highways, a right of way across the subdivider's property may be required.

7.8.2 Traffic Management

If, in the judgment of the DRB, a proposed subdivision presents the potential for significant traffic impact on Town or State roads, Village centers, or historic areas, a traffic impact study may be required. The purpose of such a study shall be to identify the traffic impact potential of a proposed subdivision and to identify necessary and appropriate mitigating measures. When warranted, such studies shall be funded by the applicant, prepared by a qualified registered professional engineer or transportation planner, who shall be selected jointly by the applicant and the DRB. Such studies shall include:

- A. a description of the general location of the project;
- B. a statement of existing traffic conditions and projected traffic conditions in five (5) years;
- C. a statement comparing the Level of Service (LOS) of the roadway(s) and/or intersection(s) in the Town with and without the proposed project(s) at the opening date of the project and in five (5) years;
- D. a statement of recommendations outlining any adverse traffic impact of a proposed project and the necessary improvements to provide an acceptable Level of Service.

Based upon a review of the study, the DRB shall set appropriate conditions to avoid or mitigate any traffic congestion or safety problems associated with the proposed subdivision.

7.8.3 Location and Design of Intersections

Intersections with existing roadways shall be as close to 90 degrees as possible. Approaches to intersections with existing roads shall be at a maximum grade of 3% for a distance of 100 feet from the edge of the travel lane. Intersections shall be located so as to provide a minimum sight stopping distance in accordance with the following standards of the American Association of State Highway Officials:

| Minimum Stopping Design Speed of Roadway Section (MPH) | Sight Distance Sight Stopping Distance (Feet) |
|--|---|
| 30 | 176 |
| 40 | 263 |
| 50 | 369 |

The DRB may restrict the frequency of access or impose special intersection design requirements along all Town highways.

7.8.4 Design Standards for Private Roads

Private roads (defined as serving three or more dwellings) shall be built according to the Town Road and Bridge Standards as adopted by the Selectboard. Width of the private road shall be the same as the town road which it utilizes for access.

7.8.5 Design Standards for Town Roads

All proposed public highways shall comply with adopted Road and Bridge Standards and any revisions made thereto, as adopted by the Selectboard.

7.8.6 Road terminations

All dead end roads in excess of 800 feet in length shall terminate in T-shape that must be adequately sized and landscaped to allow for the turning around of emergency vehicles.

7.8.7 Road Maintenance

The maintenance of all roads used for access, not designated as Class 3 Town Highways or higher, shall be the responsibility of the applicant. The applicant shall supply evidence and assurance that said access roads will be adequately maintained either by himself owner or by an owners' association.

7.8.8 Curb Cuts on Existing Roads

The total number of curb cuts permitted on each side of a continuous length of road frontage on a parcel shall not exceed the number set forth in the following table. These limits shall not apply to farm entrances used solely to gain access to a field for agricultural or temporary forestry purposes. In calculating the number of curb cuts permitted, any curb cut in existence prior to the effective date of adopting these regulations or constructed thereafter shall be included.

| Continuous Road Frontage of Parcel | # of Curb Cuts Permitted |
|---|---------------------------------|
| 0-799 Feet | 2 |
| 800-1599 Feet | 3 |
| 1600-2399 Feet | 4 |
| 2400-3199 Feet | 5 |
| 3200 Feet or more | 6 |

Re-subdivision of a parcel after the effective date of this Unified Bylaw shall not create a right to construct any curb cut in addition to those permitted in the above table.

The Selectboard is responsible for issuing all highway access permits. An applicant ~~to~~ should communicate with the Selectboard regarding highway access prior to applying for a subdivision permit, but an access permit is not required as part of the subdivision application. Approval of a subdivision permit by the DRB does not guarantee approval of access by the Selectboard.

7.9 General Conditions

7.9.1 Fees

Upon submission of an application for major subdivision preliminary plan approval, the applicant shall pay the application fee as established by the Board of Selectmen.

7.9.2 Completion Date

Each approval for a Final Plan shall contain a time limit within which all improvements shall be completed not to exceed three (3) years, unless required or extended by the DRB.

