

UNIFIED DEVELOPMENT BYLAWS TOWN OF CHESTER, VERMONT



ADOPTED MARCH 15, 2017 EFFECTIVE APRIL 5, 2017

AMENDED JUNE 1, 2022 EFFECTIVE JUNE 22, 2022

DRAFT OCTOBER 13, 2022

REVISIONS DECEMBER 19, 2022

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2.14 FDP – Flood Damage Prevention District

A. Development Permit Required

A permit is required, to the extent authorized by State law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. Conditional use approval (see Section 4.8) by the Development Review Board (DRB) is required for:

1. **New buildings,**
2. **Substantial improvement of existing buildings, and**
3. **Development in a floodway;**

prior to being permitted by the Zoning Administrator. All development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

Note: All development in SFHAs needs a permit and thus notice to the state NFIP Coordinator (Section 7.1.B.2.k) even if not subject to conditional use review.

B. Lands to Which These Bylaws Apply

These Bylaws shall apply to all areas in the Town of Chester, Vermont identified as areas of special flood hazard, also referred to as Special Flood Hazard Areas (SFHA), in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), 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 Bylaws.

The Flood Insurance Study and maps are on file in the Chester Town Offices.

The Zoning Administrator and/or Development Review Board are empowered to determine that an area shown on the flood insurance maps as being in an SFHA approximate A Zone is incorrect and therefore not subject to this bylaw, however, this determination will not apply to any dwelling and will have no effect on any requirements by lenders to purchase flood insurance, nor will it result in any official change to the flood insurance maps.

C. Warning of Disclaimer of Liability

These Bylaws do not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. These Bylaws shall not create liability on the part of the Town of Chester or any town official or employee thereof

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for any flood damages that result from reliance on these Bylaws or any administrative decision lawfully made thereunder.

ARTICLE 3 – General Use Standards

The following zoning standards apply to all uses and structures as specified within the Town of Chester.

3.1 Accessory Dwelling Unit

A single accessory dwelling unit, as defined in these Bylaws, shall be a permitted use. [A second accessory dwelling unit may be approved by the Development Review Board following review under the conditional use criteria of these regulations.](#)

3.2 Broadcast Facilities

Broadcast facilities, as defined by these Bylaws, shall conform to the following provisions:

A. All broadcast facilities shall be licensed by the Federal Communications Commission.

B. Commercial Broadcast Facilities:

1. Shall be allowed in all districts upon receiving Conditional Use approval from the Development Review Board and issuance of a Zoning Permit.
2. Any installation or construction of, or significant addition or modification to, such facilities requires approval under Section 4.8, unless determined to be of de minimis impact under Subsection F below.
3. Commercial broadcast facilities are exempt from the height standards listed in Article 2. The facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the facility, unless the proposed elevation is reasonably necessary to provide adequate wireless telecommunication service capacity or coverage or to facilitate collocation of facilities.
4. Antennae and towers shall meet a setback distance from the property lines equal to the height of the antennae or tower. Setbacks are measured from the base of the structure, not guy wires.
5. Landscaping may be required around the base of all antennae and towers.

C. Private Broadcast Facilities (e.g. ham radio facilities):

1. Shall be allowed in any district upon issuance of a Zoning Permit.
2. Antennae and towers shall be located in back yards and shall meet a setback distance equal to the height of the antennae or tower.

D. In accordance with §4412(8) of the Act, the following facilities are exempt from these Bylaws:

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1. Telecommunications facilities that are subject to review by the Public Service Board under 30 V.S.A. §248a.
2. Antenna structures less than 20 feet in height with its primary function to transmit or receive communication signals for commercial, industrial, institutional, nonprofit or public purposes.
3. No permit shall be required for placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached, except to the extent bylaws protect historic landmarks and structures listed on the state or national register of historic places.

E. De Minimis Impacts:

1. All applications for broadcast facilities shall be reviewed by the Town of Chester

Zoning Administrator to determine if the facility will impose no impact or de minimis impact. A de minimis impact exists if the project meets the following criteria:

1. Project consists of either:
 - i. Collocation on a legally existing tower;
 - ii. Upgrades to legally existing equipment; or,
 - iii. Similar projects.
2. Project does not involve:
 - i. New towers;
 - ii. Extending the height of existing towers;
 - iii. New access roads or expansions of existing access roads; or,
 - iv. Similar projects.
2. The Zoning Administrator's determination regarding no impact or de minimis impact shall be in writing and shall be subject to appeal to the Development Review Board in accordance with 24 V.S.A. §4465. Furthermore, the Zoning Administrator shall mail a copy of any positive determination to all abutting landowners.
3. If the Zoning Administrator determines that a Facility will have more than a de minimis impact under the criteria established in this Section, the Zoning Administrator shall refer the application to the Development Review Board for review as a conditional use.

3.3 Camping/Travel Trailer, Pick-Up Coach, Motor Home and Tent Site Park

1. Parks for camping in travel trailers, campers or tents are subject to conditional use review by the Development Review Board. Specific requirements for approval shall be based on the standards listed below. All campgrounds must provide individual camp sites that meet the following standards:

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1. Each camp site must provide a minimum area of 2,500 square feet; and,
 2. A minimum width of 25 feet must be provided for each camp site.
2. Nothing in this section shall prevent a property owner from parking his/her own camping trailer on his/her property. Trailers located on private property shall be registered with the Department of Motor Vehicles.

3.4 Change or Expansion of Use

- A. The conversion of an accessory structure into another use will be reviewed under the procedures for the proposed new use for the zoning district in which it is located (e.g. permitted use or conditional use).
- B. Any enlargement or alteration of a permitted use that involves the creation of new floor space or outdoor storage space, requires additional on-site parking or has different minimum lot size or dimensional requirements will require a zoning permit issued by the Zoning Administrator under Section 7.2.
- C. Any enlargement or alteration of a conditional use shall be reviewed as a conditional use by the Development Review Board to permit the specifying of new conditions.

3.5 Compliance with Bylaws

Any land, building or premises, or part thereof may be used only for purpose listed under Article 2 of these Bylaws applicable to the district in which it is located. See Section 7.2 for further individual permit requirements.

3.6 Damaged, Unfinished and Abandoned Structures

Within one year after any building or structure has burned, collapsed, or otherwise been destroyed, demolished or abandoned, and creates a public hazard as determined by the Selectmen, all structural materials shall be removed from the site and the excavation thus remaining shall be covered or filled to existing grades. Nothing in this Regulation shall prevent reconstruction or restoration within two (2) years of a building damaged by fire, accident, or act of God, to its condition prior to such damage. Such reconstruction shall be considered a permitted use and shall require a permit. Substantial completion must be completed within two years of the incident. An applicant may apply for approval of an extension to allow more time for substantial completion to be reviewed by the Development Review Board under conditional use review. Nothing in this section shall be construed to restrict the authority of the Town of Chester to abate a nuisance or to abate or remove public health risks or hazards. (See Section 3.19 for Nonconforming Structures.)

3.7 Erosion Control & Development on Steep Slopes

A. Purpose.

The purpose of these regulations is to protect areas of steep slope within the Town of Chester from the adverse impacts of development as necessary to:

1. Provide safe, stable development sites;
2. Prevent landslides, slope failure and soil instability;
3. Prevent soil erosion;
4. Minimize storm water runoff and prevent flooding;
5. Control sedimentation and prevent water quality degradation.

B. Erosion Prevention and Sediment Control. All development activities shall take the appropriate measures for erosion prevention and sedimentation control during construction in accordance with the Vermont Erosion Prevention and Sediment Control Field Guide and/or The Low Risk Site Handbook for Erosion Prevention and Sediment Control, as most recently amended. The Development Review Board may require a grading, erosion prevention and sediment control plan under conditional use and/or planned unit development review procedures.

C. Steep Slopes (over 25%). Development shall be located to minimize adverse impacts to steep slopes over 25% (or 4:1 slopes). Where development on steep slope areas is necessary due to extreme limitations of the lot, conditional use approval under Section 4.8 shall be required. Development that creates new areas of steep slope (over 25% or 4:1) or retaining walls 5 feet in height or taller (or 5 feet in combined height if a series of terraced retaining walls are planned) shall also be subject to these provisions. The DRB may establish development envelopes, and may limit clearing, excavation and/or filling on such lands. The DRB may require the preparation of grading and erosion control plans by a Vermont licensed engineer for the property as part of a complete application and implementation of that plan as a condition of approval.

D. Exemptions. The following are specifically exempted from the requirements of this Section:

1. Proposed development that disturbs areas of 1,000 square feet or less;
2. Hiking, mountain biking, skiing or other non-motorized trails and related
3. structures, such as foot bridges and stairs;
4. Snowmobile trails;
5. Accepted agricultural and silvicultural practices in accordance with the Act [§4413(d)] (See Article 6);

3.8 Equal Treatment of Housing

In accordance with §4412(1), no provision of these Bylaws shall have the effect of excluding the following housing from the Town of Chester:

- A. Housing to meet the needs of the population as determined in the Housing Chapter of the *Chester Town Plan* as required under §4382 (a)(10).
- B. Pursuant to 24 V.S.A. § 4412 (1)(B), a mobile home, modular housing or other forms of prefabricated housing shall be considered a single-family dwelling and shall meet the same zoning requirements applicable to single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under these Bylaws.
- C. Mobile Home Parks as defined in 10 V.S.A. Chapter 153 (see §§ 3.13-3.15) as allowed within designated zoning districts under these Bylaws.
- D. Multi-unit or multi-family dwellings, as allowed within designated zoning districts under these Bylaws.
- E. One accessory dwelling as a permitted use that is located within or appurtenant to a principal single-family dwelling (see §3.1).
- F. A residential care home or group home, to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined by the state [9 V.S.A. § 4501] (see §3.25).

3.9 Extraction Operations

- A. The removal of soil, sand, rock, stone or gravel is subject to approval by the Development Review Board under conditional use review and findings that the proposed activity meets the standards below.
- B. In addition to the application requirements under Article 4, the applicant shall also submit plans showing existing grades, drainage and depth to the water table, buffers to adjacent parcels, the extent and magnitude of the proposed operation including project phasing, and finished grades and site restoration at the conclusion of the operation.
- C. The following requirements shall be met for all extraction operations:
 - 1. When the removal of materials is completed, the finished grades, as specified in the plan and approved, are covered with not less than four (4) inches of top soil and seeded with a suitable cover crop, except when ledge rock is exposed.
 - 2. A bond is posted with the Treasurer of the Town of Chester by the applicant in an amount approved by the Selectmen as sufficient to guarantee conformity with the provisions of this section.
 - 3. Any soil, sand or gravel operation in existence at the time of adoptions of these Bylaws shall not be subject to the provisions of this section except that such

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operation shall not extend beyond the then existing boundaries of the parcel of land until a permit has been issued.

4. No strip mining is permitted.
5. No actual quarrying or mining shall be carried on in a zone one hundred (100) feet from the highway as well as one hundred (100) feet from all abutting property in different ownership, unless written agreement has been obtained from any abutting property owner involved.
6. Any raw materials rejected from permitted operations which are piled on the land shall be screened from public view and shall not impede the flow nor pollute the waters of ponds and streams; such accumulations shall be graded to stable contour and shall be restored to vegetative cover.

D. In granting approval, the Development Review Board may consider and impose conditions with respect to the following factors, as it deems appropriate:

1. Depth of excavation or quarrying above the water table;
2. Slopes created by removal;
3. Effects on surface drainage on and off-site;
4. Storage of equipment and stockpiling of materials on-site;
5. Hours of operation for blasting, trucking, and processing operations;
6. Effects on neighboring properties due to blasting, excavation or crushing activities, or other noise, dust, or vibration;
7. Creation of nuisances or safety hazards;
8. Effects on traffic and road conditions, including potential physical damage to public highways;
9. The rate of extraction and number and frequency of truck trips;
10. Temporary and permanent erosion control;
11. Effect on ground and surface water quality, and drinking water supplies;
12. Effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
13. Effect on agricultural land; and
14. Site reclamation.

