

**TOWN OF RUTLAND
ZONING REGULATIONS**

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Rutland Town Zoning Ordinance

ARTICLE I: ENACTMENT, OBJECTIVES, PURPOSE, AND SCOPE

Section 101 - Enactment

In accordance with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, hereinafter referred to as the "Act", there are hereby established Zoning Regulations for Rutland Town which shall be known and cited as the "Rutland Town Zoning Regulations".

Section 102 - Objectives and Intent

- A. The objective of the Zoning Regulations is to establish standards and policies concerning development of land that further the goals of the Rutland Town Plan.
- B. It is intended that standards and policies established by the Zoning Regulations promote the general health, welfare and quality of life of the residents; maintain the desirable features of the Town; protect and enhance the value of property; prevent overcrowding of land and secure adequate provisions concerning safety, and transportation, and other services such as water, sewage, schools, **parks** and other public requirements.
- C. Careful consideration has been given, among other things, to the character of each district, with respect to its suitability for the particular uses indicated to insure the most appropriate use of the land and its context throughout the Town.
- D. This ordinance does not affect the use of land or buildings in existence at the time of its adoption, except through change of status of non-conforming uses as stipulated herein.

Section 103 - Purpose and Scope

- A. The purpose of this Regulation is for the promotion of the health, safety, or general welfare of the community by establishing regulations and conditions governing the erection and use of buildings, other **structures** and use of land and natural resources.
- B. The scope of this ordinance includes primarily the establishment and designation of zoning districts in Rutland Town. The use regulations applying to each class of district are stipulated, as well as the general regulations applying to all districts. The methods of dealing with non-conforming uses are outlined. The administration of the Zoning Regulations and the duties of the **Zoning Administrator** are defined in detail.

ARTICLE II: DEFINITIONS

See Appendix beginning on page 41. Terms that appear in bold face type are defined terms for which the definitions may be found in the Appendix.

ARTICLE III: ESTABLISHMENT OF ZONING DISTRICT AND ZONING MAP

Section 301 - Establishment of Zoning Districts

Rutland Town hereby establishes the following Zoning Districts:

See Section 304 - Table I for dimensional requirements of each district.

See Section 401 - Table II for uses permitted in each district.

Flood Hazard District

Description: The Flood Hazard Overlay District includes all lands in Rutland Town identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the department of Homeland Security (DJHS), Federal Emergency management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753 which are hereby adopted by reference and declared to be part of these regulations. The Zoning Regulations for the Flood Hazard Overlay District are available from the Flood Hazard Administrator.

Section 302 - Zoning Map

A. The location and boundaries of Zoning Districts are established as shown on the **Official Zoning Map** a copy of which is appended hereto as Appendix C (Page 52). The **Official Zoning Map** is hereby made a part of these Regulations, together with all future amendments. No changes of any nature shall be made in the **Official Zoning Map** except in conformance with this Regulation.

B. Regardless of the existence of copies of the **Official Zoning Map**, which may from time to time be made or published, the **Official Zoning Map** shall be the one located in the Town Clerk's office and it shall be the final authority as to the current zoning status of land and water areas.

Section 303 - Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the **Official Zoning Map**, the following rules shall apply:

A. Boundaries indicated, as approximately following the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines;

B. Boundaries indicated, as approximately following **lot lines** shall be construed to follow such **lot lines**;

C. Boundaries indicated as following shorelines shall be construed as the low mean water level.

D. Boundaries indicated as parallel to or extensions of features in A through C above shall be so construed;

E. Where circumstances are not covered by A through D above, the DRB shall interpret the district boundaries in consultation with the Planning Commission.

Rutland Town

Section 304 - Table I: Minimum Lot Sizes, Required Yards, Maximum Building Heights

The following requirements apply to all uses shown as Permitted (P) in Section 401 - Table II, Table of Uses.

DISTRICT	MINIMUM LOT SIZE	SETBACKS (ft.)			MINIMUM LOT FRONTAGE/DEPTH (ft.)	MAXIMUM BUILDING HEIGHT (ft.)
		Front Yard (surveyed lots)*	Side Yard	Rear Yard		
Neighborhood/Planned Residential	40,000 sq. ft. where no sewer	40	25	40	100	35
	20,000 sq. ft. where sewer	25	15	25	75	35
Clustered	80,000 sq. ft. - ½ remains open land	40	25	40	125	35
Residential/Commercial	40,000 sq. ft.	40	25	40	125	35
Agriculture /Rural Residential	40,000 sq. ft per 10 acres	40	25	40	200	45
Conservation	25 acres per single family residential	40	25	40	200	45
Commercial	80,000 sq. ft. where no sewer	60	**50/25	**60/30	125	45
	40,000 sq. ft. where sewer					
Industrial	80,000 sq. ft. where no sewer	60	**50/25	**60/30	125	45
	40,000 sq. ft. where sewer					
Municipal/Government/Utility	40,000 sq. ft.	60	**50/25	**60/30	125	45

* For lots lacking a survey, see Section 506(A)

** When abutting a residential district

Section 305 - Contiguous, Undeveloped Lots in Common Ownership

Undeveloped **lots** owned by the same party and are contiguous are not exempt from minimum **lot** sizes in any district.

Section 306 - District Descriptions

N/P Res – Neighborhood/Planned Residential - Minimum **lot** size: 40,000 square feet. where sewer service not provided; 20,000 square feet where sewer service provided.

Description: Areas of existing settlement within the town, selected adjacent areas, and areas suitable for modest and higher density residential development, depending upon the suitability for on-site sewage disposal and/or the presence of municipal sewer systems.

Purpose: To maintain the traditional social and physical character of these areas, by providing for higher density residential development in areas that are suitable for such development due to the capability of the land or the presence of public sewer facilities. Residential development occurring in this district should provide for a variety of **dwelling** types and, through the use of clustering techniques and their associated higher density, allow for reduced construction costs, affordable per unit costs, conservation of open space and prime agricultural soils, and buffering between lower and higher density development.

Clustering: Residential development may be clustered according to the following provisions:

Open Space Requirement. Residential development may be clustered provided that at least one half of a parcel is designated as open space; the remaining portion is considered the parcel's developable area.

Development Density.. Up to six (6) **single-family residential** units per acre may be constructed, provided half of the entire parcel of land is not developed.

Maximum Number of Units per Structure. The maximum number of residential units per **structure** is four.

Minimum Development Size. The minimum size of a clustered residential development is 80,000 square feet.

R/C - Residential/Commercial - Minimum **lot** size: 40,000 square feet

Description: Areas with commercial activity compatible with residential uses and having capability for future sewer services;

Purpose: To allow for a mixture of **light commercial, single-family** and duplex residential.

C - Commercial - minimum lot size: 40,000 square feet where sewer service provided; 80,000 square feet where sewer services not provided.

Description: Land located on arterials that are suitable for commercial clusters that could serve as part of the regional retail center.

Purpose: To cluster and consolidate a variety of retail and other commercial services in suitable locations to meet the needs of local and regional residents. The character of the area should be protected and enhanced with the provision of landscaping and screening. The scale of development in this district should be compatible with adjacent commercial and residential structures. Residential development may be permitted.

AGR/RR – Agricultural/Rural Residential - minimum lot size: 40,000 square feet per 10 acres (example: one 40 acre parcel could support four 40,000 sq. ft. dwelling lots)

Description: Areas that are presently being farmed or are prime farmlands with potential to be farmed, and have rural character that should be conserved through large lot residential development. .

Purpose: To protect existing farms from development and to maintain prime farmland for future farming purposes, and to provide for residential and other compatible uses at densities of one unit per ten (10) acres. Open space preservation and other techniques for preserving the rural character of these areas are encouraged.

CNS - Conservation - minimum lot size: 25 acres for single-family residential.

Description: Special forest and/or open lands which are of particular ecological or aesthetic importance. Includes public watersheds as well as certain lands that are not well suited for residential or commercial development because of topography, soil composition, or wetlands.

Purpose: To preserve certain forest and open lands in a relatively undeveloped state and/or to protect public watersheds, wetlands, and water supplies.

I- Industrial- minimum lot size: 40,000 square feet with sewer service, 80,000-sq. ft. without sewer service.

Description: Existing industrial developments that have favorable site conditions, are serviced by public sewer, and have access to arterial highways and/or rail facilities.

Purpose: To accommodate the expanding industrial sectors of the town. Provides for employment opportunities in manufacturing, warehousing, research and development, and allows commercial uses which specifically serve the industries or their employees in areas serviced by good transportation facilities and public utilities.

Municipal/Government/ Utility - minimum lot size: 40,000 square feet.

Description: Lands currently used or planned to be used, for municipal and governmental purposes, including schools, town offices, fire stations, police headquarters, recreation facilities,

landfills, salt storage facilities, highway maintenance garages, and cemeteries. Includes developed and undeveloped land owned by electric utilities.

Purpose: To accommodate essential public facilities and services and utility uses and facilities.

Section 307 - Application of Regulations

No division of a parcel into two (2) or more parcels, construction, exterior reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or any mining, excavation or landfill, or any change in use of any building, structure, or land or extension of use shall occur except in compliance with all regulations in this Ordinance for the district in which it is located.

ARTICLE IV: PERMITTED USES

P = Means the use is permitted as a matter of right after obtaining a permit in accordance with Section § 1002.

C = Means that the use is permitted in the designated district but subject to review by the DRB in accordance with the conditions set forth in Article VIII.

