

TOWN OF HALIFAX ZONING REGULATION

As Amended

Adopted by
the Voters of the
Town of Halifax
March 6, 2012

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Article 1 Enactment and Provisions

Section 100 Enactment

In accordance with Section 4401 of the Vermont Municipal and Regional Planning and Development Act, Title 24 VSA (Vermont Statutes Annotated) Chapter 117 hereinafter referred to as “the Act”, there is hereby established a Zoning Regulation for the Town of Halifax, as set forth in the text and maps contained herein. This Regulation shall be known as the “Halifax Zoning Regulation”.

Section 101 Intent

It is the intent of this Zoning Regulation to provide for orderly growth in Halifax and to further the purposes established in Section 4302 of the Act.

Section 102 Reference to State Law

Hereafter any reference to specific sections of 24 VSA Chapter 117 is intended to refer to sections of the law as in effect on the date of adoption of this Regulation and as they may be amended.

Section 103 Application of the Regulations

The application of this Regulation is subject to the provisions of all sub-chapters of the Act. This Regulation is intended to repeal the previous Town of Halifax Zoning Regulation, but it is not intended to repeal, annul or in any way impair any other regulations or permits previously adopted or issued. In any case where the provisions of this Regulation overlap or conflict in their application to a particular structure, use, or parcel of land, those provisions that would impose the greater restriction upon such structure, use, or parcel of land shall control.

Section 104 Amendments

This Regulation may be amended according to the requirements and procedures established in Sections 4441 and 4442 of the Act.

Section 105 Severability (Separability)

Should any section or provision of this Regulation be decided by the courts to be unconstitutional or invalid, such decision shall not effect the validity of the Regulation as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 106 Effective Date of this Regulation

This Regulation shall take effect in accordance with the voting and other procedures contained in Section 4442 of the Act.

Article 2 Administration and Enforcement

Section 201 Zoning Administrator

A Zoning Administrator is hereby appointed to administer the Halifax Zoning Regulation in accordance with Section 4448 of the Act. The Zoning Administrator shall literally enforce the provisions of this Regulation, and in so doing, shall inspect land developments, maintain records of his actions, report periodically to the public and the governing body, and perform all other necessary tasks to carry out the provisions of this Regulation and the duties of his office.

Section 202 Zoning Permits

After the effective date of this Regulation, no development may occur until a Zoning Permit has been duly issued by the Zoning Administrator. Development in the Special Flood Hazard Area is defined in Article 8, Section 810. Outside of the special flood hazard area "Development" is hereby defined as:

The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of any structure; any mining, excavation, landfill or construction of ponds or other impoundments; and any change in use or extension of use of the land or structures.

Development does not include the removal of interior walls, the installation or replacement of windows or doors or other alterations that would not enlarge a structure, encroach on any setback or other dimensional requirements, or be likely to change the use of a structure. Constructing one building or structure per parcel 100 square feet in area or less or landscaping, excavation or filling incidental and accessory to a lawful use of the land is also not considered development.

1. All zoning permits are subject to the limitations on municipal bylaws detailed in section 4413 of the Act. The following uses (described in complete detail in Section 4413(a) 1 through 6) may be regulated only with respect to location, size, setbacks and the other criteria detailed in Section 4413(a): 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 VSA Chapter 159; 6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 VSA Section 6606a.
2. No zoning permit shall be required for the following activities, described in further detail in Sections 4413 (b), (d), and (e) of the Act:
 - a. Public utility generating plants and transmission facilities regulated under 30 VSA Section 248 (4413(b)).
 - b. The construction of farm structures or accepted agricultural and silvicultural practices as defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation. A person shall notify the town of intent to build a farm structure and abide by setbacks approved by the secretary of agriculture, food and markets 4413(d).
 - c. Hunting, fishing and trapping as defined by 24 VSA Section 2295 (4413(e)).
3. Activities defined as development and not exempted or restricted by the preceding provisions of Section 202(1) and (2) require a permit. The Zoning Administrator shall approve a permit only if *all* of the following requirements are met:

- a. Zoning Permit Application Form as established by the Planning Commission, including plot plan requirements, has been properly completed and submitted.
 - b. The Zoning Permit Fee, as annually established by the Selectboard in accordance with Section 4440 of the Act, has been paid.
 - c. If a proposed use requires other permits under the Town Highway or Health Ordinances, or a state Wastewater System and Potable Water Supply permit, such permits shall be obtained and submitted to the Zoning Administrator before a Zoning Permit is granted.
 - d. All applicable local reviews and approvals have been secured where required, including, but not limited to, Site Plan, Conditional Use, Planned Unit Development (PUD), Right-of-way or Variance approvals.
 - e. The stipulations of any applicable State agencies have been satisfied in accordance with Section 403 of these Regulations.
4. The applicant must post a copy or notice of the approved permit within view of the public right-of-way most nearly adjacent to the property for 15 days following the issuance of the permit.
 5. The Zoning Administrator shall approve or disapprove a complete application for a zoning permit, or, if required, shall forward such application to the Zoning Board of Adjustment, Planning Commission or, pursuant to Section 4424 of the Act pertaining to flood or other hazard areas to the State Agency of Natural Resources, for review within thirty (30) days of acceptance of the complete application. No zoning permits shall be issued except in conformance with the provisions of these Regulations and with the submission of all required approvals. If the Zoning Administrator fails to act with regard to such application for a permit within thirty (30) days, a permit shall be deemed issued on the 31st day.
 6. Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall deliver a copy of the permit to the Board of Listers, and shall post a copy of the permit in at least one public place in the Town until the expiration of fifteen (15) days from the date of issuance of the permit.
 7. Within 30 days after a zoning permit has been issued, the Zoning Administrator shall deliver a copy or notice of the permit to the Town Clerk for recording in the land use records and file a copy where all municipal and land use records are kept.
 8. No zoning permit issued by the Zoning Administrator shall take effect until fifteen (15) days have passed or, if an appeal is filed, until the final adjudication of the appeal by the Zoning Board and the time for taking the appeal to the Environmental Court has passed. If an appeal is taken to the Environmental Court, the permit shall not take effect until the Environmental Court either issues a stay or a ruling on the appeal.
 9. A zoning permit is in force for two (2) years from its date of issuance, except a permit for a Planned Unit Development which may be in force for up to five (5) years. If the permitted activities have not been substantially completed within this period, re-application must be made for a new zoning permit, unless an extension for an additional two (2) years is granted either by the Zoning Administrator for one- and two-family homes and related accessory structures/uses, or by the Zoning Board of Adjustment for all other uses.
 10. Violations of these Regulations shall be regulated as prescribed in Sections 4451, 4452 and 4454 of the Act.
 11. An interested person, as defined in Section 4465(b) of the Act and on page 40 of this regulation, may appeal any act or decision of the Zoning Administrator to the Board of

Adjustment within fifteen (15) days of such act or decision, in accordance with the provisions of Subchapter 11 of the Act .

Section 203 Zoning Board of Adjustment

The Zoning Board of Adjustment (ZBA) for Halifax is established as provided for in Section 4460 of the Act, members of which shall be appointed by the Selectboard in accordance with the provisions of Section 4460 of the Act. The ZBA shall have all the powers and duties specified in the Act, and it is established with the rules of procedure including public notice, appeal, and approval as provided in the Act.