3.10 Family Child Care

A. Family Child Care Home: A family child care home, as defined herein in these Bylaws, serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home, as defined in these Bylaws, serving no more than six full-time children and four part-time children, shall be considered to constitute a permitted use of property but requires site plan approval based on local zoning requirements.

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B. Family Child Care Facility: A family child care facility, as defined in these Bylaws, shall be considered to be a conditional use and be subject to all applicable municipal bylaws for conditional uses.

3.11 Home Occupation

No regulation herein shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse effect on the character of the neighborhood. The primary use of the premises shall be that of a private residence, and the home occupation shall be carried on by members of the family in a minor portion of the dwelling or in an accessory building. Two (2) full time equivalent on-premises employees who are not part of the family are permitted. ~~in the residence or in a typical accessory building.~~ Disturbances such as noise, vibration, smoke, dust, odors, heat, glare, and electrical interference or line voltage variations shall not be produced. On-street parking is not permitted, nor shall the exterior of the building be altered to take on a commercial aspect. The above limitations shall not apply to agricultural uses. Home occupations are allowed as permitted; accessory uses in all districts where residential uses are permitted.

3.12 Home Business

No regulation herein shall infringe upon the right of any resident to use a minor portion of a dwelling for a Home Business which is customary in residential areas and which does not have an undue adverse effect on the character of the neighborhood. The Home Business shall be carried on by members of the family in a minor portion of the dwelling or in an accessory building. Five (5) ~~Four (4)~~ full time equivalent on-premises employees who are not part of the family are permitted. Disturbances such as noise, vibration, smoke, dust, odors, heat, glare, and electrical interference or line voltage variations shall not be produced at a level which is seriously objectionable or out of character with the neighborhood.

Home Business is allowed as an accessory use, subject to conditional use review, in all districts where residential uses are permitted subject to the following provisions:

1. The home business shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal or accessory structures;
2. The home business shall be carried on by members of the family residing in the dwelling unit. Four additional full-time equivalent employees who are not members of the family are permitted;
3. No traffic shall be generated which would be uncharacteristic of the neighborhood;
4. Exterior displays, exterior storage of materials, and exterior indications of the home business or variation from the residential character of the principal or accessory

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structures may be prohibited. (See Section 3.26 for home business/industry sign standards.)

3.13 Landscaping and Screening Requirements

A. Landscaping is required in all districts, except for one or two-family dwellings, to be installed and maintained in yards and shall take the form of shade trees, deciduous shrubs, evergreens, grassed areas and ground cover. No landscaping shall create a traffic hazard.

B. A three-year landscaping maintenance plan and/or a bond or other surety to ensure installation and maintenance may be required by the Development Review Board and incorporated as a condition of approval under conditional use review.

3.14 Lot and Yard Requirements

Each lot shall have an area, frontage, and front yard, side yard and rear yard setbacks as required by these Bylaws. Buildings and/or structures shall not occupy in the aggregate a greater percentage of the lot area, nor be greater in height, than is provided herein.

- A. Required Lot and Yard Areas:** In calculating the required area, width or depth of a lot, the area of existing and proposed road rights-of-way shall be excluded. Space required under these Bylaws to satisfy yard, area or other open space requirements in relation to one building shall not be counted as part of any required lot, yard or other open spaces for any other building.
- B. Corner Lots:** Lots at an intersection of streets shall have the required frontage on both streets. Any yard adjoining a street shall be considered a front yard for the purposes of these Bylaws. All front yards shall meet the setback requirements of these Bylaws.
- C. Setbacks:**
 - 1. Shall apply to the principle building and all accessory buildings and structures.
 - 2. Will be measured from the edge of the front roadway or neighboring lot line, in a straight line from a right angle to the nearest point of the building or structure.
 - 3. In the event of a corner lot, all sides facing the roadway(s) will be considered front yards.
 - 4. In the event there is no discernible edge of roadway, the boundary line recorded in town records will be used.
 - 5. Nothing herein will prevent the projection of eaves, chimneys, cornices, uncovered steps, unroofed porches less than 32 square feet, window sills and

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other such projections into any required yard or open space, provided that such projection does not extend more than four feet into such yard or open space.

6. Any type of covering – including but not limited to retractable awnings or wooden, metal, fiberglass lattice work that requires support of any kind – over a deck, steps or porch is considered part of the structure and will be included in the minimum setback measurement.
 7. Driveways are allowed within side and rear yard setbacks, and not included in the boundary measurements.
 8. Structures, regardless of material, which are intended to cover over and shield any type of vehicle shall be included in the boundary measurements.
 9. In the event of a cul-de-sac, the front yard setback shall be measured from the target line used to measure frontage.
 10. Fences and walls ~~provided they are no higher than six (6) feet~~ are not considered in the setback measurement.
- D. **Lots:** A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lots shall have frontage on a street, or other means of permanent access approved by the Development Review Board. In no case shall the division or combination of any lands result in the creation of a parcel which does not meet the requirement of these Bylaws.
- E. **Frontage:** All new subdivided lots shall have the required contiguous road frontage or right-of-way frontage for the district in which located. Lot frontage on a cul-de-sac may be reduced by the Development Review Board under conditional use review if the opinion of the Development Review Board the reduction of the lot frontage will result in a better utilization of land. In no event shall the lot frontage in a cul-de-sac be less than 50'.

3.15 Low and Moderate Income Housing

No provision of this bylaw shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in accordance with 24 V.S.A. § 4382(c).

3.16 Mobile Home Park

Mobile homes are allowed in approved mobile home parks subject to the requirements of this section and state law. Mobile home parks are allowed as a conditional use in the R40 and R120 districts (See Article 2). New mobile home parks and any addition or alteration to an existing mobile home park, requires conditional use and site plan review and approval by the Development Review Board. The following requirements shall apply to mobile home parks:

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1. All mobile home parks are subject to the State Regulations for mobile home parks.
2. All mobile home parks shall be processed under the Planned Unit Development provisions.
3. A minimum of 12,000 square feet of lot area per mobile home is required.
4. Minimum setbacks for the mobile home on each plot are: 20 feet setback from the plot boundary facing the access road or driveway and 20 feet side and rear yard setback from each side and the rear plot boundaries.
5. All mobile home parks shall provide a minimum 20% of the total land area as common open space for recreational purposes.
6. Site Plan improvements at a minimum must provide for:
 - a) Facilities and amenities appropriate to the needs of the occupants.
 - b) Safe, comfortable and sanitary use by the occupants under all weather conditions.
 - c) Practical and efficient operation and maintenance of all common facilities.
 - d) Common open space accessible to all residents of the mobile home park.
 - e) Sufficient landscaping or other screening to provide visual or acoustic privacy for residents of adjacent units.
7. All mobile home parks shall meet minimum setback requirements for the zoning district in which they are located (see Article 2). These setback areas shall serve as a landscaped buffer between the mobile home park and adjacent parcels and public rights-of-way.

3.17 Mobile Home Storage

A temporary Zoning Permit for one (1) year from the effective date of the permit for the storage of a mobile home may be issued by the Zoning Administrator. Such mobile homes shall not be connected to sewage or water facilities, and shall not be used as a dwelling for the duration of the temporary permit. Only one renewal of the temporary permit for one (1) additional year, with payment of the appropriate permit fee to the Town of Chester, is permitted.

3.18 Mobile Home(s) For Agricultural Employees

Mobile homes sited on a parcel for housing of agricultural employees, as provided in Title 10 VSA § 6201(2), must meet setback requirements of the district in which the parcel is located.

3.19 Non-Conformities Legacy Uses And Adaptive Re-Use

A. **Existing Nonconformities.** Nothing in this section shall be construed to restrict the authority of the Town of Chester to abate public nuisances or to abate or remove public health risks or hazards. Any lawful lot, building or use in existence at the time of adoption or amendment of these Bylaws may be continued. Such lot, building or use shall meet all other requirements of these Bylaws, and is subject to the following provisions.

B. **Nonconforming Lots.** Any existing lawful lot that does not meet the specified dimensional requirements in these Bylaws, may be maintained and developed for the purposes permitted in that district ~~as long as all other requirements for that district are met.~~ Notwithstanding provisions to the contrary, structures on a Nonconforming Lot or Existing Small Lot shall not be erected or extended less than twenty (20) feet from a road as measured from the road shoulder, and fifteen (15) feet from any lot line. may have the front, side, and/or rear yard setback reduced to a ratio of the size of the Nonconforming Lot or Existing Small Lot to the Minimum Lot Size for the District (that is, a 3 acre lot in a 5 acre district may have its setbacks reduced to 3/5ths or 60% of the required setback for the District). A copy of a permit approving land development with a reduced setback under this provision shall be sent by the Zoning Administrator to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, as a notification.

1. **Existing Small Lots.** In accordance with the Act [§ 4412], any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet.

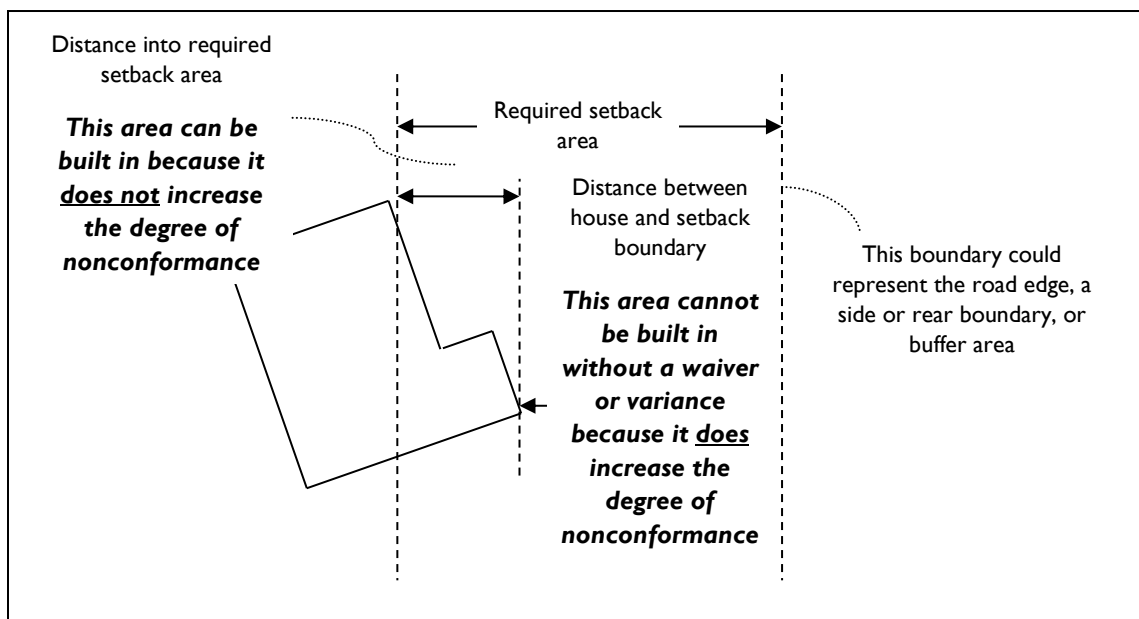
a. If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot may be separately conveyed if the lots are conveyed in their preexisting, nonconforming configuration, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet.

