

Administrative Bylaw Changes
Resubmission to SelectBoard 7/5/23
Changed sections only

2.14 FDP – Flood Damage Prevention Overlay 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 Development Review Board is empowered to determine that an area shown on the flood insurance maps as being in an SFHA approximate A Zone is incorrect (due to a knoll, mound, ridge, hummock or other high ground that is clearly above the risk of flooding) and therefore not within the FDP – Flood Damage Prevention Overlay District, however, this determination will apply only to exempt structures 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 for any flood damages that result from reliance on these Bylaws, or any administrative decision lawfully made thereunder.

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.

3.11 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.

A remote worker working at their home as an employment arrangement for an organization not based or located at the home, and where there is no sign and no work-related visits from the general public, is not a home occupation and does not require a home occupation permit.

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

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 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 that are exempt under section 4.3.B.14 provided they are no higher than six (6) feet are not considered in the setback measurement. Fences and walls that are not exempt require approval by the Development Review Board, must meet a demonstrable screening, safety or security purpose, and may be required to meet setbacks.
- 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'.

3.19 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.
1. **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. By decision of the Development Review Board, structures on a Nonconforming Lot or Existing Small Lot 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). In no instance shall a structure be permitted closer than 20 feet from a road shoulder or impair sight distances along a road or be permitted less than 10 feet from any lot line, except in districts where a lesser front, side or rear yard setback is permitted.

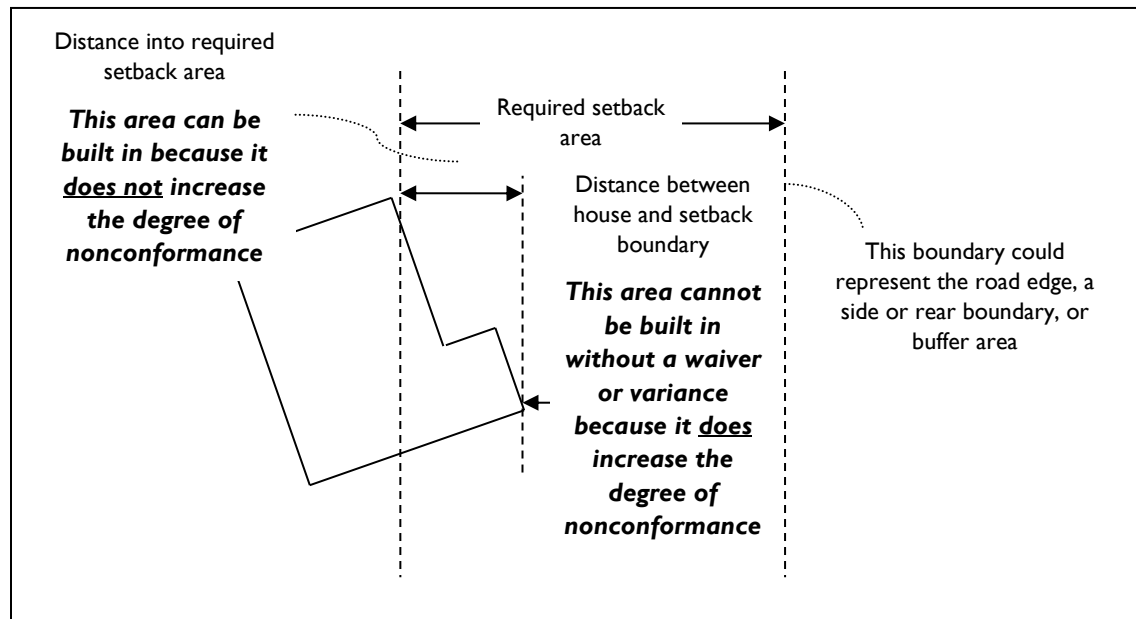
2. **Existing Small Lots.** In accordance with the Act [§ 4412], any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district 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.

B. 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 enlarge a portion of a nonconforming structure within a setback 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. In no instance shall a structure be extended closer than 20 feet from a road shoulder or impair sight distances along a road or be extended less than 10 feet from any lot line, except in districts where a lesser front, side or rear yard setback is permitted. 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.