Some of the above uses may require a STATE PERMIT.

ANY USES NOT SPECIFICALLY PERMITTED ARE PROHIBITED

Section 401 - Table II: Permitted Uses

USES	Neighborhood/Planned Residential	Residential/Commercial	Agricultural/Rural Residential	Conservation	Commercial	Industrial/Commercial	Municipal/Government/Utility
Accessory use or building	P	P	P	P	P	P	P
Animal Boarding/Kennel		C	C	P	P	P	
Auto Service Station w/Retail Store-Mini-Mart		C			P	P	
Banks					P	P	
Barber/Beauty Shop		C			P	P	
Bed and Breakfast Lodging	C	P	P		P	P	
Camp(Cottage)			P	P			
Camp (Organized Recreation)			P	P			

USES	Neighborhood/Planned Residential	Residential/Commercial	Agricultural/Rural Residential	Conservation	Commercial	Industrial/Commercial	Municipal/Government/Utility
Car Wash					P	P	
Cemetery							P
Club or Lodge, Private					P	P	
Community Care Facility			C		P	P	
Community Center		P			P	P	P
Contractor's Yards		C			P	P	
Cottage Industry	C	P	C	P	P		
Day Care (Adult) Facilities	C	C	C		P	P	P
Dwelling Unit One Family	P	P	P	P	C		
Two-Family	P	P	P		C		
Multi-Family (3-4 units)	C				P		
Fam Child Care Home (Small)	P	P	P	P	C		
Fam. Child Care Home (Large) w/site plan approval	P	P	P	P	C		
Forestry	P	P	P	P			
Freight/Truck Terminal						P	
Gas Station					P	P	
Hotel/ Motel	C	C	C	C	P	P	
Home Occupation	P	P	P	P	C		
House of Worship	P	P	P	P	P	P	P
Industry					C	P	C
Mobile Home Park		P					
Motor Vehicle Sales & Service: New and Used					P	P	
Municipal Building	C	C	C	C	C	C	P
Office	C	P			P	P	P

USES	Neighborhood/Planned Residential	Residential/Commercial	Agricultural/Rural Residential	Conservation	Commercial	Industrial/Commercial	Municipal/Government/Utility
Planned Unit Development	C	C					
Recreation Facility Indoor/Outdoor	C	C	C	C	P	P	P
Recycling Center					P	P	P
Restaurant, Bar					P	P	
Retail	C	C			P	P	
Sand, Gravel, Soil Extraction/Quarry	C	C	C	C	P	P	P
School	C	C	C	C	P	P	P
Storage, Enclosed					P	P	P
Storage, Open					P	P	P
Veterinarians w/o Boarding		C	C		P	P	
Warehouse					P	P	P
Wildlife Refuge			P	P			
Wholesale Distributor, Use					P	P	
Temporary Structure	P	P	P	P	P	P	P

ARTICLE V: GENERAL REGULATIONS

Section 501 - Compliance with Zoning Regulations

A. No land, **building**, or premises, or part thereof, shall hereafter be used, and no **building** or part thereof, or other **structure**, shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with this Regulation.

B. No **lot** shall have an area, width, or a **front, side or rear yard**, less than that set forth unless otherwise provided for in this Regulation.

C. No **building** or **buildings** shall occupy in the aggregate a greater percentage of **lot area** than set forth unless otherwise provided for in this Regulation.

Section 502 - Burden of Proof

Any person applying to the **Zoning Administrator**, Planning Commission, or the **DRB** bears the burden of proof for each and every requirement and element of these Regulations.

Section 503 - Lots in Two Zoning Districts

Where a district boundary line divides a **lot** of record at the time such line is adopted, the regulations for the less restricted part of such **lot** shall extend not more than thirty feet into the more restricted part.

Section 504 - Residential Buildings on Lots

There shall be no more than one residential or primary **building** on a **lot** except for Planned Unit Developments.

Section 505 - Required Frontage on, or Access to, Public Way or Waters

Land development may be permitted on **lots** which do not have **frontage** either on a **highway** or public waters, provided that access to a **public way** through a permanent easement or **right-of-way** has been approved in accordance with standards and process specified in Rutland Town's **subdivision** bylaws. Any such permanent easement or **right-of-way** providing access to **lots** which do not have **frontage** either on a **highway** or public waters shall be at least 20 feet in width. 24 V.S.A. § 4412(3).

Section 506 - Required Yards - Measurement of Setbacks, Frontage and Depth

A. The **front yard setback** as set forth for the district in question in Section 304 - Table I shall be measured from the front property line (the lot line that adjoins the public way) when the lot is described by a survey prepared by a licensed surveyor, that in turn identifies and references physical monuments or markers that exist on the ground. For lots that lack such a survey, the **front yard setback** shall consist of a line that runs parallel to the center line of the adjoining **public way** and calculated as the distance set forth in Section 304 - Table I for the district in question, plus one half of the width of the public way, with the total measurement to be taken from the centerline of the public way. Unless a **building** is a pre-existing, non-complying **structure**, no part of a **building** may intersect with the **front yard setback** line.

B. The **side yard** setback shall consist of a line that runs parallel to the **lot lines** that intersect with the center line of the **public way** at such distance as specified in the district in which the **lot** is located. See Section 304 - Table I. Unless a **building** is a pre-existing, non-complying **structure**, no part of a **building** may intersect with the **side yard** setback line.

C. The **rear yard** setback is measured from the **lot line** that is opposite and most distant from the center line of the **public way** at such distance as specified in the district in which the **lot** is located. See Section 304 - Table I. Unless a **building** is a pre-existing, non-complying **structure**, no part of a **building** may intersect with the **rear yard** setback line.

D. **Lot** depth is measured from the center line of the **public way**. No part of the rear **lot line** shall be closer to the center line of the **public way** than the distance specified in district in which the **lot** is located. See Section 304 - Table I.

E. **Lot frontage** is the distance between the **lot lines** that intersect with the center line of the **public way**. A **lot** shall have the no less **lot frontage** than the minimum specified in district in which the **lot** is located. See Section 304 - Table I.

F. Where a **lot** fronts on public waters, rather than a **public way**, “mean water line” shall replace “center line of the **public way**” in this section.

Section 507 - Reduction of Lot Area

No **lot** shall be so reduced in area that the area, **yards**, **frontage**, **coverage**, or other requirements of these regulations do not conform to the requirements herein prescribed for each district. The provisions of this section shall not apply when part of a **lot** is taken for a public purpose or where provisions are modified under Article VI (Planned Unit Developments).

Section 508 - Required Yard or Area

A. Space required under these regulations to satisfy area, **yard** or other open space requirements in relation to one **building** shall not be counted as part of a required open space for any other **building**.

Section 509 - Corner Lot Exceptions

Any **yard** adjoining a **street** shall be considered a **front yard**. A corner **lot** shall be considered to have only **front yards** and **side yards**.

Section 510 - Existing Small Lots

A. A **lot** in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these Regulations may be developed for the purpose permitted in the District in which it is located, even though not conforming to minimum **lot** size requirements unless the **lot** has a **lot area** of less than one-eighth acre or the **lot** has a minimum width or depth dimension of less than 40 feet.

B. Development is prohibited of an **existing small lot** that has a **lot area** of less than one-eighth acre or the **lot** has a minimum width or depth dimension of less than 40 feet.

C. If an **existing small lot** subsequently comes under common ownership with one or more contiguous **lots**, the **existing small lot** shall be deemed merged with the contiguous **lot** for purposes of this chapter. However, an **existing small lot** shall not be deemed merged and may be separately conveyed, if:

1. The **lots** are conveyed in their preexisting, non-conforming configuration;

2. On the effective date of any zoning regulations, each **lot** had been developed with a water supply and wastewater disposal system;

3. At the time of transfer, each water supply and wastewater system is **functioning in an acceptable manner**; and

4. The deeds of conveyance create appropriate easements on both **lots** for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined by 10 V.S.A. § 1972.

Section 511 - Limitations on municipal bylaws

(a) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (1) State- or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state department of education.
- (3) Churches and other places of worship, convents, and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

Section 512 - Grading and Excavation

Any earth left exposed as a result of **land development** activity shall be stabilized to prevent erosion.

Section 513 - Filling of Land

A zoning permit is required for the depositing of rock, concrete, stone, gravel, sand, cinders, stumps, and soil used for the filling of land where such activity will alter existing drainage patterns, cause soil erosion, or otherwise adversely affect the community.

Section 514 - Demolition of Structures

Within six months after a permanent or temporary **building** or **structure** has been destroyed, demolished or left in a dilapidated state, all structural materials shall be removed from the site,

and any excavation remaining shall be covered over or filled to the normal grade and seeded by the owner.

Section 515 - Temporary Uses and Structures

Temporary permits may be issued by the Zoning Administrator for the period not exceeding one year after approval by the **DRB** for non-conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the **structure** or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

Section 516 - Campers

- A. No more than one camper may be stored, parked or otherwise located on a residential property.
- B. A camper may be stored, parked or otherwise located on a property that is not otherwise developed with a structure, provided the undeveloped lot is abutting the applicant's primary residence except as provided in subsection C below.
- C. No camper may be occupied for more than seven days in any six-month period without first receiving a temporary use permit from the Zoning Administrator. The Zoning Administrator may issue such a temporary use permit for a period not to exceed 30 days, provided the Applicant demonstrates the means to dispose of all wastewater in a safe and sanitary manner and the camper is otherwise in compliance with all other provisions of this Bylaw.
- D. A camper cannot be used for living quarters on any property, which contains a principal dwelling

Section 517 - More Than One Use on a Lot or of a Structure

Nothing in this ordinance shall prevent two separate uses from occupying a single **lot** (meeting minimum **lot** size) or **structure**, provided that each use complies with all other applicable provisions of this regulation.