C. **Nonconforming Structures**

1. Any legal structure or part thereof, which is not in conformance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as parking, lighting, buffers, and lowest floor elevation in floodplain zoning) shall be deemed a nonconforming structure. Legal nonconforming structures exist as a result of construction prior to adoption of bylaws, or construction under an earlier set of less restrictive bylaws. Any nonconforming structure may be allowed to exist indefinitely, but shall be subject to the following provisions:

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2. Subject to conditional use approval by the DRB, a nonconforming structure may be restored or reconstructed after unintentional loss provided the reconstruction is commenced within two years and does not increase the degree of non-conformance that existed prior to the damage.
3. A nonconforming structure which has been demolished shall not be reconstructed except in conformance with these bylaws. The DRB may grant a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of these bylaws. In considering a waiver from these provisions, the DRB shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.
4. A nonconforming structure shall not be moved, altered, extended, or enlarged in a manner which will increase the existing degree of non-conformance.
5. The phrase 'shall not increase the degree of non-conformance' shall be interpreted to mean that additions to nonconforming structures which enlarge a portion of a nonconforming structure within a setback area result in coverage of additional ground area but do not extend the structure any closer to a roadway or property line are not to be considered as an increase in the degree of non-conformity (see illustration below). Additionally, the development may not create a greater nuisance, detriment to the public health, safety or welfare than the original nonconforming structure. the portion of the structure which is nonconforming shall not increase in size (or decrease in the event of failing to meet minimum standards such as parking and lighting). Therefore, portions of a structure within a setback area cannot be enlarged, portions above the maximum height cannot be expanded where parking is deficient the number or size of spaces cannot be reduced, etc. This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios provided there is no increase in size.



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6. Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of non-conformance.
7. The DRB shall permit the alteration or expansion of a nonconforming structure for the sole purpose of conformance with mandated environmental, safety, health, or energy codes.

D. Nonconforming Uses, Legacy Uses and Adaptive Re-use

1. **Nonconforming Uses.** Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in conformance with the provisions of these bylaws, shall be deemed a nonconforming use. Nonconforming uses are those that exist legally as a result of existing prior to adoption of bylaws, or permitted under an earlier set of less restrictive bylaws. Any nonconforming use may be continued indefinitely, but shall be subject to the following provisions:
 - a) The nonconforming use shall not be changed to another nonconforming use without approval by the DRB, and then only to a use that, in the opinion of the DRB, is of the same or of a more conforming nature.
 - b) The nonconforming use shall not be re-established if such use has been discontinued for a period of two-years or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
 - c) The nonconforming use shall not be expanded, extended, moved or enlarged unless the DRB finds that such expansion, extension, movement, or enlargement does not increase the degree of non-conformance. Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, number of employees or an increase in the size of the operation through the expansion of a conforming structure.
 - d) The DRB shall permit the alteration or expansion of a nonconforming use for the sole purpose of conformance with mandated environmental, safety, health, or energy codes.
2. **Legacy Uses.** The DRB may determine that a past or present nonconforming use, by virtue of its benign history and cultural heritage in Chester, is a Legacy Use and is therefore deemed an allowed and conforming conditional use in the district in which it is located. The applicant shall demonstrate that a past or present nonconforming use has sufficient benign history and cultural heritage in Chester to be determined a Legacy Use. Determination as a Legacy Use is indefinite in duration, but a Legacy Use may be re-established, expanded, extended or enlarged only following conditional use review and approval by the DRB and a zoning permit issued by the Zoning Administrator.

3. Adaptive Re-use.

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- a. **Purpose.** To encourage the continued viability of older, special-use buildings that have outlived their original function by allowing for a variety of possible new uses to be established within the existing building in a manner that is compatible with the character of the area for the district in which it is located.
- b. **Applicability.** The adaptive reuse of special-use buildings within all zoning districts is subject to review by the Development Review Board and must meet the conditional use requirements specified in Section 4.8 and the adaptive re-use provisions in Section 3.19.D.
- c. **Eligible Building Criteria.** The Development Review Board will determine whether the adaptive reuse provision shall apply to any proposed building use based upon either or both of the following criteria:
 - i. The building was originally built for purposes that are not currently allowed in the zoning district in which it is located.
 - ii. The building, by the nature of its size, type, construction method or location on the parcel, does not meet the regulations including dimensional standards for the zoning district in which it is located.
- d. **Review Process and Standards.** Conditional Use Approval by the Development Review Board is required for all adaptive re-use proposals, subject to the following additional standards:
 - i. An applicant may propose one or more uses to be established within an eligible building.
 - ii. Any rehabilitation or restoration associated with an adaptive re-use shall not significantly alter the façade or historic character of the structure. Any proposed exterior renovations shall conform to the guidelines set forth in the most recent edition of the U.S. Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, whether or not the building qualifies or is designated as an Historic Building;
 - iii. The Development Review Board may waive the zoning district dimensional standards or surface water protection setbacks if needed to support the proposed use.

3.20 Off-Street Parking

Off-street parking spaces shall be provided in accordance with this section in all districts for every building hereafter erected or enlarged, or for any expansion or change of use.

A. Minimum Parking Standards

Land Use Category	Minimum Parking Standard
Residential	2/unit

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Accessory Dwelling Unit	1/unit
Lodging	1/unit
Office	2/1,000 sq ft
Retail	3/1,000 sq ft
Restaurant/Bar	1/3 seats
Civic	As required by the DRB under
Other	conditional use review

Uses	Minimum Parking Spaces Required
All Residential Uses	1 space per household unit
All Lodging Uses	1 space per sleeping unit
All Assembly Uses	1 per 4 installed seats
All Retail Uses	1 space per 300 sq. ft. of display floor area
Medical Offices	1 space per 400 sq. ft. of gross floor area
All Other Offices	1 space per 500 sq. ft. of gross floor area
Restaurants/Taverns	1 space per 4 indoor seats

B. Location: Unless no reasonable alternative exists, on-site parking shall be located to the rear or side of the building. ~~Non-Residential: The Development Review Board may require additional off-street parking for any non-residential use if they find that minimum spaces are not sufficient.~~

C. Size of Parking Space: A parking space shall be at least nine (9) feet in width and eighteen (18) feet in length.

D. ADA Accessible Parking: Any public building must provide for handicap parking, and each handicap parking space must be at least thirteen (13) feet in width and eighteen (18) feet in length, with a minimum 3-foot-wide accessible route connecting to the building in accordance with the ADA Accessibility Guidelines. Handicap parking spaces will be so designated by appropriate signs.

E. Setbacks: Parking lot setbacks shall be a minimum of 5 feet.

F. Loading and Service Areas.

In all zoning districts, other than the VC and VG Districts, off-street loading space shall be provided for commercial, industrial or institutional uses which will receive shipments in vehicles too large for a standard parking space. Space provided shall be specifically for off-street loading and shall be large enough to fully accommodate the maximum number of such vehicles expected to be on the premises at any one time. Service areas may also be required for development subject to conditional use review to accommodate emergency vehicles, waste collection and disposal areas, transit service, or other purposes as may be necessitated by the

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proposed use. All loading and service areas shall be clearly marked and located in such a manner that parked vehicles will not block or obstruct access or sight visibility at intersections.

G. Modification of parking requirements.

On-site parking requirements may be reduced by the Development Review Board under conditional use review, based upon a determination that special conditions exist which warrant reducing the minimum parking standard. The DRB may approve up to a 50% reduction of off-street parking spaces in Subsection A above. In the VC District, the parking may be reduced beyond 50%, if warranted. When approving a modification of the parking standards, the DRB shall consider the following:

1. Is the site located on or within 1,000 feet of a transit route?
2. Are there shared parking facilities with abutting businesses which are sufficient to meet parking demand?
3. For mixed-use projects, do the proposed uses have staggered business hours with minimal overlap?
4. Does the type of business proposed generate substantial pedestrian traffic, and are adequate pedestrian facilities present?
5. Is a reduced number of parking spaces adequate due to mitigation efforts such as bicycle parking, ridesharing or innovative measures (e.g. the provision of transit passes or sponsoring car sharing for tenants/employees)?
6. Is safe and adequate on-street parking available? [\(On-street spaces may count for 2 off-street spaces because on-street spaces turn over, are available more frequently, and have higher overall occupancy rates.\)](#)
7. Are green areas to be set aside for future conversion to parking in the event that the amount of space initially permitted is deemed inadequate to meet demonstrated need?
8. Can the minimum standards not be met for the redevelopment of an existing building?

[The Development Review Board may require additional off-street parking for any non-residential use if they find that minimum spaces are not sufficient.](#)

3.21 Parcels in Two Or More Districts

When a parcel is located in two or more districts, the dimensional standards and uses of the district in which the structure is physically located will apply.

3.22 Renewable Energy Facilities

(Note: Development associated with utility, energy or telecommunications infrastructure that receives a Certificate of Public Good from the Vermont Public Utilities Commission is exempt from these bylaws. See Section 4.3.)

A. Purpose. The purpose of these standards is to promote energy efficient development, and to direct the siting and development of renewable energy facilities in the Town of Chester, as necessary to ensure that:

1. New development conforms to *Chester Town Plan* goals, policies and objectives specific to energy conservation, increasing energy efficiency and renewable energy development.
2. New development is planned and designed for energy efficiency, and to accommodate the future installation of renewable energy systems.
3. Renewable energy facilities subject to municipal review meet minimum standards intended to protect public health, safety and welfare, public facilities and services, neighboring properties and uses, and the Town's most significant natural, historic and scenic resources

B. Conditional Uses. For purposes of these Bylaws, a single proposed small-scale renewable solar or wind energy facility – including a solar thermal system, a solar photovoltaic (PV) or a wind system with a nameplate capacity of 15 kW or less – that is intended to serve the principal use of the property and meets the following standards, shall be considered an allowed accessory structure in all zoning districts [in which structures are allowed], subject to conditional use review by the Development Review Board and the issuance of a zoning permit. (See Exemptions in Section 4.3.) These systems include:

1. Solar or wind facilities to be mounted on buildings or structures (with the exception of historic structures) which, as mounted, do not exceed maximum district height requirements by more than 30 feet. Facilities mounted on non-conforming structures will not be considered to increase the degree or amount of nonconformance.
2. Individual ground-mounted solar and wind facilities that meet the following requirements:
 - a) A ground-mounted solar facility must meet minimum district setback requirements from property lines and rights-of-way, unless waived by the Development Review Board

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under Section 7.16, and shall meet the height standard for the zoning district in which it is located.

- b) A ground-mounted wind energy facility shall not exceed a total height of 125 feet, or a maximum height of 40 feet above obstructions (e.g., structures, tree canopies) within 300 feet of the tower, whichever is greater, as measured vertically from the base of the tower at ground level to the top of the rotor blade at its highest point. The facility shall be set back from all property lines at least a distance that is equivalent to the height of the tower plus the district setback requirement unless waived by the Development Review Board under Section 7.16. Setbacks shall be measured from the base of the tower, not guy wires. A minimum clearance of 15 feet is required between the ground and the rotor blade tip at its lowest point. Supporting guy wires must be located at least 10 feet from all property lines.
 - c) A ground-mounted lattice tower wind energy facility shall provide full- perimeter fencing or barrier.
3. A wind facility shall not cause shadow flicker on any occupied building located in the vicinity of the property, unless the affected property owner gives written consent, as submitted with the application.
 4. The Development Review Board may use the Public Service Department's "Siting a Wind Turbine System on Your Property" to determine how ground-mounted facilities must be sited or screened so that they are not highly visible from adjoining properties.
 5. A solar installation shall not cast unreasonable glare onto adjoining properties.
 6. The installer must certify in writing that the facility as installed meets manufacturer's specifications and accepted industry safety and performance standards, as established by the National Electrical Code, Institute of Electrical and Electronic Engineers, Underwriters Laboratories, American National Standards Institute, or similar testing and certification facilities. The applicant shall forward a copy of system specifications to the Fire Department.
 7. Facility lighting or use of the facility for display or advertising purposes is prohibited.

3.23 Required Frontage On, Or Access to Public Roads or Waters

No land development shall be permitted on existing lots which do not either have frontage on a public road or public waters or by permanent right-of-way, approved of the Development Review Board under subdivision review procedures (see Section 5.2).

3.24 Residential Care and Group Homes

A. A residential care home or group home, to be operated under state licensing or registration, 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 or group home. The 1,000-foot requirement is to be measured "as the crow flies".