1. *Appeals* The ZBA shall hear and decide upon appeals brought by interested persons according to sections 4465, 4466 and 4468 of the Act.
2. *Variances* The ZBA shall hear and decide upon requests for variance under Section 4469 of the Act. On an appeal for a variance regarding a structure that is not primarily a renewable energy resource structure, the ZBA may grant variances and render a decision in favor of the appellant if all the criteria under section 4469(a) of the Act are met. The board may grant a request for variance regarding a structure that is primarily a renewable energy resource structure in accordance with Section 4469(b) of the Act. The Board shall act to approve or disapprove any request for a variance within forty-five (45) days from the close of the final public hearing. Failure to do so within such period shall be deemed approval.
3. *Conditional Use Permits* The ZBA shall hear and decide upon applications for conditional use permits. In considering its action, the Board shall make findings on general and specific standards, and may attach conditions as provided for in Section 4414(3) of the Act.
 - a. *General Conditional Use Standards* are as provided in Section 4414(3)(A) of the Act: the capacity of existing or planned community facilities; the character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan; traffic on roads and highways in the vicinity; bylaws and ordinances then in effect; and use of renewable energy resources.
 - b. *Specific Conditional Use Standards* are adopted in order to safeguard the interests of surrounding properties, the neighborhood, or the town as a whole. In granting a Conditional Use Permit, the ZBA may:
 - Increase lot size or setback requirements.
 - Reduce the coverage or height of buildings.
 - Control the number and location of vehicular access points; control the location of off-street parking, storage areas, and placement of buildings on a lot.
 - Increase the number of off-street parking spaces.
 - Limit the number, location and size of signs, and control the placement, shielding, and intensity of lighting.
 - Require suitable landscaping and screening to accomplish the purpose of screening, buffering, erosion control, etc., and to maintain the district character.
 - Require the installation of devices or methods to prevent or control the polluting of waters and the emission of fumes, gas, dust, smoke, odor, noise or vibration.
 - Apply any additional standards as provided for within these Regulations.

- c. *Additional Conditions* As a condition of the grant of a conditional use, the Board may attach such additional reasonable conditions as it may deem necessary to implement the purposes of the Act and these regulations.
- d. *Documentation* Applications for Conditional Use Permits are submitted to the Zoning Administrator, who in turn notifies the ZBA within 5 days of receipt of the application. Each application must be accompanied by a completed Conditional Use application form, the required fee, and a site plan, as described in subsection 8 of this section. Incomplete applications will be returned by the Zoning Administrator without action.
- e. *Site Plan* The ZBA shall review site plans that are part of Conditional Use applications. In accordance with Section 4416 of the act, in reviewing site plans the ZBA may impose appropriate conditions and safeguards with respect to: the adequacy of parking, traffic safety and access, and circulation for pedestrians and vehicles; landscaping, screening and setbacks to achieve maximum compatibility with the protection of adjacent property; the protection and use of renewable energy resources; exterior lighting; the size, location and design of signs, and other matters specified by these regulations. The applicant shall submit two sets of Site Plan maps and supporting data with the Conditional Use application which shall include the following information:
- Name and address of property owner, or applicant if different than owner, and of owners of record of adjoining lands; name and address of person or firm preparing map.
 - Halifax land records data: book number and page of recorded deed to property.
 - Lot, block and section number of property, as identified on the most current tax map record that is available.
 - Property lines, acreage figures, scale of map, north point, and date.
 - Existing contours and features, including: structures, streets, driveways, easements and rights-of-way, major natural features (such as wetlands, ponds, streams, etc.), utilities, and any deed restrictions applying to the property.
 - Proposed grading and location of structures and land use areas.
 - Proposed layout of roads, driveways, walkways, utilities, traffic circulation and parking spaces.
 - Existing trees, shrubs and other vegetation to be preserved on the site.
 - Proposed landscaping.
 - The Site Plan map shall indicate the total potential development of the entire property, as applicable.
 - Anticipated phasing of development shall be shown on the Site Plan map.
- f. *Conditional Use Hearing and Approval* The ZBA has up to 60 days to hold at least one public hearing after the day on which the complete application, including site plan if required, is submitted in good order. The Zoning Board of Adjustment shall act to approve or disapprove any requested conditional use within forty five (45) days of the adjournment of the final public hearing. Failure to do so within such period shall be deemed approval.
4. *Technical Review* The ZBA may hire professionals to conduct technical or legal reviews of any application under consideration. When such reviews are deemed necessary, a fee that fully covers the costs shall be charged to the applicant.

5. *Planned Unit Development, Cluster Housing Review* The ZBA will review and decide upon applications for Planned Unit Developments in accordance with Section 4417 of the Act and Section 508 of this regulation. The ZBA shall also review and decide upon applications for Cluster Housing in accordance with Section 509 of this regulation.

Section 204 Planning Commission

The Planning Commission shall have all the powers and duties specified in the Act, including the following:

1. Site plan approval for projects which do not require a conditional use permit and are thus not covered by the ZBA. Procedures are the same as detailed in Section 203(3)(e) of this Regulation. The Planning Commission shall hold at least one public hearing within 60 days after the completed site plan is submitted. The Commission shall act to approve or disapprove any site plan application within 45 days of the adjournment of the final public hearing.
2. In those zoning districts where allowed, review and decide upon applications for rights-of-way or easements for development lacking frontage in accordance with Section 4412(3) of the Act.
3. The Planning Commission may hire professionals to conduct technical or legal reviews of any application under consideration. When legal or technical reviews are deemed necessary by the Planning Commission, a fee that fully covers the costs shall be charged to the applicant.

Section 205 Public Notice Requirements

Notification procedures as detailed in Section 4464(a) of the Act apply. Key provisions are outlined below; full details may be found in the Act.

1. A warned public hearing is required for all development review applications before an appropriate municipal panel.
 - a. Public notice for conditional use review, variances, appeals from Zoning Administrator decisions, and final plat review for subdivisions shall be given not less than 15 days prior to the date of the public hearing.
 - b. Public notice for hearings on all other types of development review, including site plan review, shall be given not less than 7 days prior to the date of the public hearing.
2. Public notice shall include the following:
 - a. For reviews covered under 205(1)(a) above, publication of the date, place and purpose of the hearing in a newspaper generally circulated in the municipality. This does not apply to 1(b).
 - b. Posting of the same information in three or more places within the municipality.
 - c. Written notification to the applicant and all adjoining property owners, without regard to public rights-of-way. Notification shall include a description of the project, information about where additional information may be obtained, and shall clearly state that participation in the local proceeding is a prerequisite for any subsequent appeal.
3. The Appropriate Municipal Panel shall require the applicant to bear the cost of public warnings detailed in 2(a) and (b) above.

Article 3 Zoning Districts

Section 300 Establishment of Zoning Districts

The Town of Halifax is hereby divided into the following zoning districts as shown on the Halifax Zoning Map.

Conservation District	C
Village District	V
Rural Residential District	RR

Section 301 Purpose of Zoning Districts

The purpose of these districts is to further the public health, safety and welfare of the Town of Halifax. In addition, these districts seek to provide an orderly, attractive, compatible and logical growth pattern for the Town by allocating the various functional uses to areas best suited for them within the Town boundaries.

Section 302 Maps

The location and boundaries of the Zoning Districts are established as shown on the Halifax Zoning Map. The Zoning Map is hereby made a part of this Regulation, together with all future notations, references and amendments.