Section 518 - Accessory Dwelling Unit

A single accessory **dwelling** unit shall be permitted on any **lot** upon which a owner-occupied **single-family dwelling** is located, provided that:

1. the property has sufficient wastewater capacity,
2. the accessory **dwelling** unit does not exceed 30 percent of the total habitable floor area of the **single-family dwelling**, and
3. the accessory **dwelling** unit complies with the applicable setback, **coverage**, and parking requirements for the District in which the property is located.

4. Subsection 2 above shall not apply to an accessory dwelling unit provided by a “farm employer” to a “farm employee” as a “benefit of farm employment” as those terms are defined by 9 V.S.A. § 4469.

Section 519 - Mobile Homes, Manufactured Housing

This regulation shall not have the effect of excluding **Affordable Housing** as set forth in 24 V.S.A. § 4412(1).

A. **Mobile homes, modular and prefabricated housing** structures may not be parked, stored or otherwise located on any property without a building permit or temporary use permit.

B. If a State septic permit has been issued for the installation of a **mobile or modular home**, the **structure** may be temporarily parked or stored on the property where the installation is to be made provided the permanent installation shall be accomplished within fifteen days of the **structure's** arrival on the property.

C. Any application to construct a **Mobile Home Park** shall be treated as one for a Planned Unit Development under Article VI and the Subdivision Regulations.

Section 520 - Residential Care Home or Group Home

A state licensed or registered **residential care home**, or **group home**, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted **single-family residential** use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted **residential care home** or **group home**.

Section 521 - Child Care Facilities

A. **Child Care Facility, Nonresidential:** A **child care facility** in which the caregiver does not provide child care in the caregiver’s residence. A **nonresidential child care facility** shall require conditional-use approval in those districts in which such use is allowed. A **nonresidential child care facility** shall not include a **family child care home**.

B. **Family Child Care Home, Small:** The provision of child care by a caregiver in the caregiver’s residential home, which is exempt from state registration requirements pursuant to 33 V.S.A. § 3502(b)(1), shall be considered to constitute a permitted use of single-family residential property. A **small family child care home** shall require conditional-use approval in a commercial district. Section 3502(b)(1) of Title 33 exempts from the state registration requirement the provision of child care in the caregiver’s own residence for children of not more than two families, other than those of the caregiver.

C. **Family Child Care Home, Large:** A state-registered **family child care home**, as defined by 33 V.S.A. § 4902(3), shall be considered to constitute a permitted use of single-family residential property, but shall require **site plan** approval. A **large family child care home** shall require conditional-use approval in a commercial district. Section 4902(3) of Title

33 defines **family child care home** as a home in which the caregiver provides child care on a regular basis in the caregiver's own residence for not more than 10 children at any one time (of which up to six children may be provided care on a full-time basis, and the remainder on a part-time basis).

Section 522 - Home Occupations

A. **Home occupations** are permitted in all districts in which residences are permitted. Residents may use 30% or less of a dwelling unit or a **building** accessory thereto for a **home occupation** provided that the use does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

B. The following uses qualify as **home occupations**: antique shop, dressmaking, home cooking, sewing, tailoring, teaching, the practice of an accountant, architect, artist, dentist, photographer, doctor, engineer, insurance agent, lawyer, musician, realtor, barber or beautician, computer programming.

C. Any other **home occupation** that is customary in residential areas shall be considered a conditional use and shall comply with the provisions of Article VIII.

D. The following requirements apply to all **home occupations**:

1. The dwelling, accessory **structures** and the **lot** maintain a residential appearance at all times;

2. The **home occupation** must clearly be secondary to the use of the site for residential purposes;

3. The **home occupation** must be conducted by a resident or the principal practitioner of the **home occupation**, within a portion of the dwelling or a **building** accessory thereto occupying in total area not more than 30% of the floor area of the dwelling.

4. The owner of the **home occupation** shall not have not more than two (2) employees;

5. There are no retail sales unless the items sold are the product of the owner's own labor, or are antiques;

6. The **home occupation** does not generate unsafe or intrusive traffic, parking, noise, vibration, glare, fumes, odors or electrical interference.

7. The **home occupation** shall not have more than one sign. Such signs shall not exceed four (4) square feet and shall not be illuminated.

8. A **home occupation** that is permitted may continue only as long as the permit holder occupies the dwelling. The permit shall expire upon relocation by the

permit holder and shall not run with the land nor be transferable to a new location with the original permit holder.

9. A **home occupation** shall not include commercial stables or kennels, garages or shops for repair of motor vehicles, and **restaurants**.

Section 523 - Gas Stations and Fuel Storage Facilities

- A. In all districts where permitted, gasoline stations shall comply with the following:
1. A gasoline station shall not be located within the wellhead protection area.
 2. **Lot** size shall be at least 20,000 square feet.
 3. **Lot frontage** shall be at least 150 feet.
 4. **Lot** depth shall be at least 125 feet.
 5. Pumps, lubricating and other service devices shall be located at least fifty (50) feet from the front **lot line** and side and rear **lot lines**.
 6. All fuel and oil shall be stored at least thirty-five (35) feet from any property line. Bulk fuel and oil shall, in addition to being placed underground, shall otherwise comply with State regulations.
 7. All automobile parts and discarded vehicles are to be stored within a **building**, and no repair work is to be performed outside a **building**.
 8. No signs shall extend beyond the pumps, nor exceed twenty (20) feet in height above grade.
 9. There shall be no more than two (2) access driveways from the **street**, the maximum width of each shall be 25 feet.
 10. A suitable curbed landscaped area shall be maintained at least five (5) feet in depth along all **street frontage** not used as a driveway in addition to any other landscaping as required by the **DRB**.

No **commercial fuel storage facility** shall be permitted in source water protection areas as designated by the Department of Environmental Conservation.

Section 524 - Cottage Industry

A. No more than fifty (50) percent of the floor area of the principal dwelling may be used for a **cottage industry**.

B. The use does not change the character of the area and, the dwelling, accessory **buildings**, and the **lot** maintains a residential appearance at all times.

C. The **cottage industry** is clearly secondary to the use of the site for residential purposes.

D. The use is conducted within a portion of the dwelling or a building accessory thereto by the bona fide year-round resident of the dwelling.

E. No more than two (3) employees, in addition to the principal owner, shall be permitted.

F. The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.

G. Storage of equipment related to the **cottage industry** shall be within an enclosed **structure** or properly screened from adjacent residential uses.

Section 525 - Solar Energy Systems

A. The use of solar energy systems, whether as a part of a **building** or incidental to a **building**, are permitted accessory uses in all districts.

B. Certain architectural features needed for the operation of active and passive solar energy systems, including but not limited to overhangs, detached solar collectors, reflectors and piping may be permitted by the Zoning Administrator to project into the **required yard** if conformance with **yard** requirements will cause undue expense or unusual difficulties and such projections do not adversely affect the character of the neighborhood.

Section 526 - Performance Standards

The following performance standards must be met and maintained for all uses in all districts. No use, under normal conditions, shall cause, create or result in:

1. Regularly-occurring noise in excess of 65 decibels at the property line.
2. Clearly apparent constant vibration which, when transmitted through the ground, is discernible at property lines without aid of instruments for more than three (3) minutes in a thirty (30) minute period.
3. Any electromagnetic disturbances or electronic transmissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission).
4. Glare, lumen, light or reflection which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health, safety and welfare. This applies to signs as well as other uses.

5. Liquid or solid waste or refuse which violate State and/ or local standards; or are in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare.

6. Undue fire, safety, explosive, radioactive emission or other hazard which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.

7. Harmful wastes to be discharged into the sewer system, streams or other bodies of water.

Section 527 - Parking Standards

A. Required Off-Street Parking

For all development hereafter authorized by Zoning Permit there shall be provided off-street **parking spaces** at least as set forth below:

1. Residential uses: Two **parking spaces** per dwelling unit. The **parking spaces** required for all residential dwellings shall be located on the same **lot** or within 500 feet.

2. Lodging facilities: Hotel, motel, lodge, country inn, guest house: One **parking space** per lodging unit. Where the total of lodging units exceeds ten (10), there shall be one **parking space** per lodging unit plus such additional spaces as calculated by multiplying the total number of lodging units by 15%. Any fractional result yielded by this calculation shall be rounded up to the next whole number (example: 14.2 **parking spaces** becomes 15 spaces).

3. Places of public assembly: Every **structure** used as a theater, amusement **facility**, auditorium, community center, club, stadium, library, museum, church, hall, or other place of public or private assembly, one **parking space** for every three seats.

4. Commercial business use: Four **parking spaces** for every one thousand (1,000) square feet of area as calculated from the footprint(s) of the **building(s)** on the property used for business.

5. **Restaurant**, eating, and drinking establishments: One **parking space** for each three seats, each three standees, and each three employees.

6. Industrial, Wholesale, Warehouse, Storage, Freight and Trucking Uses: One **parking space** for every motor vehicle used in the business, plus one **parking space** for every two employees employed on the premises in the maximum shift.

7. **Home Occupations and Cottage Industries**: At least two (2) **parking spaces** must be provided in addition to the requirements of paragraph 1 (above).