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B. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multifamily dwelling and shall be subject to conditional use and site plan review.

3.25 Sewage Disposal Permit

In accordance with 24 V.S.A §4414, no construction for a dwelling or any building to be occupied may take place under a zoning permit unless and until a wastewater and potable water supply permit or deferral language has been issued under 10 V.S.A. Chapter 64.

3.27 Structures for Agriculture

Pursuant to 24 V.S.A. § 4413(d) farm structures (excluding dwellings), accepted agricultural practices and accepted silvicultural practices are exempt from local permitting requirements (See Section 4.3). However, farmers intending to erect a farm structure must submit to the municipality a written notice of intent to build a farm structure. The notification must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way. Additionally, all farm structures within the Flood Hazard Overlay District must comply with the National Flood Insurance Program. Lastly, the municipality may report violations of Accepted Agricultural Practices or accepted silvicultural practices to the appropriate state authorities for enforcement.

3.28 Storage of Flammable Fluids

The storage of all flammable fluids and the equipment in which it is stored is controlled under the Fire Code of Vermont as administered by the Division of Fire Safety. Storage of flammable fluids, other than bulk storage for commercial distribution, consistent with this code is permitted in any district, but will require a Zoning Permit if the capacity is over one thousand (1,000) gallons and must meet setback requirements. Bulk storage for commercial distribution does not include retail gas stations. Bulk storage for commercial distribution is only permitted in CI District as a conditional use.

3.29 Surface Water Protections

A. To prevent soil erosion and sedimentation of surface waters, development shall be

setback away from the high-water mark of all streams and rivers and public ponds. A minimum 25-foot setback is required for streams and rivers that are between two- to six-feet wide, measured from the high-water mark on each bank. A minimum 50- foot setback is required for ponds, as well as streams and rivers that are wider than six feet, measured from the high-water mark on each bank. No development, excavation, filling, clearing or grading shall occur within the setback area, with the exception of clearing and associated site development necessary to accommodate the following, approved as a conditional use by the Development Review Board:

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1. Road, driveway and utility crossings.
2. Stream bank stabilization and restoration projects, in accordance with applicable state and federal regulations.
3. Bicycles and pedestrian paths and trails.
4. Recreation facilities, including structures, and improved lake or pond accesses.
5. Micro-hydro (i.e. run of the river) energy systems.

B. This provision applies to all streams and rivers that are not protected under the Flood Damage Prevention District (see Section 2.14).

~~3.30—More than One Principal Building per Lot~~

~~No more than one principal building may be placed on a lot unless such buildings and any buildings accessory to such principal buildings are positioned such that the lot is able to be subdivided into separate and individual lots, both lots and their respective uses conforming to all applicable provisions of this bylaw.~~

3.30 Short-Term Rentals

The short-term rental of all or part of a permitted dwelling unit, as defined in these Bylaws, is an allowed use in all districts where residential uses are permitted without a zoning permit, but may be regulated by the Selectboard of the Town of Chester by civil ordinance under authority granted in 24 V.S.A. § 2291(29) and 24 V.S.A. § 1971 et seq. A short-term rental is only allowed residential signs, as defined in these Bylaws, which do not require a sign permit. Any sign requiring a permit under these Bylaws is prohibited to advertise or call attention to or direct a person to a short-term rental.

3.31 ACCESSORY ON-FARM BUSINESS

“Accessory On-Farm Business” (AOFB) means activity that is accessory to a “Farm” (meaning a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to state Required Agricultural Practices (RAP) rules adopted pursuant to 6 V.S.A. chapter 215, subchapter 2) and comprises educational, recreational, or social events that feature agricultural practices or agricultural products principally produced on the farm (“qualifying products”), or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used above, “farm stay” means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

New or expanded AOFBs are subject to conditional use review by the Development Review Board (DRB). AOFBs make take place inside new or existing structures or on the land. An application for an AOFB shall include a copy of the state wastewater and potable water supply

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permit for the requested activity. The DRB in its review may set reasonable conditions and requirements as are allowed under the standards and requirements for conditional use review but shall not deny the application or set conditions that have the effect of prohibiting the AOFB.

The construction of farm structures, operation of riding stables, and processing or sale of agricultural or forestry products principally produced on the farm, provided setback requirements are met and notice of construction is given to the Zoning Administrator, are exempt under Section 4.3.

ARTICLE 4 – Development Review Procedures

4.1 Applicability and Coordination of Review Process

No land development may be commenced within the Town of Chester without a permit issued by the Zoning Administrator. Additional review procedures are required as specified in these Bylaws. The following review procedures are required under these Bylaws.

A. Permitted Use/Administrative Review. (See Section 7.2)

1. Permitted Uses (Article 2)
2. Boundary Line Adjustments (Section 4.13)
3. Changes/Expansions of Use involving permitted uses (Section 3.4)
4. Substantial Completion
5. Sign Permits (Section 3.26)
6. Rebuilding damaged structures (Section 3.6)
7. Private Broadcast Facilities (Section 3.2)
8. Broadcast Facilities with de minimis impacts (Section 3.2)

B. Conditional Use Review. (See Section 4.8)

1. Conditional Uses
2. Changes/Expansions of Use involving conditional uses (Section 3.4)
3. Commercial Broadcast Facilities (Section 3.2)
4. Special Signs (Section 3.26)
5. Campgrounds (Section 3.3)
6. Development within Stream/Wetland Buffers (Section 3.29)

C. Planned Unit Development (PUD) Review. (See Section 4.10)

1. PUDs are optional
2. Development Review Board reviews all PUD application concurrently with Subdivision and Conditional Use Reviews

D. Flood Damage Prevention Review. (See Article 6 & Section 4.11)

1. All development within FEMA's Special Flood Hazard Areas

E. Subdivision Review. (See Section 4.12)

1. Minor Subdivisions (less than 5 lots see also Section 4.12(G).)
2. Major Subdivisions (5 lots or more)
3. Access to parcels with no frontage (Section 5.2)

F. Site Visits. (See Section 4.6)

G. Waivers. (See Section 7.16)

H. Variance. (See Section 7.15)

1. Flood Hazard Prevention variance requests are subject to Section 7.16(B)
2. All other variance requests are subject to Section 7.16(A)

I. Appeal of Zoning Administrator's Decision (See Section 7.11)

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1. Development Review Board reviews all appeals of Zoning Administrator decisions

4.2 Substantial Completion

All development authorized by a zoning permit shall be substantially completed with 2 years from the date of issuance of the permit or the zoning permit shall become null and void. If a permit expires, the applicant shall begin the application and approval process anew. The ZA may grant a single, 1-year administrative extension if the extension is requested before the permit expiration date and the ZA determines that all improvements completed to date conform to permit requirements and these regulations.

4.3 Limitations and Exemptions

A. In accordance with §4413(a) of the Act, 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 use¹:

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.

B. Except within the Flood Damage Prevention District, landowners do not need to obtain a zoning permit for the land use and development activities listed below. For land use and development activities within the Flood Damage Prevention District see Article 6.

1. Structures 144 square feet or less in footprint and twelve (12) feet or less in height that meet the applicable setback requirements for the zoning district.
2. Unenclosed play structures for personal use (such as jungle gyms, swing sets and trampolines).
3. Normal maintenance and repair of an existing structure which does not result in exterior alterations in dimension, or an expansion or change of use.

¹ All applicable land development listed in this section is still subject to review under the Flood Hazard Prevention provisions of these Bylaws.

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4. Interior alterations or repairs to a structure which do not result in an increase in the number of bedrooms or a change in use.
5. Fuel or propane storage tanks used for residential purposes that are sited, installed and secured in accordance with state and federal regulations and meet the applicable setback requirements for the zoning district.
6. Ground-mounted HVAC systems or back-up generators that have a footprint or are placed on a pad that does not exceed 60 ~~120~~ square feet and meet the applicable setback requirements for the zoning district.
7. Public auctions, garage sales or yard sales not exceeding four (4) consecutive days or more than ten (10) days in a calendar year.
8. Sales of vehicles, equipment or similar used personal or business goods owned by the landowner or tenant that do not occur on the lot for more than 30 days in any calendar year and that are limited to not more than 3 items at any given time if displayed outside.
9. Development associated with utility, energy or telecommunications infrastructure that receives a Certificate of Public Good from the Vermont Public Utilities Commission.
10. An unroofed patio installed at grade or ground level.
11. Outdoor light fixtures that are downward directed and shielded as necessary to prevent glare or light trespass beyond the property line.
12. Creation of a pond that meets applicable setback requirements for the zoning district and constructed in accordance with state and federal regulations.
13. An above-ground swimming pool that does not exceed 20 feet in width or a depth of 5 feet and meets the applicable setback requirements for the zoning district.
14. Fences and walls that are:
 - a) not more than 4 feet tall if functioning as a retaining wall,
 - b) not more than 4½ feet tall if located in the front yard (that is, in or along any portion of the yard area in front of the principal structure) in the Village Center or Village Green Districts or is not more than 8 feet tall if located elsewhere, and
 - c) installed so that any support posts are inside and the “finished” or “good” side faces out.

Fences are not allowed in a public road right-of-way unless approved by the Selectboard.
15. Satellite receiving dishes and other antennae located on existing structures that are not more than 15 square feet in surface and no more than 12 feet in height.
16. Work incidental to the development and maintenance of non-commercial trails.
17. Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), clearing for lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include sitework incidental to construction, or extraction operations regulated under Section 3.9
18. Hunting, fishing, and trapping (as specified under 24 V.S.A. Section 2295) on private or public land. This permit exemption does not include the development of hunting, fishing, and trapping facilities such as firing ranges or rod and gun clubs.
19. Self-contained travel or camper trailers may be stored on a lot year-round, but occupancy of a travel or camper trailer is limited to not more than 3 consecutive weeks and 60 days total in any calendar year. The storage or occupancy of more than 3 travel or camper trailers on a lot will be considered a campground under Section 3.3. Within the Village Center and Village Green Districts, travel or camper trailers must be located behind the

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- ~~frontline of the principal building or within an enclosed structure. that are not attached to a water supply or wastewater system and that can be driven off the lot to fill the water holding tank and empty the wastewater holding tank.~~
- ~~20. Septic installation, modification, or removal if a State Wastewater Permit has been issued and is in effect, or maintenance exempt from state permitting.~~
 - ~~21. Accepted agricultural and forestry practices, including the construction of farm structures, operation of riding stables, and processing or sale of agricultural or forestry products primarily produced on the premises provided setback requirements are met and notice of construction is given to the Zoning Administrator.~~
 - ~~22. Amateur radio towers less than 50 feet in height and set back at least 150% of their height from lot lines or rights-of-way.~~
 - ~~23. Wind turbines less than 100 feet in height, with a blade diameter no greater than 20 feet and set back at least 150% of their height from lot lines or rights-of-way.~~
 - ~~24. The granting of utility rights-of-way or easements.~~
 - ~~25. Special temporary events lasting less than 4 consecutive days and that are not the principal use of land or structures such as weddings, church suppers, fairs, concerts, festivals, cultural events, trade and antique shows, etc. provided that adequate off-street parking and circulation, sanitary and trash collection facilities are provided.~~
 - ~~26. Mobile food service that is not located on a parcel for longer than 3 consecutive days and for more than 12 days in any calendar year.~~
 - ~~27. Temporary structures used for office or storage space, construction, or for special events, provided that such structures shall not be used for dwelling purposes, are placed outside of setbacks and are on site for a period not to exceed one (1) year.~~
 - ~~28. De minimus structures or uses not specifically mentioned in this bylaw that are incidental and customary to the use on the lot, are consistent with policies of the Town Plan, and so temporary or minimal in their impact on the public that regulation of them is not required to protect health, safety, welfare or environment. Such uses or structures include but are not limited to mailboxes, flag poles, clotheslines, cisterns, objects of art, and seasonal decorations. The Zoning Administrator is empowered to make such determinations when needed and appeals of these decisions shall be made to the Development Review Board.~~