7.9.3 As-Built Site Plan

Submittal of an as-built plan shall be required prior to the use or occupancy of any major subdivision, and may be required by the Administrative Officer for a minor subdivision. This plan shall be drawn to scale and shall indicate by dimensions, angles, and distances the location of all utilities, structures, roadways, easements and other improvements as constructed. As-built plans shall be submitted by the subdivider to the Administrative Officer on a permanent recordable print(s) 18" x 24" size.

7.9.4 Revision of Approved Plat

No changes, modifications or revisions that alter the conditions attached to a Final Plat Approval shall be made unless the plat is first resubmitted to the DRB and the DRB approves the modifications after a public hearing. In the event that a subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void.

7.9.5 Public Acceptance of Roads and Open Spaces

Nothing in this Unified Bylaw shall be construed to constitute the acceptance by the Town of Strafford of any road, easement, utilities, park recreation area or other open space shown on the Final Subdivision Plat. The DRB may require the filing of a written agreement between the applicant and the Selectboard waiving any existing or future claim by the applicant and/or their heirs, successors and assigns, 1) regarding the Town's obligation to accept any road or other improvement as a Town facility as shown on the Final Plat and 2) providing for the future grading, development, equipment, repair and maintenance of any such road or other improvement by the applicant and/or heirs, successors and assigns.

Consistent with the objectives of the Town Plan, and in accordance with 10 V.S.A., Chapter 155, the Town may accept an easement on property to protect its open, scenic or resource value. Donation of such a conservation easement to a qualified non-profit organization may also serve as a means of meeting Town Plan objectives. In either case, written agreements between the parties shall be required.

7.9.6 Compliance with Other Bylaws

Nothing in this section shall be so construed as to supersede the conditions and criteria for permit approval set forth in other sections of this Unified Bylaw or other ordinances or bylaws.

7.9.7 Performance Bond Requirements

The DRB may require from the applicant, for the benefit of the Town, a performance bond or other form of surety approved by the Selectboard in an amount sufficient to cover the full cost of constructing any public improvements that the DRB may require in approving the subdivision with the bond to be submitted prior to Final Plat approval.

The performance bond shall not be released until the Selectboard has certified completion of the improvements in substantial accordance with the approved Final Plat. The performance bond or other surety shall run for a term to be fixed by the DRB, but in no case for a longer term than 3 years or completion of improvements, whichever is later. However, the term of such bond or surety may, with the consent of the owner, be extended for an additional period not to exceed 3 years.

If any required improvements have not been installed or maintained as provided within the term of such performance bond or surety, it shall be forfeited to the town and upon receipt of the proceeds thereof, the town shall install or maintain ~~such~~ the improvements covered by and to the extent of the performance bond or the surety.

The DRB may also require a performance bond or surety covering the maintenance of improvements for a period of 2 years after acceptance by the Town, in an amount to be equal to at least 10 percent of the estimated cost of constructing those improvements.

8. Administration, Enforcement and Appeals

8.1 Notice of Public Hearings

At least one warned public hearing shall be required for conditional use approval, waivers, variances, Administrative Officer appeals, site plan review, and preliminary and final plan review for subdivisions. Notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

Publication of a notice at the applicant's expense by the Administrative Officer in a newspaper of general circulation in the Town of the date, time, place, and purpose of the hearing; a description of the proposed project; where additional information may be obtained; and notice that participation in the hearing is a prerequisite to the right to take any subsequent appeal.

Posting of the same information by the Administrative Officer in three or more public places within the municipality, including the Town Office.

Posting of the same information by the applicant on a form provided by the town within view from the public right of way most nearly adjacent to the property for which an application is made. Such outdoors posting shall be posted no closer than 7 feet to the traveled surface. Posting on private property outside the right-of way requires landowner permission. The applicant must provide a signed certificate of posting at the hearing.

Mailing or hand delivery by the applicant of a copy of the public posting by ~~first class~~ certified mail to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The applicant must provide a signed certificate of service at the hearing, or return receipts if service was by certified mail.

Written notification by the DRB to any neighboring town's clerk if the proposed subdivision is within 500 feet of that town.

If additional hearings are needed for additional information, the first hearing may be recessed to a later date and time specified at the first hearing without requiring new notice. If the first hearing is closed and any additional hearings are needed, the notice requirements above apply.