Section 303 Boundaries

Boundaries between districts are, unless otherwise indicated, the centerlines of roads or streams or follow property boundaries where indicated on the Zoning Map or described in this Regulation. Where there is any uncertainty, contradiction or conflict as to the intended location of any district boundary due to scale, lack of detail or illegibility of the maps, the Board of Adjustment shall make an interpretation upon an appeal from a decision of the Zoning Administrator. Where the boundary line between two zoning districts divides a lot, the provisions of the least restrictive district may be extended by fifty feet into the adjacent district.

Section 304 General Zoning District Standards and Definitions

1. *Buildings and Uses on Lots* There shall be only one principal building or one principal use and its structures on a lot. Provision is made for accessory uses and home occupations.
2. *Building Heights* The maximum building height in all districts is three (3) stories or thirty-five (35) feet, whichever is less, except for silos and other agricultural uses; church spires; cupolas; bell, clock and fire towers; telecommunications facilities; and antennas for municipal or fire company use only. Private antennas may extend 10 feet above the roof line of a 3 story building.
3. *Setbacks from a Street or Property* All setbacks are measured from the property line or permanent easement or right-of-way, as applicable, back to the closest point of the structure or setback object.
4. *Residential/Non-residential Uses* A residential structure is a dwelling or any accessory structure no greater than 200 square feet in size on the same lot. Accessory structures greater than 200 square feet in size, or buildings of any size on lots without a dwelling are non-residential.

5. *Setbacks from a Watercourse or Water Body* The minimum setback requirement for structures and septic systems, including leachfields, from all watercourses and water bodies shall be 75 feet. Setbacks are measured from the seasonal high water mark along the bank or shoreline.
Structures whose primary purpose requires that they be in or immediately along banks or shorelines, such as docks and hydroelectric installations, are exempt from this setback requirement.
6. *Yards on Corner Lots* All yards adjoining a road shall be considered a front yard for the purpose of these regulations.
7. *Area* In calculating the required area, width and depth of a lot, existing and proposed road rights-of-way shall be excluded.
8. *Uses Not Provided For* Other uses are permitted upon a finding by the Planning Commission that such use is of the same general character as those permitted within the district and will not be detrimental to the other uses within the district or to the adjoining land uses. After a finding is made by the Planning Commission that a use is similar to a Permitted Use, then the applicant shall proceed with securing a Zoning Permit from the Zoning Administrator. If a finding is made by the Planning Commission that a use is similar to a Conditional Use, approval from the Board of Adjustment is required.
9. *Prohibited Uses* Any use not designated as a permitted or conditional use within this Regulation or not meeting the criteria of subsection 7 above shall be deemed prohibited.

Section 305 Permitted Uses in All Districts

The following uses are permitted in all districts:

- | | |
|---------------------------------|---|
| 1. Land Division | 5. Home Industry |
| 2. Agriculture | 6. Cemetery |
| 3. Forestry | 7. Accessory Use |
| 4. One and Two-Family Dwellings | 8. Accessory dwelling units (see page 13) |

In accordance with Section 4412 of The Act, the following uses are considered a permitted single-family use of property in all districts.

- a. *Family child care homes* serving no more than 6 full-time children and four part-time children (see page 22 for details)
- b. *Residential care or group homes* serving no more than 8 persons (see page 22 for details).

Section 306 Village

1. *Description* The Village District contains all lands within the area described below and shown on the Halifax Zoning Map. Beginning at the southerly boundary of Sumner’s Mill, so-called, at its intersection with Branch Road; thence northwesterly in a straight line to the intersection of Sprague and Reed Hill Roads; thence northerly in a straight line to the intersection of the southerly boundary of lands of Summerfeld and Collins Road; thence easterly in a straight line to the intersection of Bridge 10 and Brook Road; thence southwesterly in a straight line to the point and place of beginning.
2. *Purpose* The purpose of the Village District is to support the role of the village as the focus of many social and economic activities in the community and to provide for residential, commercial and other compatible development that serves the needs of the community. Such development should occur at densities and uses that will maintain the traditional social and physical character of the village including its historic, agricultural, and scenic resources.
3. *Permitted Uses, V* In addition to uses listed in section 305 of this regulation, the following uses are permitted by right:

- | | |
|--------------------|---------------------|
| 1. Bed & Breakfast | 3. Personal Service |
| 2. Office | |

4. *Conditional Uses, V* The following uses require a Conditional Use Permit from the Board of Adjustment:

- | | |
|--|--|
| 1. Multi-Family Dwelling | 13. Boarding House |
| 2. Planned Unit Development | 14. Hotel/Motel |
| 3. Public Utility Facility | 15. Service Station, Repair Garage |
| 4. Public Assembly Facility | 16. Light Industry |
| 5. Lodge/Inn | 17. Funeral Home |
| 6. Resource Industry | 18. Recreation Facility |
| 7. Earth & Mineral Extraction | 19. Campground |
| 8. Office/Office Building | 20. Group Home/Child Care Facilities |
| 9. Retail Uses | exceeding minimum size (see section 504) |
| 10. Bank | 21. Garden/Farm Supply or Nursery |
| 11. Restaurant | 22. Veterinary Office (no boarding of animals) |
| 12. Uses listed in sec. 4413(a) 1-6 of the Act | 23. Mini-storage |

5. *Area, Dimensional and Coverage Requirements, V*

	<i>Non-Residential Uses</i>	<i>Residential Uses</i>
Lot Area	2 Acres minimum	2 Acres/dwelling unit min
Lot Frontage (see Sect. 401)	200 Feet minimum	200 Feet minimum
Front Yard Setback	35 Feet minimum	35 Feet minimum
Side & Rear Yard Setback	25 Feet minimum	25 Feet minimum
Lot Coverage	40% maximum	20% maximum

Section 307 Rural Residential

1. *Description* The Rural Residential District includes all areas within the Halifax Town limits not included in the Conservation or Village Districts, as shown on the Halifax Zoning Map.
2. *Purpose* The purpose of the Rural Residential District is to provide for residential development and compatible light industrial & light commercial uses at moderate densities which are easily accessible to public roads. [insert zoning amendment 1 language here] It is anticipated that the bulk of new residential and light commercial growth will take place within this district. Special care should be taken to protect the rural-residential character of this district and to locate proposed development off of productive agricultural lands. Non-residential development proposed in the RR District shall be carefully reviewed on a case-by-case basis utilizing the standards established under Conditional Use Approval, and elsewhere throughout this Zoning Regulation including, but not limited to General Performance Standards, Landscaping Requirements, and Article 5 Special Regulations, as applicable.
3. *Permitted Uses, RR* In addition to uses listed in section 305 of this regulation, the following uses are permitted by right:

- | | |
|--------------------|---------------------|
| 1. Bed & Breakfast | 3. Personal Service |
| 2. Office | 4. Wildlife Refuge |

4. *Conditional Uses, RR* The following uses require a Conditional Use Permit from the Board of Adjustment:

- | | |
|-------------------------------|---|
| 1. Multi-Family Dwelling | 14. Service Station, Repair Garage |
| 2. Planned Unit Development | 15. Light Industry |
| 3. Public Utility Facility | 16. Funeral Home |
| 4. Public Assembly Facility | 17. Indoor/Outdoor Recreation Facility |
| 5. Lodge/Inn | 18. Campground |
| 6. Resource Industry | 19. Group Home/Child Care Facilities exceeding minimum size (see section 504) |
| 7. Earth & Mineral Extraction | 20. Garden/Farm Supply or Nursery |
| 8. Office/Office Building | 21. Veterinary Clinic |
| 9. Retail Uses | 22. Commercial Animals, Kennel |
| 10. Bank | 23. Mini-Storage |
| 11. Restaurant | 24. Uses listed in Section 4413(a) (1)-(6) of the Act |
| 12. Boarding House | |
| 13. Hotel/Motel | |

5. *Area, Dimensional and Coverage Requirements, RR*

	<i>Non-residential Uses</i>	<i>Residential Uses</i>
Lot Area	3 Acres minimum	3 Acres/dwelling unit min
Lot Frontage (see Sect. 401)	300 Feet minimum	300 Feet minimum
Front Yard Setback	50 Feet minimum	35 Feet minimum
Side & Rear Yard Setback	50 Feet minimum	25 Feet minimum
Lot Coverage	25% maximum	15% maximum

Section 308 Conservation District

1. *Description* The Conservation District contains all designated lands within the area described following and shown on the Halifax Zoning Map. Beginning at the intersection of the Halifax/Guilford town line and the Green River Road, then west along the southern boundary of the Green River Road; then south along the east side of Brook Road; then east along the northern boundary of Whitneyville Road; then south along the eastern side of Old County Road towards Halifax Center; then southeasterly and northeasterly along the northern border of Jacksonville Stage Road to the Guilford/Halifax town line; then north following the Guilford/Halifax town line to the point of origin.
2. *Purpose* The purpose of the Conservation District is to protect the natural resource value of lands that are essentially undeveloped, are important upland wildlife habitat or corridors, particularly for large game animals such as deer and bear, or have high forestry value, are unsuitable for land development, or include irreplaceable, limited or significant natural, recreational, or scenic resources.
3. *Permitted Uses, C* In addition to uses listed in section 305 of this regulation, the following uses are permitted by right:

1. Wildlife Refuge

4. *Conditional Uses, C* The following uses require a Conditional Use Permit from the Board of Adjustment:

- | | |
|---|---|
| 1. Cluster Housing | 4. Limited Outdoor Recreation |
| 2. Bed & Breakfast | 5. Resource Industry |
| 3. Vet. Clinic, Commercial Animals,
Kennel | 6. Uses listed in sec. 4413(a) (1)-(6) of the Act |

5. *Area, Dimensional and Coverage Requirements, C*

Lot Area	15 Acres minimum
Lot Frontage (see Sect. 401)	500 Feet minimum
Front Yard Setback	50 Feet minimum
Side & Rear Yard Setback	50 Feet minimum
Lot Coverage	10% maximum

Article 4 General Regulations

In accordance with Sections 4412 (required provisions) and 4413 (limitations) of the Act, the following provisions shall apply:

Section 400 Existing Nonconforming Lots

Any lot in individual and separate and nonaffiliated ownership from surrounding properties in existence on the effective date of this Regulation may be developed for the purposes permitted in the district in which it is located and in accordance with all applicable requirements of this Regulation, even though not conforming to minimum lot size or frontage requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.

1. If a lot rendered nonconforming by Halifax Zoning Regulations prior to January 1 2005 subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged. Existing small lots separated by a public road shall not be considered contiguous. Nonconforming lots shall not be deemed merged and may be separately conveyed if 1) they are conveyed in their preexisting configuration; 2) on the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal system; 3) each water supply and wastewater system is functioning in an acceptable manner; and 4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems.
2. Any lot conforming to Halifax Zoning Regulations on the date of adoption of this regulation that does not conform to minimum lot size or frontage requirements in this regulation may be developed for the purposes permitted in the district in which it is located in accordance with all applicable requirements, as long as such lot is not less than one-eighth acre with a minimum width or depth dimension of 40 feet.

Section 401 Required Frontage on or Access to Public Roads or Public Waters

No land development may be permitted on a lot that does not have either frontage on [insert zoning amendment 3 language here] or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or [insert zoning amendment 4 language here]

1. *Requirements for Lots Without Public Road or Waters Frontage* Frontage requirements for a single lot served by an approved 50 foot right of way shall be reduced to the width of the right-of-way in all districts. Frontage on private lanes existing on the date of adoption of this regulation shall be included for the purpose of land development. All setback, area, dimension and coverage requirements of lots on existing private lanes or approved, dedicated rights of way shall conform to those listed in Article 3 of this Regulation. In accordance with Section 4412 (3) of the Act, the following standards and approval process apply to Planning Commission granting of rights of way:
 - a. *Standards* The Department of Highways Standards B-71 for Residential and Commercial Drives, are adopted for approved rights of way.
 - b. *Approval Process* Provisions detailed in Section 205(1)(b) and 205(2) and (3) of this Regulation shall be followed when considering approval of a proposed right of way access under this section.

Section 402 Accessory Dwelling Unit

In accordance with Section 4412(1)(e) of the Act, one accessory dwelling unit located within or appurtenant to an owner-occupied single-family dwelling is a permitted use in all districts, providing the property has sufficient wastewater capacity and that setback and coverage requirements listed in Article 3 of this Regulation are met. An approved health permit is required for all accessory units. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling and has facilities for sleeping, food preparation and sanitation. Floor space of the accessory unit shall not exceed 50% of the floor space of the existing living area of the single-family residence or 600 square feet, whichever is less. The unit may be attached to the single-family dwelling or may be free-standing. Accessory units may be located in any existing building. New detached units may be located no more than 100 feet from the main dwelling. This maximum detachment distance shall be measured from the single-family dwelling itself, not from any decks, breezeway or other accessory structure attached to the main dwelling.

Section 403 Multi-Family Dwelling

A multi-family dwelling consists of 3 or more residential dwelling units. All setback, area, dimension and coverage requirements detailed in Section 3 apply to multi-family dwellings. Any such dwelling must have adequate potable water and wastewater capacity as determined by the appropriate state agency or Halifax health regulations; if there is any conflict between the two, the more stringent standards apply. The maximum number of units allowed per lot is four times the maximum allowable permitted units, or eight. Only one multi-family dwelling is allowed per lot. The provision for accessory dwelling units does not apply.

Section 404 Agency of Natural Resources Consultation

The applicant is responsible for contacting the regional permit specialist employed by the Agency of Natural Resources to ensure timely action on any state-related permits that may be required.

Section 405 General Performance Standards

In all districts and for all uses, the following general performance standards must be met, together with any applicable state standards and specific standards as required under this Regulation. The Zoning Administrator shall decide whether *proposed* or *existing* Permitted Uses and all other *existing* Conditional Uses meet the standards; the Zoning Board of Adjustment and/or the Planning Commission shall decide on the conformance of *proposed* uses with the standards for Conditional Use Review and Site Plan Approval Review, where applicable.

The following conditions must not exist at the individual property lines:

1. Noise in excess of seventy (70) decibels.
2. Non-farming or forestry related odors determined by the Department of Environmental Conservation to be offensive.
3. Emissions of dust, ash, smoke, or other particulates composed of liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot at the point of emission, or which cause soiling beyond the property boundary (dust or dirt from customary agricultural and forestry operations shall not be considered offensive under this provision).
4. Release of gases that can damage human or animal health, vegetation, or property by reason of concentration or toxicity.