8. Recreational Area: All parking **site plans** must be reviewed and approved by the **DRB**.

B. Reduction of Minimum Parking Requirements

An applicant may request that minimum parking standards established in subsection A be reduced. The applicant shall submit the request to the review **DRB** in writing. The request shall include the number of expected full and part-time employees, if applicable, and the expected numbers of customers at peak weekday and weekend hours during standard weeks and months, and any shared parking opportunities in the vicinity.

C. Pervious Surface Requirements

If a parking area containing more than 50 total **parking spaces**, at least 25% of the surface of the parking area shall be constructed of a semi-permeable or fully permeable material.

D. The requirement for **parking space** shall be a continuing obligation of the owner. All off-street parking shall be constructed and maintained in such a manner that provides for year-round use. These required **parking spaces** shall all be located on the same **lot** as the principal use or on a **lot** which is within 500 feet of the principal use. Parking shall not be permitted within 5 feet of the property line.

E. Design and Standards for Off-Street Parking

Parking spaces shall, at the minimum, meet the design standards depicted on Appendix A (Page 50).

ARTICLE VI: PLANNED UNIT DEVELOPMENT

Section 601 - Planned Unit Development (PUD)

A. General intent: These PUD regulations are intended to permit and encourage more flexibility and creativity in the design of larger parcels.

B. The **DRB** may review an application for a PUD simultaneously with **subdivision** plat or **site plan** approval.

Section 602 - PUD Application, Requirements, and Procedures

A. A PUD application shall include a written statement setting forth the nature of all proposed modifications, changes or supplementations of existing zoning regulations.

1. If no **subdivision** of land is to take place, the application shall include a **site plan** in accordance with Article VII of these regulations.

B. Dwelling units may, at the discretion of the **DRB**, be of varied types, including one family, two-family, and **multi-family** construction.

C. If the application of this procedure results in lands available for **park, recreation**, open space, or other municipal purposes, the **DRB** as a condition for its approval may establish such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

D. The minimum size of a PUD shall be 25 acres.

E. The base density for the development shall be calculated by dividing the maximum number of dwelling units per **lot** normally permitted for the zoning district in which it is located by the minimum **lot** size, as specified in Article III. For example, if two-family homes are acceptable in a 5-acre district, the maximum density allowed is $2/5 = .4$ units/acre.

F. The following shall not be considered in the calculation of open space in a PUD: land for roads, slopes over 20%, waterbodies, floodplains, and/or wetlands.

G. The **DRB** decision shall be based on the criteria listed under General Standards for Review and conditions limiting development on this site such as shallow depth of soil, wetness, and steep slopes, and the **site plan** or **subdivision** review.

H. The **DRB** may increase or decrease the setback requirements if, in its judgment, the special circumstances of a proposed development would make such requirements inappropriate. Side and rear setback requirements, as listed in Article III and as used in this Section, shall be interpreted as the side and rear setback requirement required for the PUD as a whole and not as the setback requirements for each particular **structure** placed in such PUD.

I. The **DRB** may allow for a greater density or intensity of residential land use within some section or sections of the development than within others, which shall be offset by a lesser density in any other section.

Section 603 - General Standards for Review

The following general standards shall be met in order for the **DRB** to approve the PUD application:

- A. The PUD is consistent with the Town Plan.
- B. The PUD is an effective and unified treatment of the project site. Specifically, the plan makes appropriate provisions for the protection of the Town's fragile natural resource and scenic areas.
- C. The development plan is proposed to be completed over a reasonable period of time.

ARTICLE VII: SITE PLAN APPROVAL

Section 701 - Site Plan Approval

A. No zoning permit shall be issued by the Zoning Administrator for any use or **structure** until the **DRB** grants **site plan** approval. Notwithstanding, the following uses or **structures** are exempted:

1. **Single-family and two-family dwellings**
2. Accessory **structures**

Section 702 - Submission of Site Plan Map and Supporting Data

A. The owner shall submit six (6) sets of **site plan** maps and supporting data to the **DRB** which shall include the following information presented in drawn form and accompanied by written text:

1. Name and address of the owner of record and adjoining lands. Name and address of person or firm preparing the map (if different). Scale of map, north arrow and date.
2. Survey or sketch of the property showing existing features, including contours (if available), **structures**, roads, utility easement, rights of way, land use and deed restrictions.
3. **Site plan** showing proposed **structure(s)**, locations and land use areas; **streets**, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
4. Construction sequence and time schedule for completion of each phase for **buildings, parking spaces** and landscaped areas of the entire development.

B. Site Plan Review Procedure

The **DRB** shall take into consideration the following objectives in conducting its review:

1. **Site plans** that retain the maximum possible meadowland for potential **agricultural use** and maximum possible land of scenic value shall be given favorable consideration. The **DRB** shall encourage **structures** and roads to be located on the edges of properties, where such siting furthers their preservation.
2. Safety of pedestrian and vehicular circulation between the site and the **street** network including:
 - (i) location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public **streets**;
 - (ii) sight distance improvements;

- (iii) shared access with adjoining properties; and,
- (iv) location of sidewalks and/or other walkways.
- (v) Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.

3. Consideration shall be given to the items in (2) above and effect of noise, glare, or odors on adjoining properties. Refuse and service areas should be included in this consideration. Provisions for snow removal should also be made.

4. Adequacy of circulation, parking and loading facilities. Adequacy of on-site circulation, parking, and loading facilities. In the case of a Planned Unit Development, no more than 2 **parking spaces** per unit shall be accommodated in any single parking area. Particular attention shall be given to safety, including aisle widths to accommodate emergency vehicles, traffic movement patterns and location of parking areas to prevent conflicts with entering and exiting traffic onto a public **street**, location of loading docks and number and size of **parking spaces**.

5. Adequacy of landscaping, screening and **setbacks** with regard to achieving maximum compatibility and protection to adjacent properties.

6. All private lighting shall be placed, directed, and shielded so that the light points downward and does not create direct light to shine on other properties. Lighting shall not interfere with pedestrian or motorist vision. Lighting shall be placed in a manner that will not create a nuisance to other premises, or interfere with traffic.

7. Protection of existing or proposed renewable energy resources, such as solar collectors and windmills, on this and adjoining properties.

8. Adequate stormwater management measures to ensure that no additional stormwater runoff is generated beyond the boundaries of the property and that existing drainage patterns are not altered in a manner which impacts neighboring properties, town highways or surface waters.

ARTICLE VIII: CONDITIONAL USES

Section 801 - Criteria

A. Zoning permit shall be issued by the Zoning Administrator for any use or **structure** which requires conditional use approval only after the **DRB** grants such approval. In considering its action, the **DRB** shall make findings that the proposed conditional use does not create undue adverse impact as set forth below:

1. The proposed conditional use shall not have an undue adverse effect on the capacity of existing or planned community facilities

(i) Water and Sewer. The project shall have sufficient water and sewer capacity available for its needs and shall not result in an unreasonable burden on the municipality's present or planned water or sewer systems (if Town water or sewer are not involved, the property must have adequate capability for on-site water supply and wastewater disposal in accordance with Town regulations and applicable State Statutes and Regulations). The **DRB** may solicit input from the appropriate Town Official and require engineering reports by the applicant.

(ii) School Impact. The project shall not cause an unreasonable burden on the ability of the Town or School districts to provide educational services. The **DRB** may solicit input from the School Boards.

(iii) Municipal Impact. The project shall not place an unreasonable burden upon the ability of the Town to provide municipal services, including but not limited to fire, police, ambulance/rescue, highway, and public works, maintenance, and recreation. The **DRB** may solicit input from the appropriate local officials.

2. The proposed conditional use shall not have an undue adverse effect on the character of the neighborhood, or area affected.

(i) "Neighborhood" means in the same area; nearby including but not limited to the area within sight and/or sound. "Character of a neighborhood" refers to the distinctive traits, qualities or attributes; its appearance and essential nature, pattern of uses, and sense of community; the factors which give it identity.

(ii) A goal of the Town Plan is to allow for appropriate mixed uses to generally encourage balanced diversity, while protecting the essential character of neighborhoods. The existence of one conditional use in a neighborhood shall not be interpreted as justification for another similar conditional use to be located there.

(iii) When considering the "character of the neighborhood or area", the **DRB** shall consider the following:

(a) Existing neighborhood uses, types of **buildings**, noise and traffic.

(b) Historic **buildings** and features; intensity, uniformity or mix of uses and **buildings**; mass, scale and spacing of **buildings**; scenic views, aesthetics, open space.

3. The proposed conditional use shall not have an undue adverse effect on traffic on roads and highways in the vicinity.

(i) The project shall have adequate traffic access, circulation and parking, and shall not cause unreasonable traffic congestion or unsafe conditions with respect to pedestrian or vehicular traffic or other transportation facilities.

(ii) The **DRB** shall consider town traffic plans and studies and may require the applicant to submit traffic engineering studies.

4. The proposed conditional use shall not have an undue adverse effect upon the use of renewable energy resources.

5. The proposed conditional use shall meet the **site plan** requirements as specified in Article VII.

B. In granting conditional use approval, the **DRB** may attach such reasonable written conditions as it deems necessary, including without limitation, the provision of a **performance bond** or other form of security to secure compliance with the permit and its conditions.