8.2 Decisions

Any action or decision of a DRB shall be taken by the concurrence of a majority of the members of the DRB. In accordance with 24 V.S.A. § 4464(b), the DRB shall issue a decision within 45 days after the adjournment of the final hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day.

In addition:

All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence in the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 8.3.

Within the Floodplain Overlay District, the DRB shall consider comments from the NFIP Coordinator at the Agency of Natural Resources.

In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, this Unified Bylaw, and the Town Plan currently in effect. This may include, as a condition of approval:

- A. the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Selectboard, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
- B. a requirement that no Administrative Permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

All decisions of the DRB shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision shall be mailed first class to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and Town Clerk and recorded in land records of the town.

8.3 Appeals

8.3.1 Appeals of the Administrative Officer

Any interested person may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the DRB or with the Town Clerk if no secretary has been appointed. Such notice of appeal must be filed within fifteen (15) days of the date of such decision or act, and a copy of the notice of appeal shall be filed with the Administrative Officer.

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with 24 V.S.A. § 4466:

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

8.3.2 Appeal Process

The DRB shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under 24 V.S.A. § 4468. The DRB shall give public notice of the hearing pursuant to Section 8, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

The DRB may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant, see 24 V.S.A. § 4470.

In accordance with 24 V.S.A. § 4468, all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. § 810. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the DRB from time to time, provided that the date and place that the hearing shall be reconvened is announced prior to adjournment.

A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under 24 V.S.A. § 4464(b). The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Town Clerk as part of the public records of the town. Failure of the DRB to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

8.4 Interested Persons

The definition of an interested person under 24 V.S.A. § 4465(b) includes the following:

1. a person owning title to property, or a municipality or a solid waste management district empowered to condemn it or an interest in it, affected by a Unified Bylaw, who alleges that the Unified Bylaw imposes on the property unreasonable or inappropriate restrictions under the particular circumstances of the case;
2. the Town of Strafford or any adjoining town;
3. a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under this Unified Bylaw who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the Town Plan or this Unified Bylaw;
4. any ten (10) voters or property owners within the Town who, by signed petition to the DRB, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the Town Plan or this Unified Bylaw; and
5. any department or administrative subdivision of the state owning property or any interest therein within the Town or adjoining town, and the Vermont Agency of Commerce and Community Development.

8.5 Appeals to Environmental Court

An interested person who has participated in a proceeding before the DRB may appeal a decision to the Vermont Environmental Court in accordance with current Vermont statutes. See 24 V.S.A. § 4471. Participation in a proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. In the event that a notice of appeal is properly filed, any permit, approval or action shall not take effect until final adjudication of said appeal.

8.6 Violations and Enforcement

The commencement or continuation of any land development that does not meet the requirements of this Unified Bylaw shall constitute a violation. All violations shall be pursued in accordance with 24 V.S.A. §§ 4451, 4452. Each day that a violation continues shall constitute a separate offense. The Administrative Officer may institute, in the name of the Town of Strafford, any appropriate action, injunction or other proceeding to enforce the provisions of this Unified Bylaw. All fines imposed and collected shall be paid over to the Town.

Note that within the Flood Hazard Overlay additional enforcement provisions apply.

8.7 Notice of Violations

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under 24 V.S.A. § 4451. The notice of violation shall be issued by the Administrative Officer and recorded in the land records of the town. The notice shall state that a violation exists; that the alleged offender had an opportunity to cure the violation within the seven-day notice period; and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of this Unified Bylaw after the seven-day notice period and within the next succeeding 12 months.

Note that within the Flood Hazard Overlay additional provisions apply.

8.8 Limitations on Enforcement

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with 24 V.S.A. § 4454. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted

No action, injunction, or other enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit that received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit generally in the form provided in 24 V.S.A. § 1154 (c) was recorded in the land records of the Town municipality as required by 24 V.S.A. § 4449 ©.

9. Definitions

For the purposes of this Unified Bylaw, meanings of the following words and terms shall be interpreted as defined below and all other words shall be presumed to have their normal meaning, unless such meaning runs counter to the purposes and objectives of this Unified Bylaw or the Town Plan. The definitions of terms defined in 24 V.S.A. § 4303 24 of the Act, and not otherwise defined herein are made a part of this Bylaw.