5. Vibration, as a result of normal operation, that creates displacement of two one-thousandths (0.002) of one (1) inch.
6. Glare, lume, lights or reflection which could impair the vision of a driver of any motor vehicle, be detrimental to the general public safety, health or welfare, or which constitutes a nuisance to other property owners or tenants.
7. Existing or potential fire, explosion or safety hazard.
8. Discharge, runoff, or leaching of harmful wastes including, but not limited to, oils, fuels, pesticides, seepage, and other pollutants into aquifer recharge areas, groundwater, streams, ponds, lakes or other bodies of water. This condition shall not exist at or anywhere within the property lines of the parcel involved. Effluent disposal shall comply with the local and state sewer health standards.
9. Storm water discharge that may create an unsafe condition or cause damage to persons or property off the site.
10. Existing or potential health hazards which result from the improper storage, disposal or removal of garbage, trash, rubbish, noxious substances, or other similar materials.

Section 406 Nonconforming Uses and Structures

In accordance with Section 4412(7) of the Act, the following provisions shall apply to all buildings and uses existing on the effective date of this Regulation which do not conform to the requirements set forth in this Regulation, and to all buildings and uses that, in the future, do not conform by reason of any subsequent amendment to this Regulation. Any nonconforming uses or structures may be continued indefinitely, but shall not be moved, enlarged, altered, extended, reconstructed or restored, except as provided below.

1. *Nonconforming Use*

- a. *Change* A nonconforming use may be changed to another nonconforming use of equal or less intensity upon approval of the Zoning Board of Adjustment, but such use shall not then be permitted to change back to a more intensive, nonconforming use.
- b. *Re-establishment* If any nonconforming use of a structure ceases for any reason or is changed to a conforming use for a continuous period of more than one year, then any subsequent use must conform with all provisions of these regulations for the district in which it is located. A nonconforming use may be re-established or restored within one year from the time of discontinuance upon conditional use approval of the Zoning Board of Adjustment. Intent to resume a nonconforming use shall not confer the right to do so.
- c. *Enlarged or Rebuilt Structure* Structures housing a nonconforming use may be expanded, or reconstructed if destroyed, subject to all the provisions of these regulations. A nonconforming use may be continued in new or expanded structures, but it shall not be increased beyond its extent prior to reconstruction or expansion of the building.

2. *Nonconforming Structures*

- a. *Extension or Enlargement* Extensions or enlargements may be made to the complying portion of a nonconforming structure in accordance with all applicable requirements of this regulation. For example, one could extend to the sides and rear, but not the front, of a dwelling that does not meet the district's front-yard setback requirements from the road right-of-way.

- b. *Maintenance and Repair* 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 or create any new nonconformity with regards to the regulation pertaining to such structures.
- c. *Repair or Reconstruction* If any nonconforming structure is destroyed, repairs or reconstruction may be made to that structure provided that a zoning permit is applied for within one (1) year from the date of destruction and work is substantially completed within two (2) years. The repaired or reconstructed structure cannot increase the degree of noncompliance (e.g., the structure cannot encroach upon setbacks greater than it originally did prior to its destruction).

Section 407 Temporary Uses and Structures

A temporary permit may be issued by the Zoning Administrator for the temporary structures or uses listed below for a period of one (1) year, conditioned upon written agreement by the owner to remove the structure or use upon expiration of the permit. If the permitted activities have not been completed within this period, reapplication must be made for a new temporary zoning permit. The combined maximum duration for such a use shall not exceed two (2) years from the date of the original permit. The following temporary uses are permitted:

1. Nonconforming uses incidental to a construction project, such as a tool shed, construction office, etc. Such use shall meet all setback requirements for the district in which the use is located unless there are physical conditions or circumstances, such as size of the lot or extreme topography, which prevent compliance with district standards.
2. *Temporary, single-family residential dwellings as follows:*
 - a. *Emergency Rebuilding* A property owner whose primary dwelling has been destroyed by fire, floods, winds or other such natural causes, may site and occupy a temporary residential structure on his or her property for the time period identified above. Every effort shall be made by the property owner to comply with all zoning setback requirements; the Zoning Administrator may, however, permit the establishment of a temporary residential dwelling in cases where such setbacks cannot be reasonably met by the property owner.
 - b. *Construction of a New Home* The owner of a parcel of land who intends to construct a new primary dwelling upon that parcel, may site and occupy a temporary residential structure for the time period identified above, in a manner which complies with all setback requirements for the district in which the parcel of land is located.
 - c. *Occupancy of One Residential Structure Per Lot* Only one residential structure may be occupied at any given time on a lot. Once a destroyed dwelling has been reconstructed and re-occupied, or a new dwelling has been occupied, the property owner shall vacate and cease to utilize the temporary dwelling for residential purposes.
 - d. *Removal of Structure* Unless the temporary dwelling is converted into a complying accessory structure (such as a garage, shed, etc.) and a zoning permit is secured for its permanent use, the temporary dwelling shall be diligently removed by its owner from the premises once the permanent dwelling has been occupied. In no case shall the temporary dwelling be permitted to remain on the parcel of land identified in a and b above for a period of time exceeding the terms of the temporary permit, or two years, which ever is less. Noncompliance with this section constitutes a violation of this Regulation and is subject to the enforcement remedies and penalties provided by this Regulation and State law.
 - e. *Required Water and Wastewater Disposal Facilities* No temporary dwelling may be occupied without adequate potable water supply and proper hook-up to an onsite septic system which meets the requirements of the Halifax Health Ordinance.

Section 408 Landscaping Requirements

1. *Purpose* Under its Site Plan Review and Planned Unit Development authority, the appropriate municipal panel is responsible for assessing the adequacy of landscaping involved with site development. Properly planned and installed landscaping can reduce the potential for conflicts between different, adjoining land uses; it can also help to reduce noise, glare and can provide privacy and separation.
2. *Applicability* Landscaping, where required under these regulations, will be installed and maintained in front, side and rear yards and shall take the form of shade trees,, deciduous shrubs, evergreens, well-kept grassed areas, natural wooded areas, or ground covers. Plantings shall be of a type and size which serves to adequately buffer or screen uses, where needed, to serve the purposes outlined immediately above. In addition, plant materials shall, to the extent practicable, be of native plant species indigenous to the region in order to reinforce the “spirit of natural surroundings.”
3. *Standards* Requirements for landscaping shall, at a minimum, include those listed below. Additional landscaping may be required by the Appropriate Municipal Panel in order to fulfill the purpose established in this section.
 - a. Where any non-residential land use abuts a residential land use, a strip of land, at least twenty-five (25) feet in width shall be maintained as a landscaped area or natural wooded area, in the front yard, side yards and rear yard, unless waived by the Appropriate Municipal Panel.
 - b. Commercial and industrial uses shall provide for a strip of land at least twenty-five (25) feet in width which shall be maintained as a landscaped area or a natural wooded area in the front, side and rear yards, unless waived by the Appropriate Municipal Panel. Parking facilities may not be located within this landscaped buffer area.
 - c. In any Planned Unit Development, as required by the ZBA pursuant to Section 509 of this Regulation.

Section 409 Signs

Purpose It is the intent of this section of this Regulation to provide for the orderly signing of activities in the Town and to ensure visual compatibility with the scale and character of the surrounding area.