Section 802 - Application for Conditional Use

A. The owner and/or applicant shall submit six (6) sets of a **site plan** and supporting data to the **DRB**, which shall include the following information presented in drawn form and accompanied by written text:

1. Name and address of the owner of record of this, adjoining lands, and lands adjacent (across a road); name and address of applicant - if different than owner; name and address of person or firm preparing the plan; description of the property giving location; scale of map, north arrow, and date.

2. Survey of the property showing existing features, including contours, **structures**, large trees, **streets**, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if any, and the location of proposed **structures** with distance from **lot lines** indicated.

3. **Site plan** showing proposed **structure(s)**, locations and land use areas; **streets**, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed, including placement of poles; and including water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks, transformers, etc.

4. Construction sequence and anticipated time schedule for the completion of each phase for **buildings**, **parking spaces** and landscaped areas of the entire development.

5. A traffic study if issues of safety are a concern.

6. The location and size of proposed signs.
7. A certification signed by the applicant that all adjoining and adjacent property owners have been notified of the application.
8. The additional information required in Section 702 to the extent not included in this Subsection A.

B. In the exercise of its discretion, the **DRB** may waive submission of any the information identified in Subsection A above.

1. The applicant shall submit to the **DRB** a written request for a waiver and shall specify the requirement(s) of Subsection A for which waiver is requested, together with the reason(s) for the request. for waiver. The applicant shall include a preliminary **site plan** providing sufficient information upon which the **DRB** can make a decision. The **DRB** may require such additional information as it deems necessary.

C. A request for a waiver shall not be considered an application for purposes of timing requirements relating to action on applications.

ARTICLE IX: NONCONFORMING STRUCTURES AND USES

Existing uses at the time of this Ordinance's adoption are permitted with the following conditions.

Section 901 - Construction Approved Prior to Adoption or Amendment of Regulations

Nothing contained in these Regulations shall require any change in a **nonconformity** where such **nonconformity** conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations.

Section 902 - Restoration of Use Nonconformity

Any **use nonconformity** (of land or a **structure**) which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored or reconstructed by the commencement of construction within one year of such damage to the same use and/or structural dimensions and location as existed before such damage and the completion of the construction or restoration within two (2) years.

Section 903 - Discontinuance of Use Nonconformity

A **nonconformity** shall not be re-established if such **nonconformity** has been discontinued for a period of at least one year or has been changed to or replaced by, a conformity. Intent to resume a **nonconformity** shall not confer the right to do so. If a **nonconformity** is not reestablished within one year from the commencement of the discontinuance, the future use of the **lot** or **structure** shall be in conformance with the provisions of these regulations.

Section 904 - Maintenance of a Dimensional Nonconformity

A **dimensional nonconformity** may be normally maintained and repaired provided that such action does not increase the degree of non-compliance.

Section 905 - Expansion of a Dimensional Nonconformity

A **dimensional nonconformity** may be expanded or developed as required by law or ordinance or as may be required for safety or necessary to secure or insure the continued advantageous use of the **building** during its lifetime.

Section 906 - Restoration of a Dimensional Nonconformity

A. Any **dimensional nonconformity** which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a one (1) year period, to the same **dimensional nonconformity** as existed before such damage.

B. Restoration shall be commenced within one (1) year and shall be completed within two (2) years.

ARTICLE X: ADMINISTRATION

Section 1001 - Zoning Administrator

A. A Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard to administer these Regulations for a term of three years as provided in 24 V.S.A. § 4448.

B. The Zoning Administrator shall literally administer these Regulations and shall not have the power to permit any **land development** that is not in conformance with this regulation.

C. In so doing the Zoning Administrator shall inspect developments, maintain records, and perform other necessary tasks to carry out the provisions of these Regulations.

D. The Selectboard may remove the Zoning Administrator for cause after consultation with the Planning Commission.

Section 1002 - Zoning Permits

A. **Land development** may be commenced in Rutland Town only after the Zoning Administrator has issued a zoning permit.

B. Hereafter the division of a parcel into two (2) or more parcels, the construction, exterior reconstruction, conversion, structural alteration, relocation or enlargement of any **building(s)** or other **structure(s)**, or of any mining, excavation or landfill, and any change in the use of any **building** or other **structure**, or land, or extension of use of land shall commence only

in compliance with all regulations in this bylaw for the district in which the development is to be located.

C. A permit shall not be required for interior or exterior changes that do not change the permitted use or footprint of a **structure** or modify any conditions that may have been set by these Regulations.

Section 1003 - Exemptions to Zoning Permit Requirement.

A. The following shall not require a zoning permit:

1. Fences, hedges or walls which do not interfere with corner visibility and which are no more than eight (8) feet in height.
2. Porches, terraces, decks, or steps which are in conformance with all front, side, and rear setback requirements for the district.
3. Doghouses, storage sheds, tree houses, or similar **structures** having less than 200 square feet in floor area and less than 12 feet in height and which are in conformance with all front, side, and rear setback requirements for the district.
4. Any sign erected by the Town or State for directional information or traffic control purposes.
5. Re-conveyance of a pre-existing conforming **lot** as provided in Section 511(C).
6. Highway road maintenance.
7. Installation of consumer satellite dishes not exceeding twenty-four inches (24") in diameter and not exceeding applicable district setback or height limits, or those commonly used in residential service.

Section 1004 - Zoning Applications

A. All applications shall be submitted to the Zoning Administrator on forms furnished by him/her and shall be accompanied by six (6) copies of a plan, no smaller than 11"X17", no smaller than 1" to 40' drawn to scale, showing

1. The dimensions of the **lot**, including existing property boundaries;
2. The location, footprint and height of existing and proposed **structures** or additions;
3. The location of existing and proposed accesses (curb cuts), driveways and parking areas
4. The location of existing and proposed easements and rights-of-way;

5. Existing and required **setbacks** from property boundaries, road rights-of-way, surface waters and wetlands;
6. The location of existing and proposed water and wastewater systems; and
7. Other such information as required by the Zoning Administrator to determine conformance with these regulations

Section 1005 - Action by the Zoning Administrator

- A. The Zoning Administrator shall, within thirty (30) days of receiving a complete application, either issue or deny a zoning permit, or refer the application as appropriate to the **DRB** and/or state agency for review.
- B. An application shall not be deemed complete until the applicant has submitted all information required by these Regulations.
- C. If the permit application is denied, the Zoning Administrator shall so notify the applicant in writing and state the reason(s) therefore.
- D. If the Zoning Administrator fails to act with regard to a complete application for a permit within thirty (30) days, whether by issuing a decision or by making a referral to the **DRB** and /or state agency, a permit shall be deemed issued on the 31st day.
- E. No zoning permit shall be issued by the Zoning Administrator for any use or **structure** which requires the approval of the **DRB** until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued before a response has been received from the state or the expiration of thirty (30) days following the submission of the application to the state.
- F. Each zoning permit issued under this Section shall contain a statement that the permit may be appealed within fifteen (15) days of the date of issuance.
- G. Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall:
 1. Deliver a copy of the permit to the listers of the municipality and
 2. Post a notice of permit, on the form prescribed by the Town, within view of the nearest public right-of-way until the time for appeal has expired.
- H. Within thirty (30) days following the issuance of a zoning permit, the Zoning Administrator shall:
 1. Deliver the original or a legible copy of the permit to the town clerk for recording.

2. File a copy of the permit in the town office where all municipal land use permits are kept.

I. The issuance of a zoning permit does not relieve the applicant of any responsibility for obtaining other required local, state or federal permits or approvals as necessary.

Section 1006 - Effective Date of Zoning Permit

A. A zoning permit shall not take effect until the expiration of fifteen (15) days from the date of issuance (the appeal period).

B. If notice of appeal is properly filed with respect to a zoning permit, the permit shall not take effect until the final adjudication of the appeal.

C. No site work or construction shall occur until the zoning permit becomes effective.

Section 1007 - Review of Application During Pendency of Proposed Adoption or Amendment of Zoning Regulations

A. If a public notice for a first public hearing is issued by the Selectboard with respect to the adoption or amendment of these Zoning Regulations, the Zoning Administrator, for a period of 150 days following that notice, shall review any new application filed after the date of the notice under the proposed zoning regulation or amendment and the existing Regulations. If the new zoning regulation or amendment has not been adopted by the conclusion of the 150-day period, or if the proposed zoning regulation or amendment is rejected, the permit shall be reviewed under the existing Zoning Regulations.

B. Upon request of the applicant, an application that has been denied under a proposed zoning regulation or amendment that has been rejected, or that has not been adopted within the 150-day period, shall be reviewed again, at no cost, under the existing Zoning Regulations.

Section 1008 - Completion

All activities as authorized by the issuance of the permit shall be commenced within one (1) year of the effective date of the permit and shall be completed within two (2) years of the effective date or the permit shall become null and void. If a permit expires, the applicant must reapply to the Zoning Administrator and obtain another zoning permit to complete the activities as initiated under the original permit. The Zoning Administrator may allow an extension up to one (1) year.

ARTICLE XI: ENFORCEMENT

Section 1101 - Violations of Zoning Regulations

Violations of these Zoning Regulations shall be enforced as prescribed pursuant to 24 V.S.A. §§ 4451, 4452, and 4454, or through a municipal complaint issued and prosecuted pursuant to Chapter 59 of Title 24, as determined by the Zoning Administrator.