~~In accordance with the Act [§4446], no zoning permit shall be required for the following, which have been determined by the Town to impose no impact, or merely a de minimis impact on the surrounding land area and overall pattern of land development, or which are by law otherwise exempted from municipal review⁴:~~

- ~~1. Any structure for which construction began prior to the effective date of these regulations, providing such construction complied with all applicable local regulations in effect when construction commenced.~~
- ~~2. Accepted agricultural practices (AAPs), including silvicultural practices and farm structures, as defined by the Secretary of Agriculture, Food and Markets in accordance with the Act [§4413(d)]; however written notification, including a sketch plan of the structure showing setback distances from road rights-of-way, property lines, and surface~~

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~~waters, shall be submitted to the Zoning Administrator prior to any construction, as required under the AAPs (see Section 3.27).~~

- ~~3. Public utility power generation and transmission facilities regulated by the Vermont Public Service Board under 30 V.S.A. §248.~~
- ~~4. Hunting, fishing and trapping activities as defined by the state [24 V.S.A. §2295].~~
- ~~5. Ancillary telecommunication facility improvements [as defined in 30 V.S.A. §248a(b)] that do not exceed a footprint of 300 square feet and a height of 10 feet in accordance with §4413(h)(1)(A) of the Act.~~
- ~~6. In accordance with §4413(h)(1)(B) of the Act, communications line improvements including:~~

~~a. The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole;~~

~~b. The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.~~

- ~~7. Normal maintenance, repair or replacement of legally existing structures that does not result in any change to the footprint, roof plane, height of the structure, or a change in use.~~
- ~~8. Minor grading and excavation associated with road and driveway maintenance (including culvert replacement and re-surfacing) and yard improvements associated with accessory uses to existing principle uses (establishing garden and landscape areas).~~
- ~~9. Installing or replacing cisterns.~~

4.4 Temporary Uses

A permit may be issued by the Development Review Board for non-conforming uses, providing that the use demonstrates a unique and special circumstance. It is a requirement of this section, that any permit issued has been reviewed under the conditional use criteria of these regulations. The non-conforming use shall be temporary and shall be discontinued within 6 months from the date of the permit. Such permits may be renewed for two additional periods not to exceed three months each, upon application to the Development Review Board.

4.5 Application Submission Requirements

The applicant shall submit to the Development Review Board six (6) copies of the application with all required supporting data and site plans drawn to scale, showing where applicable: existing features; contours; structures; easement and proposed structure locations and land use areas; streets; driveways; circulations; parking and loading spaces; pedestrian walks; landscaping including site grading and screening; water and sewage disposal facilities; water courses and utilities.

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4.6 Site Visits

The Development Review Board shall conduct a Site Visit as a pre-requisite to the approval of all subdivisions and any use other than one- and two-family dwellings and structures considered accessory to residential uses and agricultural or forest uses. In reviewing the site, the Development Review Board shall consider all applicable standards under these Bylaws.

4.7 Bonding

The Development Review Board may, in their discretion, require that the developer of any project set forth a bond in an amount established by the Development Review Board. The developer shall file with the Town Clerk a certified check, performance bond or surety bond in the amount established by the Development Review Board. Any such surety must be satisfactory to the Legislative Body as to form sufficiency, manner of execution and surety. If the project is to be completed in phases, the surety amount need only cover the cost of improvements for each phase.

4.8 Conditional Uses

Specific conditional uses are permitted only by approval of the Development Review Board, providing that General standards, Specific Standards, Performance Standards and Special Criteria, as herein provided are met, and further provided that:

- A. The Development Review Board after public notice and public hearing determines that the proposed use will conform to such standards.
- B. In granting such conditional use, the Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purpose of the law and these Bylaws.
- C. The Development Review Board shall act to approve or disapprove any such requested conditional use within forty-five (45) days after the date of the final public hearing held under this Section, and failure to so act within such period shall be deemed approval.

1. General Standards

These general standards shall require that any conditional use proposed for any district created under these Bylaws shall not result in an undue adverse effect to:

- a) The capacity of existing or planned community facilities;
- b) The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located,
- c) Traffic on roads and highways in the vicinity;
- d) Bylaws and ordinances then in effect; and,
- e) Utilization of renewable energy resources.

2. Specific Standard

Specific standards will include consideration with respect to:

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- a) Minimum lot size;
- b) Distance from adjacent or nearby uses;
- c) Minimum off-street parking and loading facilities;
- d) Landscaping and fencing;
- e) Design and location of structures and service area;
- f) Size, location and design of signs;
- g) Performance Standards under Section 4.9 and,
- h) Other such factors as these Bylaws may include.

Special Criteria

The following Special Criteria shall be considered by the Development Review Board when considering an application for a conditional use permit in the (VC) Village Center, (VG) Village Green (SV) Stone Village, (R-C) Residential-Commercial, Districts:

- a. All new construction, exterior alteration, fencing, lighting, reconstruction or renovation of existing buildings shall include features typical of those which define New England Architectural Character represented by the existing historical structures in the “Center of Chester”.
- b. Native historical building materials are to be used which are found in construction representative of “New England Architectural Character” and /or those building products and materials which are indistinguishable to the eye from such materials in appearance.
- c. That all such construction shall take whatever precautions necessary to incorporate, protect and preserve existing historic sites.
- d. To maintain the scale, support the density and preserve the “New England Architectural Character” of Center of Chester, 4 of the following 18 features shall be incorporated in the design of any such Application for construction in the Village Center and Village Green Districts; 6 of the following 18 features shall be incorporated in the design of any such Application for construction in the Stone Village Districts. and 4 of the following 18 features shall be incorporated in the design of any such Application for construction in the Residential Commercial District (Chester Depot/South Main Street Section only). The DRB shall evaluate the proposed features based on the degree to which they are interpreted by the Applicant/Design professional to support, reinforce and improve the optimal density, community scale and character as here called for. These additional features are to be in addition to the two items listed below in bold, which are mandatory for all applications within these three districts.
 - 1. Multi-level construction to the stated height limit, unless Application is for a secondary or back building which may be one-level.
 - 2. Parking at rear and/or side of building.
 - 3. A Gable roof profile located at street façade.
 - 4. Gable roof pitches to be no less than 6/12.
 - 5. Compound gable roof.

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6. Corner board trim on street side of building on wood clad exterior walls.
7. Front or side entry with walkway directly to sidewalk.
8. Wood- or timber frame.
9. Clapboard and/or stone exterior walls.
10. Shuttered windows.
11. Bay windows.
12. Landscaping/foilage at base of exterior walls.
13. Minimum 5 foot deep side or front porch.
14. Permanent awnings, overhangs and/or trellises.
15. All full frame windows shall display a vertical dimension greater than horizontal dimension.
16. Stone construction – walls or wall foundations.
17. Solid wood front door. May include “lights” (small windows in standard sized door panels).
18. Specific, existing geometries, trim, and other features that originated on pre-1935 architectural examples in The Center of Chester

Owner may propose alternate elements that reinforce, comply or echo the style, manner and character of the Center of Chester

4.9 Performance Standards

Decibel (dB) Levels:

10 dB = normal breathing
30 dB = soft whisper
40 dB = quiet residential area, library
60 dB = normal conversation
70 dB = TV audio, human voice at 10 feet
80 dB = doorbell, machine tools, car at 10 feet
90 dB = lawn mower, tractor, blender
100 dB = snowmobile, factory machinery,
110 dB = leaf blower, power saw, nightclub band
120 dB = chain saw, rock concert, pain threshold
130 dB = stock car race, jackhammer
150 dB = jet engine taking off

In accordance with §4414(5) of the Act, the following standards must be met and maintained by all uses in all districts that are subject to a permit under these Bylaws.

A. Noise: noise volume shall be limited to the specified decibel levels listed below measured at the property line. (The sidebar is shown only as a reference to illustrate the decibel levels of typical activities.) Noise levels or frequencies which are not customary in the district or neighborhood or which represent a repeated disturbance to others shall not be permitted. Limited exceptions are allowed for incidental and customary activities, such as the occasional use of lawn mowers and snow blowers for regular property maintenance.

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1. Noise shall not exceed 60 dB between 8:00 p.m. and 7 a.m.;
2. Noise shall not exceed 70 dB during the day between 7 a.m. and 8:00 p.m.

B. Air Pollution, Smoke and Odor: no use shall create emissions, such as dust, fly ash, fumes, vapors, gases, odors, and other forms of air pollution, which:

1. Constitute a nuisance to other landowners, businesses or residents;
2. Endanger or adversely affect public health, safety or welfare;
3. Cause damage to property or vegetation; or,
4. Are offensive or uncharacteristic of the area.

Outdoor wood-fired boilers are exempt from this provision.

C. Glare, Light or Reflection: illumination from lighting fixtures or other light sources shall be shielded or of such low intensity as not to cause undue glare, reflected glare, sky glow or a nuisance to traffic or abutting properties. Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Lights shall be of a "down shield luminaire" type where the light source is not visible from any public highway or from adjacent properties. Only fixtures which are shielded to not expose a light source, and which do not allow light to "flood" the property, are permitted to be attached to buildings. Searchlights are not permitted. The Development Review Board may require a lighting plan under conditional use or planned unit development review procedures.

D. Safety Hazards: Fire, explosive and similar safety hazards which would substantially increase the risk to an abutting property, or which would place an unreasonable burden on the Fire Department, shall be prohibited.

E. Electromagnetic disturbances: any electromagnetic disturbances or electronic emissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to the public health, safety and welfare, beyond the property lines of the property on which it is located, except as specifically licensed and regulated through the Federal Communications Commission.

F. Underground Storage Tanks, Ground/Surface Water Pollution: No use shall result in burying or seepage into the ground of material which endangers the health, comfort, safety or welfare of any person, or which has a tendency to cause injury or damage to property, plants or animals. Commercial, industrial or institutional facilities having underground fuel storage shall maintain all tanks and related equipment with leak detection and spill control systems incorporating the best available safety practices and technology, consistent with government and industry standards.

4.10 Planned Unit Development

A. Purpose. In accordance with the Act [§4417], Planned Unit Developments (PUDs) are allowed in the Town of Chester to permit flexibility in the application of land development regulations for the purposes of Section 4302 of this title and in conformance with the municipal plan. The purposes of the Planned Unit Development in Chester are:

1. To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in downtowns, village centers, new town centers, and associated neighborhoods.
2. To implement the policies of the *Chester Town Plan*, such as the provision of affordable housing.
3. To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.
4. To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings. [Examples may include, but are not limited to, townhouses, rowhouses, horizontal apartments, cottage courts, multiple accessory dwelling units, and multiple tiny homes, but not a Mobile Home Park \(for Mobile Home Park see Section 3.16\).](#)
5. To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.
6. To provide for efficient use of public facilities and infrastructure.
7. To encourage and preserve opportunities for energy-efficient development and redevelopment.

B. Review Procedure. A PUD shall be reviewed by the Development Review Board (DRB) concurrently with subdivision and conditional use review in this Article 4. In addition to the conditional use, subdivision and site plan application requirements, an application for PUD approval shall include a statement describing all proposed modifications, changes or supplements to existing bylaw requirements. Modifications of this bylaw approved by the DRB shall be noted in writing and appended to a plat depicting the project to be filed in the Chester Land Records. All other provisions of this bylaw not specifically modified shall remain in effect and be applicable to the project.

C. Coordination with Conditional Use Review. Review and approval of a PUD involving the development of one or more conditional uses under this Section shall not exempt the proposed development from conditional use review. The DRB may review and approve one or more

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conditional uses concurrently with granting PUD approval, or may require the submission of a conditional use application, to include the terms and conditions of the PUD approval, including any modifications of this bylaw granted in accordance with this Section, at a later date.