ACCESSORY BUILDING OR ACCESSORY USE: A building or use customarily incidental and subordinate to the principal building or use located on the same lot. There can only be one **ACCESSORY DWELLING UNIT** associated with each lot (Section 3.11 of this Unified Bylaw).

AFFORDABLE HOUSING: Affordable housing is defined as a dwelling unit that a household making the County median income could afford if no more than 30% of the household's ~~its~~ income were spent on housing costs. For homeowners, housing costs include payments for principal and interest on mortgage, taxes, insurance and condominium fees. For renters, housing costs include rent and utilities.

AGRICULTURAL STRUCTURE: A building or structure used primarily as part of an agricultural operation including barns, sheds, silos, and storage pits. See Section 2.2 (4).

AGRICULTURAL USE: Any use of structures for the raising, storage or maintenance of livestock, field crops, forest crops or any other crops or animals. Examples: Dairy barns, stables, kennels, greenhouses, or poultry houses. Per 24 V.S.A. § 4413 (d), no municipal permit shall be required for accepted agricultural practices. Agriculture primarily for the purpose of consumption by a single family shall not be considered commercial agriculture.

ALTERATION: Structural change that increases the exterior height, width or length of the building, including a change of location of, or addition to, a building.

BED & BREAKFAST: A building used as a dwelling unit having a capacity of between 5 and 12 paying guests for public lodging, providing room and/or meals for lodging guests only, and which does not materially change the character of the immediate area.

BUILDING: A structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel, excluding fences.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finish grade around a building to the highest point of the roof. The distance measured is exclusive of chimneys, lightning rods, antennas, or rooftop solar collectors of that are less than 10 feet high.

The finish grade represents the average of finished ground level adjoining the building at exterior walls. Where the finish ground level slopes away from the exterior walls, the finish grade shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

CEMETERY: A parcel of land used exclusively for the burial of humans.

CERTIFICATE OF COMPLIANCE: A certificate issued by the Administrative Officer certifying the applicant has acted in accordance with all terms and conditions of the Administrative Permit; this certificate must be issued prior to the use or occupation of any land or building.

COMMENCEMENT OF CONSTRUCTION: Construction of the first improvement to land or to a building or structure, including work preparatory to construction, such as clearing or roadway improvements, the act of which is incidental to a plan or intention to erect or make alterations to a building or structure, or divide land for sale or other purposes.

COMMERCIAL (LIGHT): Any use of land or structures primarily for the purpose of buying or selling goods or services, which, after applying the Unified Bylaw standards, could reasonably be carried out on ½ acre of land. Example: retail shops or general stores.

COMMERCIAL (MEDIUM/HEAVY): Any use of land or structures primarily for the purpose of buying or selling goods and which would reasonably require more than ½ acre of land. Examples: automotive dealership, equipment sales, or building supply outlets.

CONDITIONAL USE APPROVAL: Approval given by the DRB after a public hearing, if the proposed conditional use (see definition under USE, CONDITIONAL) does not have an undue adverse affect on the capacity of community facilities, the character of the area affected, traffic, the utilization of renewable resources, or the provisions of the Unified Bylaw. To be obtained after a site plan review has been conducted by the DRB, if a site plan review is also required.

DAY CARE FACILITY: The principal use of a building or lot is to provide supervision, care, or meals, but not overnight lodging, for infants, children, handicapped and/or the elderly.

DISTRICT: A part, zone or geographic area within the Town of Strafford within which certain zoning or development regulations apply.

DWELLING, ONE FAMILY: A building containing one dwelling unit.

DWELLING, TWO FAMILY: A building containing two dwelling units.

DWELLING, THREE FAMILY: A building containing three dwelling units

DWELLING, MULTI-FAMILY: A building containing more than three dwelling units.

DWELLING UNIT: A space consisting of one or more rooms designed, occupied or intended for occupancy, as a separate living quarters, with cooking, sleeping and sanitary facilities provided within that space for the exclusive use of one or more persons maintaining a household.

FORESTRY USE: Land which is managed and used for the cultivation and harvesting of trees.

GUEST HOUSE: A building used as a dwelling unit having a total capacity of not more than four paying guests for public lodging, providing rooms and/or meals for lodging guests only, and which does not materially change the character of the immediate area.