Section 1102 - Enforcement Proceedings

Enforcement proceedings under 24 V.S.A. §§ 4451, 4452, and 4454 shall be initiated by the Zoning Administrator by issuance of a Notice of Violation as prescribed therein. Enforcement proceedings brought under Chapter 59 of Title 24 shall be considered a violation of a civil ordinance and initiated by the Zoning Administrator through the issuance of a municipal complaint as provided therein.

Section 1103 - Determination of Separate Offenses

Regardless of whether enforcement is sought under 24 V.S.A. §§ 4451, 4452, and 4454 or under Chapter 59 of Title 24, any financial penalty shall not exceed the amount set forth in 24 V.S.A. § 4451, provided however, that each day that a violation is continued shall constitute a separate offense.

Section 1104 - Schedule of Penalties and Waiver Fees

The Selectboard shall establish, and may amend from time to time, the schedule of penalties and waiver fees for various categories of zoning violations enforced pursuant to 24 V.S.A., Chapter 59.

ARTICLE XII: DEVELOPMENT REVIEW BOARD

Section 1201 - Development Review Board

- A. There shall be a **Development Review Board (DRB)** for Rutland Town.
- B. The **DRB** shall consist of five (5) members unless otherwise determined by the Selectboard. These may be members of the Planning Commission.
- C. Members of the **DRB** shall be appointed and any vacancy filled by the Selectboard. The terms of each member shall be for three (3) years unless otherwise determined by the Selectboard. Members may be reappointed to successive terms.
- D. The Selectboard may also appoint one or more alternates to serve on the **DRB** for a term of up to three (3) years.
- E. The Selectboard upon written charges and after public hearing may remove any member of the **DRB** for cause.

Section 1202 - DRB Meeting Procedure and Decisions

- A. Meetings of the **DRB** shall be conducted pursuant to 24 V.S.A. § 4461 held at the call of the Chair and at such times as the **DRB** may determine.
- B. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the **DRB** and any action thereof shall be taken by the concurrence of a majority of the members of the **DRB**.
- C. The **DRB** shall keep minutes of its proceedings, including an accurate record of the name and address of **interested persons** who participate in a municipal review procedure or appeal, including a record of their participation.
- D. In any hearing, there shall be an opportunity for each person wishing to achieve status as an **interested person** as defined in Section 1302.
- E. The **DRB** shall keep a written record of the name, address, and participation of each of these persons.
- F. Minutes shall also indicate the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions.
- G. Once approved by the **DRB**, minutes shall constitute a public record.
- H. The **DRB** shall issue its decisions in writing and shall include a statement of the factual bases upon which the **DRB** has made its conclusions. The minutes of the meeting may suffice, provided the factual basis and conclusions relating to the review standards are set forth therein.

Section 1203 - General Powers and Duties of the DRB

- A. The **DRB** is a body with limited powers. Except as specifically provided herein and in accordance with the provisions of 24 V.S.A., Chapter 117, the **DRB** may not amend, alter, invalidate or affect any plan or bylaw of the Town or the implementation or enforcement thereof, or allow any use not permitted by these Regulations or any other bylaw.
- B. The **DRB** shall annually elect its own officers (Chair and others).
- C. The **DRB** shall adopt, review, and amend as necessary from time to time rules of procedure to effectuate the provisions of these Regulations and rules of ethics with respect to conflicts of interest.
- D. The **DRB** shall have all powers and duties to administer the provisions of these Regulations, where authorized, including without limitation, the power to hear and act upon:
 - 1. Appeals from any decision, act or failure to act by the Zoning Administrator;

2. Variance requests;
3. Waiver requests;
4. Application for **site plan** approval;
5. Application for conditional-use approval;
6. Applications for **subdivision** approval;
7. Applications for planned unit development; and
8. Any other reviews required by these Regulations.

E. If more than one type of review is required for a project, the reviews, to the extent feasible, shall be conducted concurrently.

ARTICLE XIII: APPEALS

Section 1301 - Exclusivity of Remedy

A. The exclusive remedy of an **interested person** with respect to any decision or act of the Zoning Administrator, or any failure to act with respect to any one or more of the provisions of these Zoning Regulations shall be an appeal to the **DRB**.

Section 1302 - Interested Persons

For the purpose of these regulations, an **interested person** means any one of the following:

A. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it affected by this Zoning Bylaw who alleges that such regulation imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.

B. Rutland Town when the Town Plan or one or more of these Regulations are at issue in an appeal brought under 24 V.S.A., Chapter 117, or any municipality that adjoins the Rutland Town.

C. A person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under 24 V.S.A., Chapter 117, these regulations 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 plan or bylaw of the Town.

D. Any ten (10) persons who may be any combination of voters or real property owners within the municipality 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 plan or regulations of the municipality; and

E. Any department and administrative **subdivision** of the state owning property or any interest therein within Rutland Town, and the Vermont Agency of Commerce and Community Development.

Section 1303 - Notice of Appeal From Decision of Zoning Administrator

A. An **interested person** may appeal any decision or act taken by the Zoning Administrator, by filing a notice of appeal with the Town Clerk, with copies to the Zoning Administrator and the Chair of the **DRB**, on forms provided by the Zoning Administrator. Such notice of appeal must be filed within fifteen (15) days of the date of such decision or act.

B. Any notice of appeal from a decision of the Zoning Administrator or for a variance, shall include:

1. The name and address of the appellant;
2. A brief description of the property with respect to which the appeal is made;
3. A reference to the regulatory provisions applicable to that appeal;
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 requested relief is believed appropriate under the circumstances.

Section 1304 - Hearing on Appeal

A. The **DRB** shall set a date and place for a public hearing of an appeal under these Regulations, which shall be within sixty (60) days of the filing of the notice of such appeal.

B. The **DRB** may reject an appeal without a hearing and render a decision, with findings of fact, within ten (10) days of the filing of the notice of appeal, if the **DRB** considers that the issues raised have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of that appellant.

C. The **DRB** shall give public notice of the hearing, and shall mail to the appellant a copy of such notice at least fifteen (15) days prior to the hearing date. Copies shall also be sent to adjoining property owners, if known, although failure to comply with this provision shall not invalidate any action taken.

D. Any **interested person** as defined in Section 1302 may appear and be heard in person or be represented by an agent or attorney at such hearing. Where a petition is submitted by ten or more persons, one person must be designated to serve as the representative of the petitioners regarding all matters related to the appeal.

E. Any hearing held under this Section may be adjourned by the **DRB** from time to time, provided however, that the date and place of the adjourned hearing shall be announced at that time.

Section 1305 - Decisions on Appeals.

A. The **DRB** shall render its decisions with findings of fact on each appeal in accordance with the provisions of Section 1202 within forty-five (45) days after adjournment of the hearing and, within that period, send to the applicant and the appellant, by certified mail, a copy of the decision.

B. Failure of the panel to issue a decision within this period shall be deemed approval and shall be effective on the forty-sixth (46th) day.

C. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and a copy filed with the Zoning Administrator and the clerk of the municipality as a part of the public records.

Section 1306 - Appeals from Decisions of the DRB

An **interested person** may appeal de novo a decision of the **DRB** to the **Environmental Court** in accordance with 24 V.S.A. § 4471.

Section 1307 - Variances - General

A. Requirements

The Zoning Administrator shall refer all variance requests to the **DRB**. The applicant for a variance shall follow the procedures for appeal set forth in Section 1303.

B. The **DRB** shall grant a variance from these Regulations, and render a decision in favor of the appellant, only if the **DRB** finds all of the following facts and specifies each such finding in its decision:

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 the unnecessary hardship is due to these conditions and not the circumstances generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located.

2. That as a result of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. That such unnecessary hardship has not been created by the appellant.

4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare, and

5. That such variance, if authorized, represents the minimum that will afford relief and provide the least modification possible of these Regulations and of the Town Plan.

C. In rendering a decision in favor of an appellant under this Section, the **DRB** may attach such conditions to the variance as it considers necessary and appropriate under the circumstances to implement the various purposes of these Regulations and the Town Plan currently in effect.

Section 1308 - Variances - Renewable Energy Resource Structure

A. On an appeal where a variance from the provisions of these Regulation is requested for a **structure** that is primarily a renewable energy resource **structure**, the **DRB** may grant such variances, and render a decision in favor of the appellant only if all of the following facts are found and the finding is specified in its written decision.

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource **structure** in conformance with the regulations;

2. That the hardship was not created by the appellant;

3. 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, nor be detrimental to the public welfare; and

4. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

B. In rendering a decision in favor of an appellant under this Section, the **DRB** may attach such conditions to the variance as it considers necessary and appropriate under the circumstances to implement the various purposes of these Regulations and the town plan currently in effect.

Section 1309 - Waivers:

Waivers may be granted for a permitted use by the Zoning Administrator to reduce dimensional requirements as needed to allow for disability accessibility, fire safety, and other requirements of law.

Where renovation or expansion is proposed for a residential **structure**, a waiver of setback or other dimensional requirements may be approved by the **DRB** if the following standards are satisfied:

1. The new or renovated part of the **building** does not extend beyond the existing nonconforming **structure**, unless needed to accomplish the intended goal (e.g. an expanded or improved entry deck).
2. The result will improve the property and the neighborhood.
3. The result will not alter the character of the neighborhood, impair reasonable or appropriate use of adjoining properties, nor cause harm to the public welfare.
4. Is helpful or necessary to allow for continued reasonable use of the property, including without limitation, to provide for disability accessibility, fire safety, and other requirements of law
5. The proposed work or construction does not encourage any more than necessary to accomplish the desired results.