D. General Standards. The modification of zoning regulations by the DRB may be permitted in accordance with the following standards:

1. The PUD shall meet all applicable conditional review standards, and shall be consistent with the *Chester Town Plan* and all other applicable municipal regulations and ordinances currently in effect, including all local and state regulations for sewage disposal and the protection of water quality.
2. The PUD shall represent an effective and unified treatment of the development site, including provisions as appropriate for the preservation or protection of surface and ground waters; wetland, stream bank, and floodplain areas; significant topographic features, including hilltops and ridgelines; areas of steep slope or shallow soil; significant resource lands, including agricultural and forest land; historic or archaeological sites and structures; natural and critical habitat areas; and open spaces, including scenic views and vistas.
3. ~~The applicant is required to submit a wastewater system and potable water supply permit for individual or shared on-site water and septic systems or, if accessible by municipal water and sewer, a letter from the municipal water and sewer department that sufficient capacity is available for the PUD. As a minimum requirement, each single-family dwelling unit and each commercial building shall be hooked into the Municipal water and wastewater system at the applicant's expense. The DRB may find and conclude that this requirement is not reasonable for the proposed PUD because of the distance to the Municipal systems and may be fulfilled by the requirement that each owner-occupied single-family dwelling have its own individual water well and septic system, which systems may be located in the common area. Each individual system shall be the responsibility of the owner of the individual unit or commercial building.~~
4. The DRB may allow for a greater concentration or intensity of development within some section(s) of the development than in others, on individual lots which are smaller than the minimum lot size for the district within which the PUD is located, provided that there is an offset by a lesser concentration in other sections, including the reservation of no less than 50% of the remaining land as open space.
5. The minimum front, side and rear yard setbacks at the periphery of the PUD shall be as dictated for the particular district unless otherwise specified by the DRB. The DRB may allow other setback standards, such as zero lot lines, as part of PUD approval.
6. Provision shall be made for the preservation of open space. Preserved open space shall be dedicated, either in fee or through a conservation easement to the Town, a community association comprising all of the present and future owners of lots or dwellings in the project, or a non-profit land conservation organization. The DRB shall approve such easement. Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long-term stewardship. The DRB shall

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approve the location, size and shape of lands set aside to be preserved for open space in accordance with the following:

- a) Open space land shall provide for the protection of identified resources, including farmland, productive forest, wildlife habitat, natural areas, aquifer protection areas, surface waters, stream banks, historic and archaeological sites, and scenic views and vistas;
 - b) Designated open space may include the portion of a single lot which is characterized by one or more of the above referenced features, or may encompass the contiguous boundaries of the above referenced feature located on multiple lots;
 - c) The location, shape, size and character of the open space shall be suitable for its intended use. Generally, open space shall be at least 50% of the total area for projects involving a parcel(s) of twenty-five (25) acres or more. For smaller parcels, open space should be in proportion to the size and scope of the project, and its intended use;
 - d) Open space shall be suitably improved and/or maintained for its intended use, except for open space containing natural or cultural resources worthy of preservation that may be required to be left unimproved. Provisions shall be made to enable lands designated for agriculture and forestry to be used for these purposes. The DRB as appropriate may require management plans for forests and/or wildlife habitat. Areas preserved for agricultural use should be of a size that retains their eligibility for state and town tax abatement programs;
 - e) Open space land shall be located so as to conform with and extend existing and potential open space lands on adjacent parcels; and
 - f) Sewage disposal areas and utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the DRB, that they will in no way disrupt or detract from the values for which the open space is to be protected.
7. Where a district boundary line divides a parcel, the DRB may allow the development of a single PUD with a total density based on the combined allowable density of each district.
 8. Two (2) or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PUD. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted, in the DRB's judgment, if the land were subdivided into lots in conformance with district regulations.
 9. The total number of dwelling units shall not exceed that which would be permitted in the DRB's judgment if the parcel were subdivided into buildable lots in conformance with the district minimum lot area required for single family dwellings. However, the number of dwelling units allowed in the PUD may, at the discretion of the DRB, be increased in accordance with the following:
 - a) The DRB may grant a density increase of up to 25% of the allowable number of units in instances in which a significant portion (50% or greater) of the site is preserved as open space and/or the DRB determines that the PUD reflects an

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exceptional site design that will result in the preservation of important natural resources and the creation such amenities as pedestrian paths, parkland and/or playgrounds; or

- b) The DRB may grant a density increase of up to 50% of the allowable number of units in instances in which not less than 50% of the total number of dwelling units created are affordable housing units, as defined in these Bylaws.
10. The dwelling units permitted may, at the discretion of the DRB, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached.
11. The total number of allowable commercial or industrial parcels within the PUD shall not exceed the number which could be permitted in the DRB's judgment, if the land were subdivided into lots in conformance with the zoning regulation for the district in which the project is located.
12. A PUD may include any permitted or conditional uses allowed in the district in which it is located. Multiple principle structures and/or uses on a lot, or multiple ownership of a single structure may be permitted.
13. Principal buildings and mixed uses shall be arranged to be compatible, and buffered as appropriate to ensure visual and acoustical privacy for the residents of the development and for adjacent properties.

4.11 Flood Damage Prevention Review Procedures

A. Applications and Hearings

1. All applications for permits for development in the FHA must be heard as a conditional use by the Development Review Board (DRB). Those hearings shall be scheduled, noticed and heard in accordance with 24 VSA Chapter 117, Subchapter 11, Sections 4465 et seq.

2. Submission Requirements. Applications for Flood Hazard Review shall be submitted to the Zoning Administrator on the approved blank available from the Town office and shall be accompanied by:

- a. Two (2) copies of a map drawn to scale showing:
 1. The dimensions of the lot;
 2. The location of existing and proposed structures;
 3. The elevation of the lowest floor, including basement, either
 - a. in relation to mean sea level where base flood elevation data in relation to mean sea level is available, or
 - b. in relation to the elevation determined pursuant to Section 7B, or
 - c. if neither (a) or (b) apply for lack of a determined elevation, in relation to highest adjacent grade of all new or substantially improved structures and notations as to whether or not such structures contain a basement; and

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4. The relationship of the above to the streambank and, based upon the best information available (including Federal Insurance Administration data, if issued), the elevation and limits of the SFHA.
 - b. If any portion of the proposed development is within a designated Floodway, the application must show that the development standards in Section 8 A. and B. are met.
 - c. If the proposed development is in the Floodway Fringe Area(s), the application must show that the development standards in Section 8 A and C. are met.
 - d. All permits required for the proposed development by municipal law.
 - e. The applicant shall contact a permit specialist at ANR and request the specialist to complete a permit review for the project. The permit review sheet, which informs the applicant of all governmental agencies from which permit approval for the proposed development is required by federal or state law, shall be filed as a required attachment to the Town permit application.

3. Review Procedure. The DRB shall review the application, comments from the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section, if available, and other pertinent information available to insure compliance with the development standards set forth in Article 6 Development Standards, and:

- a. The DRB shall review the application and assure that all permits required for the proposed development by municipal law have been received by the applicant.
- b. The DRB may, in its discretion, require that a consultant be hired to aid in the permitting process. Should a consultant need to be hired, the expense of said consultant will be the sole responsibility of the applicant.
- c. If the DRB approves the proposed project, among other conditions, the DRB shall, in its decision, make the approval contingent on the applicant obtaining all permits required by federal or state agencies, as shown on the project review sheet.
- d. The permit issued by the Zoning Administrator after the DRB approval shall contain, among other conditions, a statement that the validity of the permit is contingent on the applicant obtaining all permits required by federal or state agencies, as shown on the ANR permit review sheet.
- e. Applicant is required to obtain the legally required permits from the entity indicated on the permit review sheet, or, if it is determined by that agency that a permit is not required, a letter so stating from the agency, and as received provide copies of the permit or letter to the Zoning Administrator for the applicant's file.

4. Permit Expiration. Any permit issued for development within the SFHA shall become void if the work described therein is not commenced within a period of one (1) year from the date of issuance and diligently prosecuted thereafter.

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4.12 Subdivision Review Procedures

Potential applicants for subdivision are encouraged to meet with the Zoning Administrator when beginning to consider their projects to avoid misunderstandings and to ensure a smooth application process once formal review is started.

Applicants may request a Pre-Application Meeting with the Development Review Board to discuss a sketch plan of the parcel drawn to adequate scale showing any existing structures and roads, a general layout of proposed roads, lots, building sites, and septic and water systems, the general locations of any water courses and other physical features, and names of the owners of abutting properties. This discussion shall be conducted at a public meeting held by the Development Review Board. No written findings, conclusions or decision shall be provided to the applicant and any comments by the DRB, the applicant and interested persons are non-binding.

A. Preliminary Plat Review

1. Application and Fee. The Subdivider shall file an application for the consideration of a Preliminary Plat of the proposed subdivision in the form described in subsection F using the approved application blank available from the Zoning Administrator.

The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of these Bylaws. The application for review of the Preliminary Plat shall be accompanied by a fee, as established by the Legislative Body, payable by check to the Town of Chester, Vermont, seven (7) copies of the Preliminary Plat with a vicinity map as well as a pdf copy shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to a regular meeting of the Development Review Board.

~~**2. Study of Preliminary Plat.** The Development Review Board shall study the practicability of the Preliminary Plat in relation to the requirements of Section 4.12(F). Particular attention shall be given to the arrangement, location, and width of roads, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes, and arrangement, the impact on adjoining lands, and the General Standards in Article 3. The Subdivider, or their duly authorized representative, shall attend meetings of the Development Review Board to discuss these issues. Notice of such subdivision shall be sent by the Development Review Board to all adjoining landowners.~~

3. Public Hearing. Within forty-five (45) days of the Official Submittal Date for the Preliminary Plat, the Development Review Board shall hold a public hearing at which time the Subdivider, or their duly authorized representative, shall discuss with the Development Review Board the details of their proposal and both shall respond to comment from the public. Notice of the hearing shall be given in accordance with §4447 of the Act, and a copy of the notice shall be sent to the Regional Planning Commission and to an adjacent municipality in accordance with §4414 of the Act.

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4. Action on Preliminary Plat. Within forty-five (45) days after the adjournment of the public hearing, the Development Review Board shall take action to approve, approve with conditions, or disapprove the Preliminary Plat. Failure of the Development Review Board to act within forty-five (45) days shall constitute approval. Notice of the decision shall be sent to the Subdivider by certified mail along with a statement of the grounds for denial or conditions of approval supported by findings of fact, and specific changes required in the Final Plat. If no public hearing was held, the 45-day period shall begin with the Official Submittal Date for the Preliminary Plat. A copy of the decision shall be sent to the Legislative Body.

Approval of a Preliminary Plat shall not constitute approval of the subdivision, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Plat, which shall be submitted for approval of the Development Review Board and for recording upon fulfillment of the requirements of these Bylaws and the conditions of the Preliminary Plat approval. Prior to approval of the Final Plat, the Development Review Board may require additional changes as a result of further study of the subdivision in final form.

5. Disclosure of Subsequent Development Plans. Whenever an applicant submits a proposal for subdivision that has the potential for further subdivision, the Development Review Board will require a general indication of the intended uses or a master plan of the remaining portion of land. Such an indication or master plan shall include access, type of use, intensity of use and phasing.