Applicability No sign shall be erected, enlarged, redesigned, repainted, or altered in any way (except for regular maintenance) without a sign permit issued by the Zoning Administrator, with the exception of those noted in Section 409.1 below. Permits shall be issued only for signs in conformance with this Regulation.

Applications shall be made on the sign permit application form, specifying legend, size, shape, colors, location, material, height, supporting structures, lighting and such other information as may be necessary to determine and provide for the enforcement of these regulations.

1. *Signs Not Requiring a Permit* The following signs do not require a sign permit when located on the immediate property, or when located off-premises as otherwise specifically stated; no sign shall be located such that they block sight lines at intersections or otherwise impede traffic safety:
 - a. Signs erected, maintained or administered by the Town, including official traffic control signs, or by the State of Vermont under Title 10 V.S.A., Chapter 21.
 - b. Unlighted residential directional signs bearing property numbers, post box numbers, names of occupants of premises or announcing a home occupation, each of which does not exceed 4 square feet in area and is located on the respective premises.

- c. Temporary signs advertising real estate for sale on which the sign is located; required zoning permit approvals; and election signs not exceeding six (6) square feet in area; and temporary painting/construction signs, not exceeding sixteen (16) square feet in area, advertising work being performed on the property on which the sign is located. All such signs must be removed within two weeks after completion of the sale, election, or work.
 - d. Small signs without advertising displayed for the direction, instruction or convenience of the public, including signs which identify restrooms, posted areas or the like, with a total surface area not exceeding four (4) square feet, and provided such signs are on the premises of the activity served by the sign.
 - e. Signs erected by fairs or expositions or signs announcing a garage sale, yard sale or auction, or an event of a civic, political (ie elections) or philanthropic service, or religious organization. These signs may be located on-premise or, with the permission of the landowner, off-premise. All such signs are to be removed within one week by the owner following the event.
 - f. Flags and insignia of any government.
 - g. Fuel pump signs bearing the name, type, and price of fuel advertised for sale on the premises.
 - h. Directional signs, with a total surface area not to exceed four (4) square feet providing directions to places of business within the Town of Halifax offering for sale agricultural products harvested or produced on the premises where the sale is taking place. These signs may be located on-premise or, with the permission of the landowner, off-premise.
2. *Signs Which Require a Permit* The following list represents the number and size of signs permitted for different land uses in Halifax. All signs identified below require a sign permit from the Zoning Administrator. These signs must be located on-premise and meet the minimum requirements outlined in Section 409.3 below.
- a. One professional sign per dwelling, not to exceed four (4) square feet in total area.
 - b. Up to two signs identifying a non-residential use or business establishment not to exceed 12 square feet in total combined area. If there is more than one non-residential use or business located on a lot, then one free-standing combined sign is allowed, in addition to one wall sign for each business or use.
 - c. Agricultural signs identifying agricultural uses or products including, but not limited to, dairy or vegetable farms, tree farms, orchards, and maple syrup operations, not to exceed sixteen (16) square feet in total area.
3. *Sign Standards* The following standards shall apply to all signs identified in Section 4409.2 above. These standards represent the minimum required under this Regulation.
- a. Signs shall not be located within the limits of a public highway right-of-way.
 - b. Signs located in the Village District shall be set back a minimum of two (2) feet from the edge of the public right-of-way and a minimum of ten (10) feet from all side and rear property lines.
 - c. Signs locate in the Rural Residential and Conservation Districts shall be set back a minimum of five (5) feet from the edge of a public right-of-way and a minimum of twenty-five (25) feet from all side and rear property lines.
 - d. Illuminated signs shall have only steady, shielded light sources directed from the top solely onto the sign (ie box lights) so that no direct light shines onto adjacent roadways or properties.
 - e. Signs shall not be illuminated between the hours of 10 pm and 7 am. Businesses operating during those hours may illuminate signs on their property related to their business only during the hours they are operating between 10 pm and 7 am.

- f. No sign which is attached to a building may be more than twenty-five (25) feet above the ground nor extend above the eaves of that part and side of the building to which the sign is attached.
4. *Signs Not Permitted* The following signs shall not be permitted in any district.
- a. Signs located within the limits of a public highway right-of-way; however, this limitation shall not apply to the signs referred to in Section 409.1.
 - b. Advertising billboards.
 - c. Roof signs.
 - d. Flashing, oscillating or revolving signs.
 - e. Freestanding signs in excess of ten (10) feet in height.
 - f. Signs, including their illumination, which impair public safety.
 - g. Portable signs (signs mounted on wheels, trailers or motor vehicles if those vehicles or wheeled signs are regularly located for fixed display).

Section 410 Offstreet Parking Standards

Off-street parking spaces shall be provided as set forth below. These represent the minimum standards required under this Regulation. The Appropriate Municipal Panel may allow fewer or require more parking spaces or a different parking circulation and layout based on a review of the site and proposed use under Site Plan Approval or PUD approval, as applicable. In general, a parking space shall be at least nine (9) feet by eighteen (18) feet, and parking space shall not be within the required landscaped area and must be behind the front, side, and rear yard setback line.

1. *Residential*
 - a. One-family, two-family and multiple family dwelling units: one parking space for every unit.
 - b. Professional residence/office: one parking space, plus one additional parking space for every three hundred square feet of office space.
 - c. Bed and Breakfast, Tourist Home: one space per rented bedroom or sleeping room, plus one space for the owner of the property.
 - d. Home Industry: two parking spaces per dwelling unit, plus one additional parking space for each nonresident employee.
2. *Residential Care Home or Group Facility* (with more than 8 residents): One space per employee on the largest work shift, plus one space for every three (3) bedrooms or sleeping rooms.
3. *Agricultural Uses* Agricultural uses shall provide adequate offstreet parking necessary to meet the needs and ensure the safety of all residents, visitors and farm operators.
4. *Public Assembly/Facility Uses* One space per three patrons to the maximum capacity, plus one space per employee on the largest work shift.
5. *Health Care Facility* Two spaces per three patient beds, plus one space per staff doctor and one space per two (2) other employees on the largest work shift.
6. *Recreational Uses* One space per four expected patrons at capacity, plus one space per employee on the largest work shift.
7. *Commercial or Office Uses, Except Those Specified Below* One space per two hundred fifty square feet of service, storage or office floor area, plus one space per motor vehicle used in the business and stored on site.

8. *Hotel, Motel, Lodge or Inn* One space per sleeping room, plus one space for every three employees on the largest work shift, plus one space per three persons to the maximum capacity of each public meeting and /or banquet room. In addition, accessory uses (e.g. bar, restaurant) must follow their respective standards.
9. I One space per two hundred fifty square feet of gross floor area, plus five (5) off-street waiting spaces per drive-thru lane, plus one (1) space per employee on the largest work shift.
10. *Restaurant, Bar and Lounge* One space per three patron seats or one space per one hundred square feet of gross floor area, whichever is greater, plus one space per employee on the largest work shift.
11. *Industrial Uses* One space per employee on the largest work shift, plus one space per company vehicle stored on the premises.

Section 411 Land Development in Wetland Areas

No Zoning Permit shall be granted for the development of a wetland prior to the expiration of a period of thirty (30) days following the submission of a report to the Agency of Natural Resources by the Zoning Administrator. The report shall describe the proposed use, the location requested and an evaluation of the effect of such proposed use on the Town Plan and on the Windham Regional Plan.