C. 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.

- 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
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 conditional use review
Other	

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. Non-residential Uses: Unless no reasonable alternative exists, on-site parking shall be located to the rear or side of the 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.

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 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?
9. Is there adequate off-street nighttime parking (either private or public) to comply with Chester's snow parking ban?

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.)

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.

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 Overlay 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 Overlay 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.
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 not more than 8 feet tall if located elsewhere,
 - c) installed so that any support posts are inside and the “finished” or “good” side faces out,
 - d) not in a public road right-of-way unless approved by the Selectboard, and
 - e) not a sight obstruction at road intersections.
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 self-contained travel or camper trailer is limited to not more than 180 days total in any calendar year. The storage or occupancy of more than 2 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 frontline of the principal building or within an enclosed structure.
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.
29. Railroad operations that are preempted by federal regulations.

~~B. 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 review:~~

- ~~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).~~
- ~~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.~~

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.

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, 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 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 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 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 principal 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 Flood Damage Prevention (FDP) Overlay District 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.

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.

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 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.

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.

5.2 Road Design

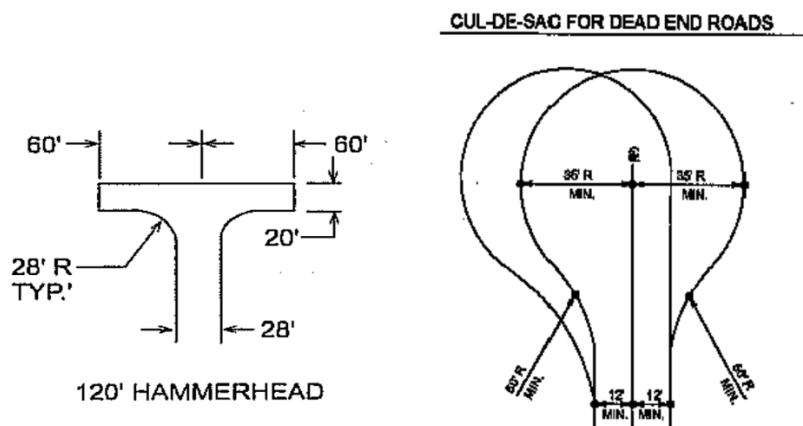
H. Rights-of-Way.

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 or two lots shall conform to the driveway standards in Section 5.2.G above. ~~Three Two~~ or more lots not having frontage on a public highway shall meet the ~~road standards~~ *Town of Chester Road and Bridge Specifications*. The Development Review board shall require that a professional engineer, at the sole expense of the applicant, certify that a newly constructed road was designed and constructed in accordance with the *Town of Chester's Road and Bridge Specifications* and a certificate of compliance issued by the Zoning Administrator, prior to opening the newly constructed road to general use. The Development Review Board shall also require that the applicant designate a contact person responsible for future maintenance of the road.

I. Dead Ends.

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

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.

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.

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.

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 ~~900~~ 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.

~~**EXTENT OF NONCONFORMITY:** The extent to which a structure encroaches upon, or otherwise violates, one or more dimensional standard of these Bylaws. The extension of a structure which results in an additional encroachment of the non-complying feature/element, including the expansion of the volume or area of a structure within a building setback, would increase the degree of nonconformity.~~

HOME OCCUPATION: Any use conducted entirely within a dwelling or accessory building and carried on by the occupants thereof and up to two (2) full time equivalent on premises employees, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof, and does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

HOME BUSINESS: Any small business carried on by family members in a minor portion of the dwelling or in an accessory building, with no more than five (5) ~~four (4)~~ on premise employees who are not part of the family in accordance with Section 3.12 of these Bylaws.

ROADS: Any street, highway, avenue, land, or right-of-way commonly used by the public for vehicular traffic, regardless of its length that provides access to ~~two~~ three or more lots, shall be deemed a road. An access driveway to one or two a single ~~lots~~ shall not be considered a road.

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.