ARTICLE XIV: PLANNING COMMISSION

Section 1401 - Continuation of the Planning Commission

There shall be a Planning Commission for the Rutland Town.

Section 1402 - Appointment and Term of the Planning Commission

- A. The Planning Commission shall consist of five (5) members unless otherwise determined by the Selectboard.
- B. The Selectboard shall appoint the members of the Planning Commission and shall fill any vacancies. The terms of each member shall be for two (2) years unless otherwise determined by the Selectboard. Members may be reappointed to successive terms.
- C. The Selectboard may remove a member of the Planning Commission at any time by unanimous vote.

Section 1403 - Meetings

- A. Meetings of the Planning Commission shall be held at the call of the Chair and at such times as may be determined. All such meetings shall be open to the public, except for deliberative and executive sessions.
- B. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the Planning Commission and any action thereof shall be taken by the concurrence of a majority of the members.

C. Minutes shall be kept of all meetings, indicating the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions.

D. Once approved by the Planning Commission, minutes of meetings shall constitute a public record.

Section 1404 - Rules of Procedure and Ethics

A. The Planning Commission shall adopt, review, and amend as necessary from time to time, such rules of procedure as it determines are necessary to effect the provisions of Article XIV Regulation and rules of ethics with respect to conflicts of interest.

Section 1405 - General Powers and Duties of the Planning Commission

A. The Planning Commission shall annually elect its own officers [Chair and others].

B. The Planning Commission shall review and update as needed or required the Rutland Town Plan of as provided in 24 V.S.A., Chapter 117, Subchapter 5.

C. The Planning Commission shall carry on a continuous review of the zoning regulation and town planning and initiate proposals for amendment as required, and any special studies and non-regulatory activities, including public outreach.

D. As part of the accomplishment of its duties the Planning Commission shall maintain records of its proceedings, studies and recommendations, as well as keep the Selectboard informed on the current status of these Regulations and their effectiveness within the Town.

Section 1406 - Review of Zoning Amendments

The Planning Commission shall receive and evaluate proposals for amendment of these Regulations, hold public hearings on such amendments after due public notice, and make recommendations to the Selectboard with respect to such amendments.

Section 1407 - Advisory Counsel to Other Agencies

Upon request, the Planning Commission shall serve as guide and counsel to the Selectboard of the Town, the Zoning Administrator, the **DRB**, and other public offices in matters relative to these Regulations.

ARTICLE XV: OTHER PROVISIONS

Section 1501 - Interpretation of Regulation

The provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except as provided to the contrary in the Act or these regulations, it is not intended by these regulations to

repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a **structure** or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of these regulations shall control.

Section 1502 - Public Notice of Hearing

A. A warned public hearing shall be required for conditional use review, appeals of decisions of the Zoning Administrator and variances, not less than fifteen (15) days prior to the date of the public hearing.

1. Any public notice required for a warned public hearing under this Zoning Regulation shall be given by the publication of the date, place and purpose of such hearing in a newspaper of general circulation in the town, and the posting of a notice in three or more public places within the town, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made, and written notification to the applicant and to owners of all adjoining properties without regard to public rights-of-way.

2. Where such hearing is called in reference to any amendment of this Zoning Regulation or any other matter relating to written material, such public notice shall include either the full text or a brief summary describing the principal provisions and a reference to a place within the municipality where copies of the proposed material may be examined.

B. All other types of development review hearings, including **site plan** review, shall be warned not less than seven (7) days prior to the date of the public hearing.

1. This shall include posting of a notice in three or more public places within the town, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made, and written notification to the applicant and to owners of all adjoining properties without regard to public rights-of-way.

C. All public hearing notifications shall include a description of the proposed project and provide the recipient with information where more information may be obtained, and shall state that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

Section 1503 - Fees

Fees may be established by the Selectboard in the exercise of its discretion in such amounts deemed appropriate to offset or cover the costs of the administration of these regulations, including without limitation, notice and publication, administrative time and expense, and the hiring of appropriate professionals to review various aspects of an application.

Section 1504 - Amendments

Any provision of this Regulation, as well as the boundaries of the various zoning districts established herein, may be amended or repealed subject to the provisions of 24 V.S.A., Chapter 117.

Section 1505 - Severability

If any provision of this regulation is held invalid, the invalidity does not affect other provisions or applications of this regulation, which can be given effect without the invalid provision or application.

Section 1506 - Effective Date

These Regulations shall take effect upon approval of a majority of members of the Selectboard at a meeting held after the final public hearing and shall be effective 21 days after adoption, in accordance with procedures contained in 24 V.S.A. § 4442.

Section 1507 - Appendix- Definitions

Except where specifically defined herein, all words used in these Regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural. The word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; the words "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied"; the word "person" includes "individual, partnership, association, corporation, or any other incorporated or unincorporated organization or group". The DRB shall clarify doubt as to the precise meaning of any word used in these Regulations.

Accessory Building or Use: A building, structure or use on the same property as a principal building used for purposes normally incidental to those of the principal building.

Affordable Housing: Means either of the following: Housing that is owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income, or

Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. 24 V.S.A. 4303 (1).

Agricultural Use: Land which is used for raising livestock, or agricultural or forest products, including general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming and forestry, dairying, apiary, truck gardening, keeping of poultry, farm structures and the storage of agricultural equipment; and, as an accessory use, the sale of agricultural products.

Attached: Having a common wall and/or roof.

Auto Service Station with Retail Store/ Mini Mart: Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile and manufactured maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted. This includes a retail store with gasoline pumps as a secondary use, often referred to as a mini-mart.

Basement: Any area of the building having its floor sub grade (below ground level) on any or all sides.

Bed and Breakfast: A lodging facility located within a residential dwelling with accommodations of up to 5 rooms for transient guests.

Building Height: The vertical distance from the average finished grade surrounding the buildings to the highest point of the roof beams in flat roof; to the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves. Towers, steeples, cupolas, chimneys, antennas, windmills, silos and similar structures are exempt from the building height considerations.

Building: Any structure enclosed by exterior walls and covered by a roof constructed or used or and intended for the shelter or enclosure of persons, animals, or personal property. Includes any carport, porch, covered terrace, deck, or steps.

Building Front Line: Line parallel to the center line of the public way transecting that point of the building which is closest to the center line of the public way. Where a lot fronts on public waters but not a public highway, "mean water line" shall replace "center line of the public way" in this definition.

Camp: A commercial establishment consisting of structures designed to be used periodically for recreational or educational activities for a public/private association or group.

Child Care Facility: Carries the definition provided in 33 V.S.A. § 4902(2) - any place or program operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care, and supervision of children under 16 years of age outside their homes for periods of less than 24 hours a day by a person other than a child's own parent, guardian, or relative, as defined by rules adopted by the department for children and families, but not including a kindergarten approved by the state board of education.

Child Care Facility, Nonresidential: A child care facility in which the caregiver does not provide child care in the caregiver's residence. A nonresidential child care facility does not include a family child care home.

Commercial Fuel Storage Facility: A facility which stores fuel, including without limitation, gasoline, diesel fuel, kerosene, liquid propane in tank(s) above or below ground for retail or wholesale sale, or for use in connection with a commercial business. Commercial Fuel Storage Facility does not include the storage of fuel in tank(s) inside a building.

Community Care Facility: Means an institution or distinct part of an institution that is primarily engaged in providing to its residents any of the following:

- Skilled nursing care and related services for residents who require medical or nursing care.
- Rehabilitation services for the rehabilitation of injured, disabled, or sick persons. or
- On a 24-hour basis, health related care and services to individuals who because of their mental or physical condition require care and services, which can be made available to them only through institutional care. 33 V.S.A. § 7102(7).

Contractor's Yards: A lot or parcel which is used to store (exterior and/or interior) and maintain equipment and other materials used in the trade carried on by the contractor.

Cottage Industry: An activity, carried out in a dwelling or accessory structure, such as home offices, repair services, business and personal services, and goods produced or manufactured on site, employing no more than 3 people and which meets the conditions of Section 525. Cottage industries also include a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Coverage: That percentage of the lot area covered by all building areas.

Day Care, Adult: A place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care and supervision of up to eight (8) senior citizens outside their homes for periods of less than twenty-four hours a day by a person other than a guardian or relative.

Development Review Board or DRB: The board appointed by the Selectboard to carry out the responsibilities assigned to it by these Regulations, including without limitation, to hear and decide appeals taken concerning the decisions or actions of the Zoning Administrator, to render decisions applications for conditional use, and to render decisions on requests for variances.

Dwelling: Any building used by humans for habitation.

Dwelling Unit: Building or part thereof used as living, eating and sleeping quarters by members of one family, with a dedicated means of entrance and egress separate from that of other dwelling units. The terms "dwelling," "single-family dwelling," "two-family dwelling," or "multi-family dwelling" shall not include a tourist home or motor lodge.

Dwelling, Single-Family: Detached building used as living quarters by one family.

Dwelling, Two-family: Single building used as living quarters by two families, living independently of each other.

Dwelling, Multi-family: A dwelling or group of dwellings on one lot, containing three or more separate living units, having separate or joint entrances, and including apartments, group homes, row houses, and condominiums; also multiple dwellings.

Environmental Court: The court to which appeals are taken from decisions of the DRB as provided by 24 V.S.A § 4471.

Essential Services: Functions provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These include facilities underground, surface and overhead. Erection, construction, alteration or maintenance by utilities for providing services.