HOME OCCUPATION: Any occupation customarily carried on by a resident at his or her residence, provided that the use occupies a minor portion of the residence and/or accessory structures, does not materially change the character of the area and is clearly secondary to the principal use as a residence.

INDUSTRIAL (LIGHT): Any use of land or structures for the purpose of manufacturing, processing or storing goods which after applying the standards of the Unified Bylaw would reasonably be carried out on ½ acre of land. Examples: small assembly operations and craft workshops.

INDUSTRIAL (MEDIUM/HEAVY): Any use of land or structures for the purpose of manufacturing, processing or storing goods which after applying the standards of the Unified Bylaw would reasonably require more than ½ acre of land. Examples: sawmills, warehouses or large manufacturing processes.

INTERESTED PERSON: Anyone lawfully afforded the right to appeal a decision or act of the Administrative Officer as defined under 24 V.S.A. § 4465(b).

JUNK YARDS: Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or scrap. In addition, the term means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from a public highway. This does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

LAND DEVELOPMENT: A subdivision of a parcel or lot of land into two or more lots; the construction, reconstruction, relocation or enlargement of any building/structure, road or driveway, or any mining, excavation or landfill; or any change in use of any building or other structure or land or extension of use of land.

LODGE/INN: A building containing central entrances for lodging up to 25 paying guests which may provide meals for guests and the general public.

LOT: A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law; to be used, developed or built upon as a unit. A lot cannot be divided by a public highway as defined by 19 V.S.A. § 1.

LOT AREA: The total area within the property lines of the lot.

LOT FRONTAGE: That portion of a lot which borders a public highway as defined by 19 V.S.A., Section 1, or a private right-of-way as approved by the DRB pursuant to Section 3.2.

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

MOBILE HOME PARK: Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes

MUNICIPAL USES: Any use of land or structures for municipal services. Examples: public utilities, town highways, public recreation areas, municipal garages, municipal parking lots.

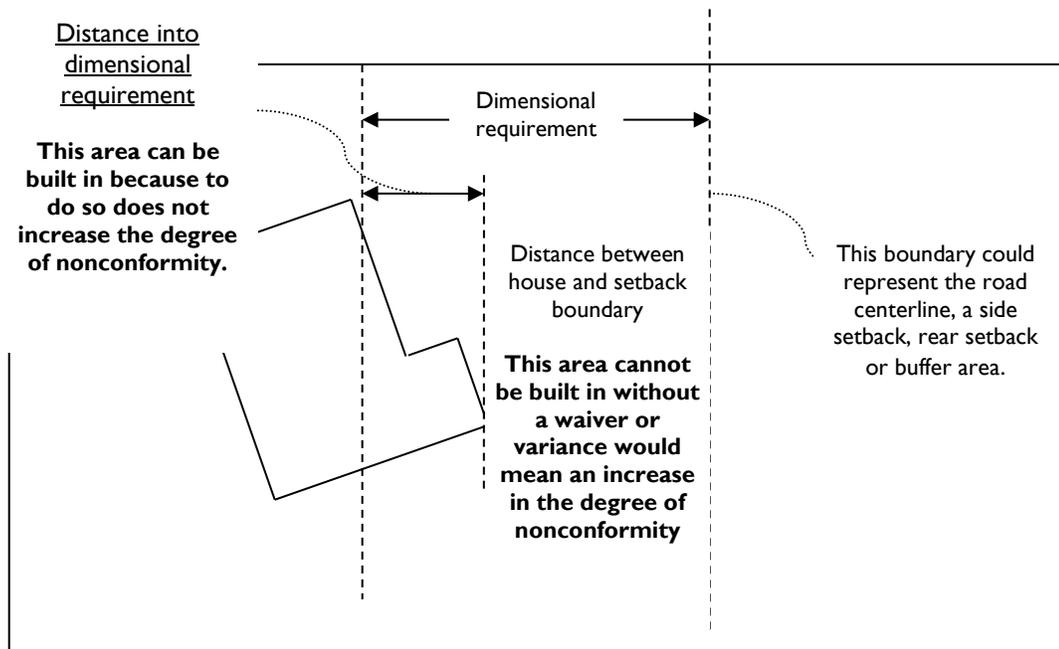
MUSEUM: A use of a building and land by an institution devoted to the procurement, care, study, and display of objects of interest or value.