1. *National Wetlands Inventory Maps* Wetlands have been identified on the National Wetlands Inventory Maps which are available for review at the Halifax Town Clerk's Office. The location of all proposed land development must be reviewed by the Zoning Administrator relative to these maps, prior to the issuance of a Zoning Permit, in order to ensure full compliance with mandatory State wetland protection rules.
2. The provisions of the written determination issued as a result of Agency of Natural Resources review shall be conditions of the Zoning Permit.

Article 5 Special Regulations

The following uses have specific standards they must meet in order to be considered as a permitted or a conditionally permitted use in a designated district. If there is a conflict between a standard in this section and a standard in another section of this Regulation, the more restrictive standard shall apply.

Section 500 Automotive Service Station

In all districts where permitted, automobile service stations, with or without repair garages, shall comply with the following:

1. Pumps, lubricating and outdoor service devices shall be located at least fifty (50) feet from the front, side and rear lot lines.
2. All stored fuel and oil, including underground tanks, shall meet state fire codes.
3. All automobile parts and dismantled vehicles shall be stored within an enclosed building.
4. Landscaping requirements as set forth in Section 407 of this Regulation shall be met.
5. There shall be no more than two access driveways from the street; access driveways shall be clearly defined.

Section 501 Earth/Mineral Extraction

Where permitted by this Regulation, the extraction and processing of soil, sand, stone or gravel, except when incidental to construction of a building on the same premises, shall be permitted only after the Board of Adjustment finds, following Conditional Use Review, that the proposed activity meets the standards below in addition to any other applicable standards contained in this Regulation. The applicant for a Conditional Use Permit for earth/mineral extraction shall submit two copies of a proposed Site Restoration Plan along with all other required documents. In all districts where permitted, earth/mineral extraction operations shall comply with the following:

1. The operation shall conform to all General Performance Standards.
2. The operation will not cause an unreasonable burden on an existing water supply if one is to be used, nor have an adverse impact on the quality or quantity of neighboring water supplies.
3. The operation will not cause unreasonable soil erosion; it will not result in a reduction in the capacity of the land to hold water during and after the operation which creates a dangerous or unhealthy situation for adjoining property owners or downstream areas due to stream bank erosion, surface water runoff, or flooding.
4. It will not adversely impact any wetland area or stream bank, nor cause the sedimentation of streams.
5. It will not cause unreasonable highway congestion, unsafe conditions or excessive use with respect to highways and bridges existing or proposed in the area.

6. It will not have an undue adverse effect on the scenic or natural beauty of the area, other aesthetic values, historic sites, or rare and irreplaceable natural resources or areas.
7. It will not result in an embankment with a slope steeper than one foot vertical to two feet horizontal upon completion of an area of work.
8. It will provide, in the form of a Site Restoration Plan, for restoration of the area operation and site restoration process.
9. A performance bond, letter of credit, or equivalent surety shall be secured from the applicant sufficient to ensure that, upon completion of the extraction operations, the site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare, and in conformance with the Site Restoration Plan.
10. It will not undermine any adjacent road.
11. Adequate vegetative buffers or other screening shall be maintained at all times between the operation (including excavation, blasting, crushing and traffic access and circulation) and all roads and adjacent properties. The purpose of these buffer areas is to protect adjacent properties from excessive noise, dust, fumes and other adverse impacts.
12. Additional conditions may be imposed as deemed necessary. These conditions may include limitations on hours of operation and the number of truck trips, as well as required covering for loads leaving the site.

Section 502 Home Occupations and Home Industry

1. *Home Occupations* As per section 4412 of the Act, no regulation may infringe on the right of any resident to use a minor portion of a dwelling for an occupation that is customary in residential areas and does not have an adverse effect on the character of the area. No zoning permit is required for a home occupation, as defined below. There is no limit to the number of home occupations allowed per dwelling unit, as long as the total of all home occupations meet these requirements:
 - a. The home occupation shall be carried on by a member or members of the family residing within the dwelling.
 - b. The home occupation shall be carried on within a minor portion of the dwelling.
 - c. Only those exterior displays of signs permitted in the district are allowed.
 - d. Exterior storage of material is not permitted.
 - e. No traffic shall be generated in substantially greater volume than would normally be expected in the neighborhood.
 - f. Processed products or agricultural products not grown or processed on the premises may not be sold directly to the public. This limitation on sales does not apply to mail order.
2. *Home Industry* A home industry which is customarily conducted entirely within a dwelling or accessory structure, and carried on by the occupants thereof, and which is clearly incidental and secondary to the use of the property for residential purposes and does not change the character of the neighborhood is a permitted use in all districts. In addition, a use which is customarily conducted outside of a dwelling or accessory structure, such

as a cord wood operation, shall also be permitted as a home industry, so long as it is clearly incidental and secondary to the residential use of the property and does not change the character of the neighborhood. A home industry requires a zoning permit with a detailed plot plan to be reviewed by the Zoning Administrator. If the Zoning Administrator deems it advisable or necessary, the application will be forwarded to the Zoning Board of Adjustment for conditional use review and approval as detailed in Section 203(3). A home industry shall comply with the following:

- a. The home industry shall be carried on by members of the family who reside within the dwelling; two employees who are not family members living within the dwelling are permitted.
- b. The home industry shall be carried on within a minor portion (less than 50%) of the dwelling or within an accessory building such as a garage or barn.
- c. No traffic shall be generated in substantially greater volumes than would normally be expected in the neighborhood.
- e. A home industry shall conform to all General Performance Standards in Section 404.
- g. Off street parking shall be provided as required in Section 413.
- h Processed products or agricultural products not grown or processed on the premises may not be sold directly to the general public. This limitation does not apply to a mail order home industry.
- i. A permit for a home industry shall be personal to the occupant at that location only and shall not attach to the land.

Section 503 Light Industry

A light industry is hereby defined as a non-polluting operation that fabricates, processes, assembles, stores or otherwise produces small, light, high-value goods. Finished or semi-finished goods may be stored outdoors temporarily. A light industry may not occupy more than 6,000 square feet of area, including interior floor area and exterior storage. In all districts where permitted, light industry uses shall comply with the following:

1. It will emit no air, water or noise pollution as specified in Section 321 of this Regulation.
2. Vehicular delivery and shipment activity to and from light industry uses shall not cause unreasonable highway congestion or unsafe conditions for vehicular or pedestrian traffic on any public or private road. The total number of deliveries or shipments per day shall be limited to a level which ensures such safety and is appropriate to the existing conditions of and level of traffic on the road(s) on which the proposed light industrial use is located. At least one adequate off street loading area shall be provided.
3. The total number of employees permitted on the largest shift shall be limited to a level which ensures the safe movement of vehicular and pedestrian traffic on public and private roads and which is appropriate to the existing traffic conditions of the road(s) on which the proposed light industrial use is located.
4. The landscaping requirements of Section 407 shall be met.

Section 504 Child Care Homes and Residential and Group Homes

The following uses are permitted uses of a single-family residence under Section 4412 of the Act. These uses require a zoning permit.