B. Final Plat Review

- 1. Application and Fee.** The Subdivider shall, within six months after the approval of the Preliminary Plat, file with the Development Review Board an application for approval of the Final Plat in the form described in Section 4.12(A)(1), using the approved application blank available from the Zoning Administrator. If the Final Plat is not submitted to the Development Review Board within six (6) months after the approval of the Preliminary Plat, the Development Review Board may refuse without prejudice to act on the Final Plat and require resubmission of the Preliminary Plat. The application for Final Plat approval shall be accompanied by a fee, as established by the Legislative Body, payable by check to the Town of Chester, Vermont. One (1) original and seven (7) copies of the Final Plat, a pdf copy, and the original and one true copy of any offers of cession shall be presented to the Zoning Administrator at least twenty-one (21) days prior to a regular meeting of the Development Review Board.
- ~~**2. Study of Final Plat.** The Development Review Board shall study the Final Plat to see that it conforms in all respects to the requirements set forth during review of the Preliminary Plat and that it responds fully, in its final form, to the requirements of Section 7. The Subdivider, or their duly authorized representative, shall attend meetings of the Development Review Board to discuss these issues.~~
- 3. Public Hearing.** Within forty-five (45) days of the Official Submittal Date for the Final Plat, the Development Review Board shall hold a public hearing at which time the

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Subdivider, or their duly authorized representative, shall be present. Notice of the hearing shall be given in accordance with § 4447 of the Act and a copy of the notice shall be sent to the Regional Planning Commission and to an adjacent municipality in accordance with § 4414 of the Act.

- 4. Action on Final Plat.** Within forty-five (45) days after the adjournment of the public hearing, the Development Review Board shall approve, approve with conditions, or disapprove the Final Plat. Failure of the Development Review Board to act within forty-five (45) days shall be deemed approval. However, if approved, the Plat shall not be signed by any member of the Development Review Board until the Subdivider has complied with the provisions of Section 4.12(D) if applicable. Notice of this fact and of the Development Review Board's decision shall be sent to the Subdivider by certified mail along with a statement of the grounds for denial or conditions of approval supported by findings of fact. A copy of the decision shall be sent to the Legislative Body, and also to the District II Environmental Development Review Board.

5. Development in Sections. At the time the Development Review Board grants Final Plat approval, it may permit the Plat to be divided into two or more sections subject to any conditions the Development Review Board deems necessary in order to insure the orderly development of the subdivisions.

The applicant may only proceed with a section of the approved Plat if said section constitutes at least ten (10) percent of the total number of lots contained in the approved Plat. In these circumstances, Plat approval on the remaining parts of the Plat shall remain in effect for three (3) years or a period of time mutually agreed upon, in writing and attached to the Plat, by the Development Review Board and the Subdivider subject to compliance with Section 4.12 (D)(2) and 4.12 (E) of each of these parts.

D. Public Investments

- 1. Public Investment Review.** The Development Review Board shall, during its review process, study the Subdivision Plat to determine the extent and adequacy of planned public investments requisite in the interests of the public health, safety, and welfare. When a proposed subdivision would have an extraordinary impact upon the Town's existing public investments outside of the subdivision, the Development Review Board shall require the Subdivider to assume or share in the added financial burden on the municipality in an amount to be negotiated with the Legislative Body.
- 2. Bonding for Public Investments.** Before the Final Plat is signed, the Subdivider shall, in an amount set by the Development Review Board, file with the Town Clerk a certified check, performance bond or other surety to cover the full cost of required public investments. Any such surety must be satisfactory to the Legislative Body as to form, sufficiency manner of execution and surety. A maximum period of time, not to exceed three (3) years, which the Development Review Board may determine appropriate, shall be set forth in the surety contract within which the public investments must be completed. The contract may also provide for reduction of the surety amount in

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proportion to satisfactory completion of portions of the required public investments. If the public investments are to be completed in phases, the surety amount need only cover the cost of improvements for each phase, provided that the phases conform to section of the Plat filed in accordance with Section 4.12 (B)(G).

- 3. Modification of Design Improvements.** If any time before or during the construction of the public investments it is demonstrated to the satisfaction of the Town consultant engineer that unforeseen conditions make it necessary to modify the design of such improvements, the Town consultant engineer may authorize modifications, provided these modifications do not constitute a waiver or an alteration of the function of any improvements required by the Development Review Board. The Town consultant engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Development Review Board to be attached to the Final Plat. Modifications which constitute revisions of the Plat shall receive Development Review Board approval in accordance with Section 4.12 (E)(3).
- 4. Inspection of Improvements.** At least five (5) days prior to commencing construction of public investments, the Subdivider shall pay an inspection fee, as established by the Legislative Body, payable by check to the Town of Chester, Vermont, and shall notify the Town consultant engineer, in writing, when construction of such improvements commence, so that inspection can proceed to assure that all requirements of the Town of Chester Highway Construction Specifications, the Town of Chester's Design Standards and Construction Specifications, and any other bylaws are fulfilled during construction of the improvements, and to assure the satisfactory completion of improvements and utilities required by the Development Review Board.
- 5. Proper Installation of Improvements.** If the Town consultant engineer shall find, upon inspection of the improvements completed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with Construction Drawings submitted by the Subdivider or authorized modifications thereto, the Town consultant engineer shall report to the Legislative Body, the Zoning Administrator, and the Development Review Board. The Legislative Body shall notify the Subdivider and take all necessary steps to preserve the Town's rights under the surety. No other Plat, submitted by the Subdivider who is in default on a previously approved Plat, shall be approved by the Development Review Board.
- 6. Maintenance of Improvements.** The applicant shall be required to provide for maintenance of all improvements until acceptance of said improvements by the Legislative Body. The applicant may be required to secure a maintenance bond upon completion of the improvements in an amount set by the Development Review Board and satisfactory to the Legislative Body as to form, sufficiency, manner of execution, and surety. Such bond shall insure the satisfactory condition of the improvements for a period of two (2) years after their completion.

E. Filing of signed Plat

- 1. Final Approval and Filing.** Upon completion of the requirements in Sections 4.12(B) and 4.12(D)(2) above and notation to the effect upon the Subdivision Plat, such Plat shall be

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deemed to have final approval and shall be properly signed by a quorum of the Development Review Board and shall be filed by the applicant in the office of the Town Clerk. Any subdivision Plat not so filed or recorded within one hundred and eighty (180) days of the date upon which such Plat is approved, or considered approved by reason of the failure of the Development Review Board to act, shall become null and void.

2. **Monuments.** When the Plat is filed, the Subdivider shall certify to the Town Clerk that permanent markers have been placed at all lot corners. All markers shall be of metal at least three-quarters (3/4) of an inch in diameter and shall project at least twenty-four (24) inches above the ground.
3. **Revision of Plat after Approval.** No changes, erasures, or revisions shall be made on any Subdivision Plat after approval has been given by the Development Review Board and endorsed, in writing on the Plat, unless the revision is first resubmitted to the Development Review Board and the Development Review Board approves it. In the event that such Subdivision Plat is filed or recorded without complying with this requirement, the Plat shall be considered null and void.
4. **Public Acceptance of Facility Ownership.** The approval by the Development Review Board of a Subdivision Plat shall not be deemed to constitute or be evidence of acceptance by the town of any road, utility, easement, or open space shown on such Subdivision Plat. Although deemed to be private facilities prior to formal acceptance, all such facilities shall meet the standards established herein.

F. Required Submissions

1. Preliminary Plat. The Preliminary Subdivision Plat shall consist of a pdf copy as well as seven (7) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale or not more than one hundred (100) feet or more to the inch, showing or accompanied by information on the following points unless waived by the Development Review Board:

- a. Proposed subdivision name or identifying title and the name of the Town.
- b. Name and address of record owner, subdivider, and designer of Preliminary Plat.
- c. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, water courses, and other essential existing physical features.
- d. The names of owners of record of adjacent acreage.
- e. The provisions of the zoning standards applicable to the area to be subdivided and any zoning district boundaries affecting the tract.
- f. The location and size of any existing sewer and water mains, culverts, and drains on the property to be subdivided.
- g. The width and location of any existing roads within the area to be subdivided and the width, location, grades, and road profiles of all roads or other public ways proposed by the Subdivider.

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- h. Contour lines at intervals of five (5) feet of existing grades and of proposed finished grades where change of existing ground elevation will be five (5) feet or more.
- i. Date, true north point, and scale.
- j. Deed description and map of survey of tract boundary made and certified by a licensed land surveyor tied into established reference points, if available.
- k. Location of connection with existing water supply or alternative means of providing water supply to the proposed subdivision.
- l. Location of connection with existing sanitary sewage system or alternative means of treatment and disposal proposed.
- m. Provisions for collecting and discharging storm drainage, in the form of drainage plan.
- n. Preliminary designs of any bridges or culverts which may be required.
- o. The proposed lots with surveyed dimensions, certified by a licensed land surveyor, numbered and showing suggested building locations.
- p. The location of temporary markers adequate to enable the Development Review Board to locate readily and appraise the basic layout of the field. Unless an existing road intersection is shown, the distance along a road from one corner of the property to the nearest existing road intersection shall be shown.
- q. Locations of all parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- r. Names identifying roads and streets; locations of street name signs and description of design of street name signs.
- s. The Preliminary Plat shall be accompanied by:
- t. A vicinity map drawn at the scale of not over four hundred (400) to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The vicinity map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision or any smaller area between the tract and all surrounding existing roads, provided any part of such a road used as part of the perimeter for the vicinity map is at least five hundred (500) feet from any boundary of the proposed subdivision.
- u. A list or verification of the applications for all required State permits applied for by the Sub-divider. Approval of the subdivision application by the Development Review Board may be conditioned upon receipt of these permits.
- v. Endorsement. Every Plat filed with the Town Clerk shall carry the following endorsement:

"Approved by the Development Review Board of the Town of Chester, Vermont as per findings of fact, dated ____ day of _____, _____ subject to all requirements and conditions of said findings. Signed this ____ day of _____, _____ by _____, Development Review Board"

2. Final Plat. The Final Subdivision Plat shall consist of one or more sheets of drawings which conform to the following requirements: All sheets shall be linen, mylar black or blue-lined

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duplicating paper and shall be 18 inches x 24 inches or a multiple thereof in size. Such sheets shall have a margin of one and a half (1- 1/2) inches outside of the border lines on the left side for binding, and a one quarter (1/4) inch margin outside the border along the remaining sides. Space shall be served thereon for endorsement by all appropriate agencies. The Final Plat shall be clearly and legibly drawn and shall provide all information required under Section 4.12(F), including the Endorsement and Construction Drawings for all capital improvements.

3. Surety Forfeiture. If any required public investments have not been installed or maintained, or have been incorrectly installed, within the term of surety contracts provided for herein, such surety shall be forfeited to the Town which, upon receipt of the proceeds thereof, shall install or maintain the improvements as provided for in the surety contract. Such action by the Town shall not be deemed to constitute any acceptance of the improvements.

4.12(G) Minor and Major Subdivisions. In accordance with Section 7.16, the Development Review Board may waive the requirement for an application and public hearing for Final Plat Review under Section 4.12(B) and may waive some or all of the standards under Article 5 for Minor Subdivisions. The Development Review Board shall review Major Subdivisions under the procedures of Section 4.12, the standards of Article 5 in their entirety, and the requirements of Section 7.16.

4.13 Boundary Line Adjustments

Boundary Line Adjustments are adjustments to the dividing line between adjacent lots (see Definitions in Article 8).

A. In accordance with 24 V.S.A. §4464(c), these Bylaws authorize the Development Review Board to review applications and issue permits for boundary line adjustments, provided that the applicant satisfies all of the following standards:

1. It meets the definition of a Boundary Line Adjustment;
2. It does not create any new lot as a result of the adjustment;
3. The Plan must show the requirements of Section 4.12(F) of these Bylaws;
4. It does not substantially change the nature of any previous subdivision;
5. It will not adversely impact access to any parcel;
6. It will not result in the development on any portion of a parcel that has been designated as open space as the result of a prior municipal permit or approval, or allow for the acreage of any open space parcel to be applied to the maximum density or minimum lot size for another parcel; and,
7. It will not create any nonconformities.

B. If any of these conditions are not clearly met to the satisfaction of the Development Review Board, such boundary adjustments shall be subject to approval as a subdivision. In such cases, the applicant shall be responsible for any additional fees or submittals needed for DRB review.

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C. An applicant for a boundary line adjustment shall provide the Zoning Administrator with a complete boundary line adjustment application and a map of the property, drawn to scale.

