

UNIFIED DEVELOPMENT BYLAWS
TOWN OF CHESTER, VERMONT



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AMENDED JUNE 1, 2022 EFFECTIVE JUNE 22, 2022

DRAFT October 13, 2022

CHESTER UNIFIED DEVELOPMENT BYLAWS

Chester Unified Development 2017 Bylaw Amendment History

| Date Adopted | Purpose of Amendment | Sections Amended | Notes |
|---------------------|---|-------------------------|--------------------------------------|
| 10/17/2018 | Allow fueling station as accessory use | 3.28 and elsewhere | Interim amendment expired 10/17/20 |
| 01/19/2022 | Increase period of allowable use restart to 5 years | 3.19 | Interim amendment expires 01/19/2024 |
| 06/01/2022 | Add Village Green Zoning District | 2.3.1 and elsewhere | |
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ARTICLE 1 – Authority & Purpose

1.1 Title and Enactment

In accordance with the Vermont Municipal and Regional Planning and Development Act (herein referred to as “the Act”), Title 24, Vermont Statutes Annotated, Chapter 117, § 4401, there are established zoning, subdivision and flood damage prevention regulations for the TOWN OF CHESTER as set forth in their entirety in the following text and maps. These regulations shall be known and cited as the “*Town of Chester Unified Development Bylaws.*”

1.2 Purpose

It is the purpose of these Bylaws to provide for orderly community growth; to promote public health, safety and welfare; to further the purposes and goals established in the Act [§4302]; to integrate all administrative and regulatory provisions of the Town’s zoning, subdivision and flood damage prevention regulations into a single set of land use bylaws as authorized by the Act [§4419]. In conformance with the *Chester Town Plan*, these Bylaws exist to:

- A. Maintain the existing settlement pattern of compact village centers separated by rural countryside;
- B. Protect important natural and historical features, including woodlands, wetlands, scenic and significant archeological sites, significant architecture, villages, wildlife habitats and agricultural land;
- C. Provide the availability of safe and adequate housing for all residents;
- D. Promote a strong and diverse economy that provides satisfying and rewarding job opportunities;
- E. Maintain a safe, convenient, economic and energy efficient transportation network;
- F. Ensure that the rate and scale of development does not overburden the Town’s ability to provide necessary public services and facilities; and,
- G. Establish flood damage prevention regulations in accordance with the Act [§4424] in order to:
 1. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards;
 2. Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property;
 3. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and,
 4. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

1.3 Application of These Bylaws

A. The provisions of these Bylaws shall be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

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B. The application of these Bylaws is subject to all subchapters of the Act as most recently amended. In accordance with the Act [§4446], no land development or subdivision of land shall commence within the Town of Chester except in compliance with these Bylaws. Land development, as defined in Article 8, shall not include customary maintenance activities. Any land development and/or subdivision of land not specifically authorized under these Bylaws is prohibited, unless otherwise exempted under the Act or these Bylaws.

C. These Bylaws shall not repeal, annul or in any way impair any permit previously adopted or issued.

D. Where these Bylaws impose a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provision of these Bylaws shall control.

E. All land development shall be subject to all other applicable local, state and federal regulations.

1.4 Invalidity & Severability

The invalidity of any provision of these Bylaws shall not invalidate any other part.

1.5 Amendments and Repeal

These Bylaws may be amended or repealed in accordance with the requirements and procedures established in the Act [§§ 4441, 4442]. An amendment or repeal of these Bylaws may be prepared by the Planning Commission or by any other person or body in accordance with the Act.

1.6 Effective Date of Bylaws

These Bylaws were adopted by the Select Board on March 16, 2017 after a public hearing on February 1, 2017, February 15, 2017 and March 1, 2017 and in accordance with the Act [§4442]. These Bylaws are effective 21 days after their adoption by a majority of the Select Board.

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ARTICLE 2 – Establishment of Zoning Districts & District Standards

2.1 Classes of Districts

For the purposes of these Bylaws, the boundaries of districts are and shall be established as shown on the Zoning Map of the Town of Chester, which map is hereby declared to be part of these Bylaws, and the area of the Town of Chester is hereby divided into the following classes of districts:

VC - Village Center

VG - Village Green

RC - Residential/Commercial

CI - Commercial/Industrial

SV - Stone Village

R20 - Residential 20,000 square foot lots

R40 - Residential 40,000 square foot lots

A3 - Adaptive 3

R120 - Residential 120,000 square foot lots

CR - Conservation-Residential

F - Forest

APO - Aquifer Protection Overlay District

FDP - Flood Damage Prevention Overlay District

A full and detailed written description of the precise boundaries of all districts, which is a part of these Bylaws, is on file with the Town Clerk of the Town of Chester.

2.2 District Uses and Requirements

The following are district uses, lot size minimums, setbacks, frontage requirements and maximum coverage.

A. Permitted Uses

Permitted uses are those uses that can be approved by the Zoning Administrator (ZA), without action of the Development Review Board. All permitted uses shall comply with the Parking and Sign Requirements for the District.

B. Conditional Uses

Specific Conditional Uses are permitted in each district only by approval of the Development Review Board provided that the general and specific standards and special criteria outlined in Section 4.7 of these Bylaws are met.

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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 is incorrect and therefore not subject to this bylaw, however, this determination 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.

3.19 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.
 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.

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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:
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 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. 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.
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

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1. 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.

- 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.

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- 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;

- e) The Development Review Board may waive the zoning district dimensional standards or surface water protection setbacks if needed to support the proposed use.

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.

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)
 - 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.
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.
6. Ground-mounted HVAC systems or back-up generators that have a footprint or are placed on a pad that does not exceed 120 square feet.
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) are not more than 4½ feet tall if located in the front yard in the Village Center or Village Green Districts or is not more than 8 feet tall if located elsewhere, and (c) are 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 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.

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

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- ~~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 54413(h)(1)(A) of the Act.~~
- ~~6. In accordance with 54413(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).~~

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

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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.

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

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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.

4.12 Subdivision Review Procedures

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 his 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 his duly authorized representative, shall discuss with the Development Review Board the details of his 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.

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

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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 his 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 Subdivider, or his 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.

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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 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

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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 deemed to have final approval and shall be properly signed by a quorum of the

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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"

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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 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.

ARTICLE 8 – Definitions

8.1 Terms and Uses

Except where specifically defined herein or in the Act, or unless otherwise clearly required by the context, all words, phrases and terms in this bylaw shall have their usual, customary meanings.

Unless the content clearly indicated to the contrary, words in the singular include the plural and those in the plural include the singular. The word "may" is permissive; the words "shall" and "will" are mandatory.

8.2 Definitions

ACCESSORY DWELLING UNIT: ~~A distinct unit, an efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling,~~ 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:

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- 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 900 square feet, whichever is greater.~~
- ~~Applicable setback, coverage, and parking requirements specified in the bylaws are met. 24 V.S.A. § 4412(1)(E).~~

Commented [JR1]: Is this an reasonable size?

ACCESSORY STRUCTURE: See ACCESSORY BUILDING

SUBDIVISION: The division of a parcel of land into two (2) or more lots regardless of size, when such action is taken for the purpose of sale, lease, gift, or land development. ~~Construction of a second primary dwelling on a lot shall be deemed a division of the parcel, and a subdivision permit is required.~~ An exchange of small parcels between adjoining property owners to adjust boundaries shall not be considered a subdivision. The term, Subdivision, includes resubdivision. Any Town road constitutes a subdivision.