Existing Small Lot: Means a lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of the Regulations that does not conform to the minimum lot size requirements in the District in which it is located.

Facility: Means a residential care home, maternity home, nursing home, assisted living residence or therapeutic community residence licensed or required to be licensed pursuant to the provisions of 33 V.S.A. § 7103.

Family: One or more related or four or fewer unrelated persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.

Family Child Care Home, Small: Means a child care facility in which the caregiver provides child care on a regular basis in the caregiver's own residence and the caregiver is exempt from the state registration requirement pursuant to 33 V.S.A. § 3502(b)(1) because the child care provided is limited to the children of not more than two families, other than that of the caregiver.

Family Child Care Home, Large: Means a child care facility as defined by 33 V.S.A. § 4902(3) in which the caregiver is licensed or registered by the State of Vermont for child care, and provides child care on a regular basis in the caregiver's own residence for not more than 10 children at any one time (of which up to six children may be provided care on a full-time basis, and the remainder on a part-time basis).

Forestry: The use of the land for the purpose of maintaining forest resources and producing forest products.

Frontage: The portion of a lot adjacent and parallel to a public road right-of-way or mean watermark of a public waterway. In the case of corner lots, it shall be the portion of the lot that has or is proposed to have access to a highway or permanent easement right of way.

Front yard setback: See Section 506(A).

Functioning in an Acceptable Manner: For a wastewater system, this phrase means that the wastewater system does not qualify as a failed system as defined by 10 V.S.A. § 1972(5). For a

potable water supply, this phrase means that the water supply does not qualify as a failed supply as defined by 10 V.S.A. § 1972(4).

Gas Station: Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Gas stations shall not include premises where heavy automobile and manufactured maintenance activities such as engine overhauls, automobile and manufactured painting, and body fender work are conducted. This does not include a retail store with gasoline pumps as a secondary use, often referred to as a mini-mart.

Group Home: Any residential facility operates under a license or registration granted or recognized by a state agency and that serves not more than eight persons, who have a handicap or disability as defined by 9 V.S.A. § 4501 and who live together as a single housekeeping unit.

Home Occupation: An occupation located in minor portion of a dwelling unit or a building accessory thereto that is customary in residential areas and does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Home occupation includes without limitation: antique shop, dressmaking, home cooking, sewing, tailoring, teaching, the practice of an accountant, architect, artist, dentist, photographer, doctor, engineer, insurance agent, lawyer, musician, realtor, barber or beautician, computer programming. See Section 522.

Interested Person: A person, as defined by 24 V.S.A. § 4465(b), and is therefore entitled to undertake an appeal. See Section 1302.

Junk: Means old or scrap copper, brass, iron, steel and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash or any discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof.

Junk Motor Vehicle: A discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, or one that is allowed to remain unregistered for a period of ninety (90) days from the date of discovery.

Junkyard: 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 as a scrap metal processing facility. Junkyard also 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. Junkyard does not include a garage where wrecked or disabled motor vehicles are stored for less than ninety (90) days for inspection or repairs.

Land Development: The division of a parcel into two or more parcels, the construction reconstruction conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure or land, or extension of use of land.

Light Commercial: The light commercial district can provide for modest commercial enterprises in a residential area, and which are not detrimental to the interest of the surrounding residential neighborhood.

Line of Building: The line of the face of the building nearest the lot line, including sun porches, and open or closed porches. Line of building shall not include outside steps, including landings, fire escapes, cellar hatchways, handicap ramps, chimneys.

Lot: Any undivided interest in land, whether freehold or leasehold, including but not limited to interests created by trusts, partnerships, corporations, countenances and contracts.

Lot area: Total area within a lot's boundary lines, excluding any part thereof lying within the boundaries of an existing or proposed Class 1, Class 2, Class 3 or Class 4 Town Highway. The areas of lands separated by a Class 1, Class 2, Class 3 or Class 4 Town Highway shall not be aggregated for purposes of calculating lot area.

Lot Line: Any line bounding a lot as herein defined.

Lot Line, Front: The line separating the lot from the street or road. If a lot abuts more than one street, each line is a front lot line.

Lot Line, Rear: The lot line most distant from the front lot line

Lot Line, Side: A lot line not a front or rear lot line.

Machinery Repair Shop, Minor: Any lot, including the building, which is used for the primary purpose of making major or minor repairs to machinery, such as bicycles, mowers, tractors, or small motors.

Mobile and Manufactured Home: A prefabricated dwelling unit that is:

- designed for long term and continuous residential occupancy,
- designed to be moved on wheels, as a whole or in sections,
- complete and ready for occupancy on arrival at the site, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation or installation as a unit in a previously prepared structure, and
- identical to immovable housing with respect to water supply and waste disposal.

Mobile and Manufactured 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. 10 V.S.A. 6201(2)

Modular or Prefabricated Housing: A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Nonconformity: Uses, lots, parcels or structures that do not conform to the present Zoning Regulations.

Nonconformity, Use: A use of land, lot, or structure which does not comply with the use regulations for the district in which it is located.

Nonconformity, Dimensional: A structure, lot or land or part thereof not in conformance with the dimensional requirements of this Regulation.

Official Zoning Map: The one true copy of the Town Zoning Map located in the office of the Town Clerk and adopted by the Planning Commission as the Town of Rutland, Vermont Future Land Use Map in connection with the adoption of the Town of Rutland Town Plan on September 18, 2007.

Office: A room or groups of rooms or portion of a building for conducting the affairs of a business, profession, government or service industry, administrative, executive, professional, research, or similar organizations providing no merchandise to be sold.

Park, Municipal: Any park or recreation area or facility owned by the Rutland Town.

Parking Space: A space, measuring ten (10) feet by twenty two (22) feet, for off-street parking of a motor vehicle in conformance with this ordinance.

Performance Bond: A document issued by a bonding or surety company approved by the DRB or by the owner with security acceptable to the DRB, in an amount sufficient to secure compliance with a permit and its conditions, including without limitation, to cover the cost of required improvements to infrastructure and the maintenance thereof, that is to be maintained for such period of time as is estimated by the DRB or such town department(s) or official(s) as the DRB may designate.

Principal Building: A building in which the primary use of the property on which it is located is conducted. Attachments are a part of a principal building.

Public Highway: A public way that qualifies as a highway as defined by 19 V.S.A. § 1(12).

Public Way: A travel way for vehicular traffic, which affords the principal means of access to abutting properties.

Quarry: A lot or land used for the purpose of extracting stone, sand, gravel, or top soil for sale or to be processed for commercial purposes.

Recreation, Private: Recreation uses privately owned and operated, including but not limited to picnic grounds, archery ranges, hiking and riding trails, hunting and fishing areas, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites, golf driving range, golf pitch and putt course, par three golf courses, hunting preserves, skating rinks, swimming pools, parks, beaches, tennis courts, indoor bowling alley, theater, table tennis and pool hall, gymnasium, health club, hobby workshop, archery range, riding stables.

Required Yard: The areas of a lot in which the applicable district regulations prohibit the location of a building or structures.

Residential Care Home: Any residential facility for the diagnosis or treatment of human ailments, including but not limited to hospital, sanitarium, nursing home, community care home, and hospice.

Restaurant: An establishment whose principal business is the selling of food and beverages to customers seated within or adjacent to the building.

Right-of-Way: A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, water line, sanitary sewer, and / or other public utilities or facilities.

Self-Service Storage Facility. A building or group of buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

Site Plan: A plan, to scale, showing uses and structures proposed for a parcel of land as required by these Regulations. It includes lot lines, streets, building sites, open space, buildings, major landscape features, and proposed utility lines, if any.

Structure: An assembly of materials for occupancy or use, including, but not limited to, a building, mobile and manufactured home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.

Street: A public thoroughfare, including road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords the principal means of access to abutting property.

Subdivision: The division of a parcel of land, with or without streets, into two or more lots, plots or other legal or actual division of land for transfer of ownership, building, development, or sale. Subdivision does not include a boundary adjustment.

Setbacks: Distance between lot lines, structures or improvements (see tables)

Temporary Structure: A structure designed for use while a permanent structure is under construction, undergoing substantial repairs or reconstruction, or for a special event or conference, not to exceed 12-month period. An extension may be applied for subject to DRB approval.

Trailer Park/Campground/R.V. Park: Privately owned land leased to owners or occupants of transient trailers, recreational vehicles or tents.

Trailer/Recreational Vehicle: A vehicle intended to be used for a temporary dwelling, travel and recreational activities. It may be equipped to receive a supply of running water and be provided with bath facilities, flush toilet and sanitary connections.

Wind Energy Conversion System: Any device such as a wind charger, windmill or wind turbine which converts wind energy to a form of usable energy.

Yard: An open space at grade between a building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used. See Appendix B (Page 51) for illustration of yard lot lines with respect to a surveyed lot. For lots without a survey, see Section 506(A).

- **Front Yard:** For lots described by a survey as set forth in Section 506(A), the yard between the front lot line and front line of a principal building extended to the sidelines of the lot. For lots that lack such a survey, the yard between the front line of a principal building extended to the sidelines of the lot and the centerline of the public way calculated as set forth in Section 506(A).
- **Rear Yard:** The yard between the rear lot line and the rear line of a principal building extended to the sidelines of the lot.
- **Side Yard:** The yard between the side lot line and the side yard line of the principal building extended to the front and rear yards.

Zoning Administrator: Refers to the person appointed by the Selectboard to administer the Zoning Regulations.