D. In accordance with the recording requirements in Section 4.12 of these Bylaws, the applicant shall submit for recording a mylar and deeds within 180 days of the effective date of the permit issued for the boundary line adjustment. If the applicant fails to submit a mylar within 180 days, the permit expires and the applicant must re-apply.

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5.2 Road Design

A. New Roads.

All new roads, bridges, culverts and drainage ditches ~~servicing more than one lot proposed to be taken over by the Town of Chester~~ and any section of a road, bridge, culvert and drainage ditching located within the Town of Chester right of way shall conform to the requirements of the *Town of Chester Road and Bridge Specifications* as most recently amended by the Legislative Body, as well as all Vermont Agency of Transportation Design Specifications.

B. Layout and Frontage.

1. The arrangements of roads in the subdivision shall provide for the continuation of existing roads in or between adjacent properties in order to create a logical system for convenient movement of traffic.
2. No land development shall be permitted on existing lots which do not either have frontage on a public road or public waters or, with the approval of the Development Review Board under subdivision review procedures, access to such a road or waters by a right-of-way of record at least 50 feet wide. The Development Review Board may approve a reduction in width to a minimum of 20feet provided that the drive serves only one lot and adequate, safe access will exist with such reduced width. (See Rights-of-Way in Subsection H.)
3. Lot frontage requirements apply to lots served by private development roads as well as lots served by public roads.

C. Street Names.

All roads or streets shall be named subject to the approval of the Development Review Board. Street name signs shall be furnished and installed by the Subdivider. The type, size, and location shall be subject to the approval of the Development Review Board.

D. Access Road.

1. All access roads that intersect with a town highway are subject to an Access Permit in accordance with the *Town of Chester Road and Bridge Specifications*.
2. Acceptance of private roads by the Town is subject to the approval of the Chester Select Board pursuant to state law for the laying out of public rights-of-way. Construction of roads to these standards in no way ensures such acceptance. In the event the Select Board agrees to accept a road associated with an approved subdivision, the terms of acceptance, including road construction standards, inspection, and maintenance, shall be prescribed in an agreement approved by the Select Board. Such agreement may be included as a condition of subdivision approval, and such approval may specify the timing of development on subdivided lots to ensure coordination with the terms of the agreement between the Select Board and subdivider.

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3. If the access road to the subdivision is a Class 4 road, the Subdivider shall be required to improve the access to Chester Highway Construction Specification standards under the approval of the Select Board.

E. Sidewalks.

In subdivisions where the density is greater than one unit per acre, sidewalks, or a right-of-way for future sidewalks, may be required on at least one side of all roads by the Development Review Board. Sidewalks may be required in other zoning districts where deemed necessary by the Development Review Board.

F. Pedestrian Access.

Where necessary, in the judgment of the Development Review Board, rights-of-way may be required to facilitate pedestrian circulation through the subdivision or to provide access to public lands or waters.

G. Driveways.

1. All driveways that intersect with a town highway are subject to an access permit in accordance with the Town of Chester Road and Bridge Specifications.
2. No parcel of land being subdivided will be permitted more than one access point. Additional accesses may be approved in the event that:
 1. a) The additional access is necessary to ensure vehicular and pedestrian safety;or,
 2. b) The strict compliance with this standard would, due to the presence of one or more physical features (e.g. rivers and streams, steep slopes, wetlands), result in a less desirable development or subdivision design than would be possible with the allowance of an additional access; or,
 3. c) A traffic management plan is developed in association with a planned unit development approved in accordance with Section 4.10.
3. Driveways shall not exceed a 15% grade, unless waived by the Development Review Board.

H. Rights-of-Way.

In accordance with 24 V.S.A. §4412(3), rights-of-way for any existing lots that do not have frontage on a State or Town Highway require Subdivision approval by the Development Review Board and must conform to the *Town of Chester's Road and Bridge Specifications*. A right-of-way serving only one lot shall conform to the driveway standards. Two or more lots not having frontage on a public highway shall meet the road standards.

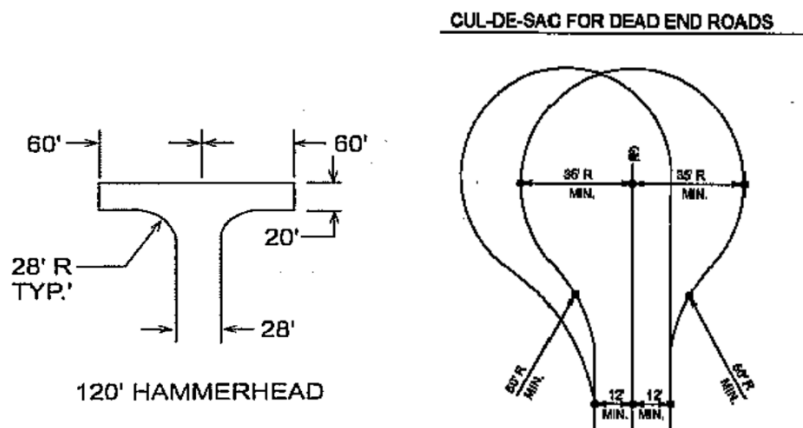
I. Dead Ends.

Dead end roads are discouraged, but a suitable turnaround shall be provided if a dead end

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cannot be avoided due to site conditions. In such circumstances, turnarounds shall be provided at the termini of all dead ends, and the following standards shall apply:

1. "T" or "hammerhead" configurations:
 1. a) Minimum turning radius of 28 feet, measured along the edge of the street (i.e. curb line);
 2. b) Minimum length of each leg shall be 60 feet deep from the centerline and the same width as the roadway.
2. Cul-de-sac configurations are required for all roads 750 feet or longer in major subdivisions, and shall provide a minimum turn-around radius of 35 feet (travel portion of the roadway).



J. Legal Requirements:

Every subdivision plat shall show all proposed road and pedestrian rights-of-way, as required under these Bylaws, regardless of whether the proposed right-of-way is intended to be accepted by the town. In the event that the right-of-way is not intended for acceptance by the town, the mechanism by which the right-of-way is to be maintained, owned and/or conveyed shall be clearly documented under Section 5.5B.

K. Modification of Road Standards:

~~In the case of unusual topographic conditions or other circumstances which would make the strict adherence to these standards a substantial hardship, not created by the applicant, the applicant may request a waiver under Section 7.16. When considering such a waiver the Development Review Board may modify the strict application of one or more of these standards providing the applicant can demonstrate that the proposed road:~~

- ~~1. Is accessible by emergency response vehicles;~~
- ~~2. Does not pose any threat to the safety of motorists or pedestrians;~~
- ~~3. Will not result in unreasonable maintenance requirements for landowners; and~~
- ~~4. Is designed in a manner that is consistent with other applicable standards of these Bylaws.~~

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7.16 Waivers

A. Waivers for Subdivision Requirements.

In accordance with §4418(2)(A) of the Act, where the Development Review Board finds extraordinary and unnecessary hardship may result from strict compliance with these Bylaws and/or where there are special circumstances of a particular Plat, it may waive portions of these Bylaws so that substantial justice may be done and the public interest secured; provided that such waiver will not have the effect of nullifying the intent and purpose of the Chester Town Plan, or the municipal bylaws in effect.

In granting waivers, the Development Review Board may require such conditions as will, in its judgment, secure the objectives of the requirements so waived. Such action shall pertain to that particular subdivision and shall not set a precedent for similar action relative to any other subdivision.

To enhance or facilitate the provision of subsidized or non-profit housing for low- and moderate-income residents, the Development Review Board may waive subdivision requirements to permit multiple principal structures and/or multiple uses on a lot, or multiple ownership of a single structure.

B. Waivers for Zoning Dimensional Standards.

As allowed under 24. V.S.A. 4414(8), a waiver of dimensional setbacks (front, rear and side yard requirements) from property lines may be granted by the Development Review Board for any existing building subject to the following provisions. Waiver requests are subject to the requirements and review procedures under Section 4.8 for Conditional Uses.

1. Applicability.

Waivers of dimensional setbacks are limited to:

- a. Reduction to any required front, side or rear setback for legally existing primary structures in order to accommodate:
 - i. ADA accessibility improvements;
 - ii. Life safety improvements;
 - iii. Unheated, open-sided additions (e.g. decks, stairways, entryways, etc.);
 - iv. Building systems (e.g. air conditioning, generators); or,
 - v. Renewable energy structures that could not be reasonably developed without a waiver.
 - vi. To avoid encroaching into a seasonal stream buffer or to avoid building in the Special Flood Hazard Area.
 - vii. To enhance or facilitate the provision of subsidized or non-profit housing for low- and moderate-income residents. In the event a property was rezoned in the October 8, 2014 Unified Development Bylaws, the setbacks were made more restrictive and the property has not changed ownership since the incorporation of said Bylaws, the Development Review Board may allow the encroachment of up to 10% of the setback dimension.

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2. Review Criteria.

The Development Review Board may approve a waiver request upon finding that:

- a. Granting a waiver will not result in an unsafe condition of the lot or to the public.
- b. Incorporates design techniques (restricted height, lack of windows), screening (fencing or plantings) or other remedies to reasonably limit impact or the potential for impact upon the neighbors or public rights-of-way.
- c. The waiver requested would not impair sight distances on or maintenance of public or private roads or sidewalks.
- d. The proposed work or construction does not encroach into the required front, side or rear yard setbacks any more than necessary to accomplish the desired results.
- e. The proposed development is compatible in scale and design of structures and the overall existing development pattern of the surrounding area.
- f. The waiver resolves a practical difficulty in developing the property and allows reasonable use of the property;
- g. In the case of historic properties, the waiver is essential to the preservation and renovation of the historic building or the preservation of the historic pattern of land use of the surrounding area.

3. Decisions & Conditions. The Development Review Board shall make its decision on the request for waiver by applying the facts presented both in the application and at the public hearing to the criteria listed herein. In approving a waiver request, the Development Review Board shall determine and may impose conditions to ensure that the waiver is the minimum required to afford relief and represents the least deviation possible from the dimensional requirements.

These conditions may include, but need not be limited to, the following:

- a. Limiting the size of the structure;
- b. Requiring the mitigation of impacts to adjoining properties and/or uses, to public rights-of-way through building design (e.g. limiting window placement), layout, landscaping or screening;
- c. Reducing the encroachment into the required front, side or rear yard setbacks;
- d. Requiring that the project does not extend beyond an existing nonconforming structure unless needed to accomplish the intended goal;
- e. Reducing the waiver requested to ensure that the waiver represents the minimum waiver that will afford relief and will represent the least deviation possible from the zoning bylaw;
- f. Controlling the location and number of vehicular access points;
- g. Requiring site reclamation in the event the use of the renewable energy structure(s) is discontinued for a period of 180 days. The site shall be restored to its natural condition or returned to the site conditions prior to construction of the facility;
- h. Requiring the application to have professional site plans prepared by a surveyor, engineer, architect or landscape architect licensed by the State of Vermont.

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4. Limitations of Waiver Approval. Any waiver granted under this section shall be limited to the specific property to which it has been granted. A waiver on one property shall not be construed as a general guideline or standard for any other property.

8.2 Definitions

ACCESSORY DWELLING UNIT: A distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The property has sufficient wastewater capacity.
- The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or does not exceed 1,000 square feet, whichever is greater.

CAMP, PRIMITIVE: A cabin, hut, shelter, yurt/ger, or similar structure that has no interior plumbing consisting of more than a sink with water and is used no more than three consecutive weeks per year and no more than 60 days per year, as defined in Vermont's Wastewater System and Potable Water Supply Rules.

SHORT-TERM RENTAL: All or part of a dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year. A short-term rental may be all or part of a furnished house, condominium, apartment, accessory dwelling unit, or cabin. See TOURIST LODGING for overnight accommodations in bed & breakfasts, boardinghouses, inns, hotels, and the like.