NONCONFORMING STRUCTURE: A structure or part of a structure that does not conform to this Unified Bylaw but was in conformance with all applicable laws, Bylaws, and regulations prior to the enactment of this Unified Bylaw, including a structure improperly authorized as a result of error by the administrative officer or a municipal board. Structures that were in violation of the Strafford Flood Hazard Area Zoning Ordinance at the time of their creation, and remain so, remain violations and are not nonconforming structures.

NONCONFORMING USE: Use of land that does not conform to this Unified Bylaw but did conform to all applicable laws, Bylaws, and regulations prior to the enactment of the ~~present~~ this Unified Bylaw including a use improperly authorized as a result of error by the administrative officer or a municipal board.

NONCONFORMITY: A use, structure, lot or parcel that does not conform to this Unified Bylaw.

NONCONFORMITY, DEGREE OF: In plain language, the degree of non-conformity is the linear distance that the non-conforming structure protrudes into the setback. (diagram below.)



NUISANCE: An undue interference with the enjoyment and use of property.

OUTDOOR CAMPING FACILITIES: The term means any parcel of land occupied by more than three (3) automobile trailers, campers, recreational vehicles, tent sites or temporary cabins for a brief period for vacation or recreational purposes. There shall be no distinction made between non-commercial (no charge, no service) and commercial operations. A mobile home used as a residence is considered as a dwelling and this definition is not applicable.

OUTDOOR RECREATION FACILITIES: A principal use of land together with any accessory buildings which typically involves the sale of a service, including but not limited to tennis courts, golf courses, hiking trails, skating rinks, playfields, horse riding and driving, wildlife sanctuaries, cross-country skiing and outdoor swimming pools. The term specifically excludes outdoor movie theaters, firing ranges, bowling alleys, race tracks, motor bike, and ATV activities.

PARKING AREA: An area of land on a parcel or lot designated or used exclusively for the maneuvering and storage of motor vehicles and not within the public right-of-way.

PARKING SPACE: A defined space which is at least ten feet wide and twenty feet long, outside of the right-of-way or driveway, which affords practical access to the road or right-of-way and which is graveled or is paved sufficiently to permit year-round use.

PLANNED UNIT DEVELOPMENT: An area of land to be developed as a single entity for a number of dwelling units, commercial and/or industrial uses, the plan for which does not correspond in lot size, bulk or type of dwelling, commercial or industrial use, density, lot coverage and required open space to the Unified Bylaw established in any one or more zoning districts.

PRINCIPAL BUILDING: A building in which is conducted the principal use of the lot on which it is located.

PRINCIPAL USE: The primary or predominate use of any parcel or lot.

PRIVATE ROAD: Any roadway serving three or more dwellings or properties or any driveway of more than 800 feet in length.

PROFESSIONAL OFFICE: An office where a professional service is provided. Examples include a doctor's or real estate broker's office or an insurance office.

PUBLIC BUILDING: A building owned by a municipality, county, state, or federal government or a quasi-public building that is property tax exempt or qualifies for exemption, such as a church, private school, medical clinic, hospital, library or museum.

PUBLIC LAND: Land owned in fee by the State of Vermont, Town of Strafford or other political subdivision.

PUBLIC OPEN SPACE: Public or community owned land available for limited public or park-like uses.

PUBLIC UTILITY: A business or service which is engaged in regularly supplying the public with a commodity such as telephone, internet, electric, sewage or water service.

REPAIR OR SERVICE SHOP: A structure utilized exclusively for the sale of goods or services to the general public. For example, fixing and reconditioning objects and machinery.

RESTAURANT: A commercial establishment which is open to the public and which provides meals to its patrons.

RESIDENTIAL (1 and 2 FAMILY DWELLINGS): Any use of land or structures comprising the residence of one or two families in a primary structure. Examples: single family homes, duplexes, mobile homes, or cabins.

RESIDENTIAL (MULTIPLE FAMILY DWELLINGS): Any use of land or structures comprising the residence of three or more families in a primary structure, cluster or complex. Examples: apartment house or attached townhouses.

RETAIL ESTABLISHMENT: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, the use of which does not exceed 6,000 square feet of floor area.

SCHOOL: Includes public, private, and nursery school, college, university and accessory uses, but shall not include commercially operated schools of business, dancing, driving, beauty culture, or similar business establishments.

SENIOR HOUSING: Housing which is designed for and occupied by persons at least 80% of whom are 62 years of age or older.

SETBACK, FRONT: The distance from the centerline of any highway or road right-of-way which abuts a parcel of land to the nearest part of any building or structure

SETBACK, REAR: The distance from the rear lot line to the nearest part of any building or structure.

SETBACK, SIDE: The distance from the side lot line to the nearest part of any building or structure.

SIGN AREA: The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure.

SIGN, BUSINESS AND PUBLIC BUILDING: A structure which calls attention to and/or acts as an outdoor display for an establishment, property, or the services and products provided therein.

SIGN, INSTRUCTIONAL: A structure which is used to direct the user of the premises for off-street parking, traffic control, pedestrian areas, loading docks, safety zones or other similar purposes.

SIGN, PERMANENT: Any structure designed to convey information visually and which is exposed to public view. The term shall include all structural members and related elements composed to form a single unit.

SIGN, TEMPORARY: A structure which is used to advertise or call attention to a special sale, event, auction, campaign drive, etc., such sign to be erected for a period not to exceed 21 days per occasion.

SIGN, REAL ESTATE: A structure which is designed or used to advertise or call attention to real estate available for sale or lease erected on premises offered for sale or lease.

SITE PLAN REVIEW: Prior to the approval of any structure other than a one- or two-family dwelling or any use other than agricultural or Home Occupation, the DRB shall review applications and may impose conditions and safeguards as they relate to traffic access, circulation and parking; site lighting; landscaping and screening; the protection of the utilization of renewable energy resources; and other requirements as ~~listed~~ set forth in this Unified Bylaw.

SMALL ENTERPRISE: A small business located in the Village Center or Rural Residential Districts that is larger than a home occupation in size or scope but meets other performance criteria as listed in Section 5.2.

STRUCTURE: An assembly of materials with fixed location on or below the ground, or attached to an object having an affixed location on the ground including, but not limited to, towers, dish antennae, signs, but excluding mailboxes, fences, roads or driveways, and underground utilities.

STRUCTURE, MINOR: A building less than 120 square feet in area. Minor structures must meet all setback minimums for the district where they are located.

STRUCTURE, TEMPORARY: A structure for accessory use, without a permanent foundation or footing and which is removed when the designated time period, activity, or use for which it was erected has ceased.

STRUCTURE, OCCASIONAL USE: A cabin, camp, construction trailer or structure used on an intermittent basis.

SUBDIVISION, LAND: The act of dividing a parcel or lot of land by sale, gift, lease, mortgage foreclosure, court ordered partition or the filing of a plot plan in the Town Records where the act creates or is intended to create two or more lots.

SUBSURFACE SEWAGE DISPOSAL SYSTEM: Any sewage disposal system which treats and disposes of domestic sewage underground and therefore whose proper installation and safe functioning is dependent on suitable conditions of soils, slopes, bedrocks, and water tables as determined by the VT Agency of Natural Resources Waste Management Division.

SURFACE WATER: Any year-round body of water such as brooks, streams, rivers, ponds or lakes.

USE, CONDITIONAL: Any of the various uses in the zoning districts, as listed in Zoning Districts and Uses Table 1 (pages 32 - 33), which requires a conditional use approval from the DRB.

USE, PERMITTED: A use which may be approved by the Administrative Officer in any district as set forth by this Unified Bylaw, excluding illegal uses and non-conforming uses.

VARIANCE: A deviation from the strict application of the provisions of this Unified Bylaw authorized by the DRB pursuant to 24 V.S.A. § 4469 (a).

WETLANDS: A vegetated ecosystem characterized by abundant water. Any activity within a Class I or a Class II wetland or buffer zone which is not exempt or considered an 'allowed use' under VT Wetland Rules requires a permit from the VT Agency of Natural Resources.

WIRELESS COMMUNICATION FACILITY: An FCC regulated tower, pole, antenna, guy wire, or related fixture intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmissions/reception; the construction or improvement of a road, trail, building, or structure incidental to an FCC regulated telecommunication facility. This definition does not include satellite receivers less than 2 feet in diameter for home use. It is the intent of this definition to specifically exclude wireless communication facilities that are not regulated by the FCC.