1. *Child Care Home* A state registered or licensed family child care home serving 6 or fewer children full-time and 4 or fewer children part-time as defined in Title 33 subdivision 4902 (3)(a) of the Vermont Statutes, conducted within a single family dwelling shall be considered by right a permitted single family residential use of the property. A zoning permit shall not be issued until the applicant submits proof that the facility is properly registered by the Vermont Department of Social and Rehabilitative Services. A child care home serving more than six full time and four part-time children is a conditional use requiring a site plan approval and review by the ZBA.
2. *Residential and Group Homes* A state licensed or registered residential care home or group home, serving not more than 8 persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be considered if it is located within 1,000 feet of another. A zoning permit shall not be issued until the applicant submits proof that the facility is properly registered by the appropriate state agency. Such homes serving more than 8 persons are a conditional use requiring site plan approval and review by the ZBA.

Section 505 Ponds, Impoundments and Dams

The construction of a pond or other impoundments, and the damming of a stream constitutes development and therefore requires a Zoning Permit.

No Zoning Permit shall be issued by the Zoning Administrator until the applicant submits the following information:

1. Proof that all applicable State permits or approvals have been secured. Depending upon the size and nature of the impoundment, approvals may be required from various departments and authorities within the Agency of Environmental Conservation.
2. Certification from the applicant that the pond or impoundment will not have undue adverse impacts on upstream or downstream properties.

Section 506 Storage of Flammable Liquids

Storage of flammable liquids including, but not limited to, petroleum and toxic, corrosive or other chemical substances, and flammable or combustible liquids or gasses (other than bulk storage for commercial distribution) is permitted in any district, but will require a zoning permit if the storage capacity is over one thousand (1000) gallons in order to ensure that setback requirements are met.

No Zoning Permit shall be issued by the Zoning Administrator for the installation of an above ground or an underground storage tank until the applicant submits proof that all applicable state permits and approvals have been secured. Permits may include, but may not be limited to, those required by:

1. The Vermont Department of Environmental Conservation, Underground Storage Tank Program.
2. The Department of Labor and Industry.

Section 507 Bulk Storage of Fuel

Bulk storage of fuel in above-ground containers for subsequent resale to distributors, retail dealers or outlets is permitted in the Rural Residential District only after the Zoning Board of Adjustment finds, following Conditional Use Review, that the proposed activity meets the standards below in addition to any other applicable standards contained in this Regulation. Bulk fuel storage does not include the storage of cord wood.

1. A commercial fuel storage facility shall be located on an adequate road.
2. The design and operation of the commercial distribution facility shall comply with all requirements established by the 1989 Building and Fire Code of the State of Vermont, and subsequent amendments thereto, administered by the Vermont Department of Labor and Industry.
3. A permanent vegetated buffer at least seventy-five (75) feet in width shall be maintained along all side and rear property boundaries. Neither the facility nor its accessory uses, including parking and access areas, shall be located within this buffer area.
4. A suitably curbed landscaped area shall be maintained at least twenty-five (25) feet in depth along all road frontage not used as a driveway.
5. The facility shall be designed and operated in a manner which does not cause unreasonable congestion or unsafe conditions with respect to the use of state and local highways. Safety issues to be addressed shall include, but shall not be limited to: the design of points of access, adequacy of sight distances and approach grades in each direction from the site along highways, legal speed limits, proximity of the site to other public uses within the area (churches, schools, libraries, etc.), number of shipments and deliveries to and from the site, adequacy of circulation and turning, etc.

Section 508 Planned Unit Development (PUD)

In accordance with Section 4417 of the Act, and within specified districts, zoning regulations may be modified by the Planning Commission to allow Planned Unit Developments (PUD). Planned Unit Developments are defined as any combination of housing or housing and commercial development that is either a permitted or conditional use in the district where the project is located. Planned Unit Developments are provided in order to encourage the preservation of open space; preserve the natural and scenic aspects of an area, protect land for agricultural, forestry and natural resource use, allow more efficient use of public facilities; promote an improved level of amenities, creative design, and a more attractive environment; and provide greater opportunities for varied, attractive and affordable housing.

1. *General Application and Review Procedures*

- a. The initial notification of a PUD is submitted to the Zoning Administrator who notifies the Planning Commission. A notification and subsequent application may be filed in the names of the recorded owner or owners of property included in the development or a person or persons presenting evidence of an equitable or substantial contractual interest in the property, such as a lease or a binding agreement to purchase upon approval of development plans.

2. *Preapplication Conference*

- a. One or more preapplication conferences shall be held with the applicant, Planning Commission and interested municipal officials to exchange information and reach an understanding of the nature and scope of the proposal, municipal requirements, and quantitative data necessary for a preliminary application.
- b. The applicant shall submit to the Planning Commission sketch plans and basic site information including proposed land uses, adjacent land uses, proposed density, and the treatment of open space.
- c. The Planning Commission shall furnish the applicant with written comments and appropriate recommendations with respect to the pre-application conference.

3. *Preliminary Development Plan Application & Review* Applications shall be submitted to the Planning Commission in the form prescribed by the commission. In addition to the application fee, the Planning Commission may charge for costs associated with the hiring of an engineer, attorney, planner, or other professionals, to advise the Planning Commission in technical or legal matters associated with a development proposal. The PUD application shall include:

- a. A narrative statement by the applicant describing the character of the development and the reasons for the particular approach proposed.
- b. A development schedule indicating the approximate date when construction or phased development can be expected to begin and be completed.
- c. Quantitative data indicating the total number and type of dwelling units and non-residential uses, parcel size, proposed lot coverage of buildings and structures, approximate residential and non-residential densities, and amount of usable open space.
- d. Maps of existing site conditions, including contours at five (5) foot intervals, water courses, flood plains, agricultural lands, wetlands, unique natural features, and forest cover.
- e. Proposed lot lines.
- f. The location, ground coverage, floor area size and maximum heights of all existing and proposed buildings and structures, types of dwelling units, and density per type.
- g. The location and size of all land areas to be conveyed, dedicated or reserved as common open space, parks, recreational areas.
- h. The existing and proposed pedestrian and vehicular circulation systems, including offstreet parking areas, service areas, loading areas, and points of access to public rights-of-way.
- i. Existing and proposed utility systems.
- j. General landscaping and grading plans.
- k. The proposed treatment of the perimeter of the PUD, including materials and techniques used for buffers.

I. Any additional information required by the Planning Commission, as specified in the pre-application conference, to enable it to evaluate the character and impact of the proposed PUD.

4. *Final Development Plan Application and Review* Following approval of the preliminary development plan, the applicant shall submit a completed application for final approval to the Planning Commission at least fifteen days prior to a regular meeting. The application shall include all fees and specific information on all changes in, or modifications of, the approved preliminary application.

5. *Approval*

- a. The official submission date of the application shall be the next regular meeting of the Planning Commission provided the application is deemed complete by the Planning Commission at that meeting. Incomplete applications will be returned to the applicant.
- b. Within 30 days of the official submission date of a complete final development plan application, the Planning Commission shall hold the first of one or more public hearings after public notice.
- c. Within 45 days after the final public hearing the Planning Commission shall approve, modify and approve, or disapprove the PUD and shall specify any conditions to which the approval is subject, or reasons for disapproval. The applicant shall be notified by certified mail.
- d. Within 90 days of the Planning Commission's approval, the PUD plan, shall be filed or recorded by the developer in the office of the Town Clerk.

6. *Specific Standards and Criteria*

- a. *Coverage* Total ground area covered by buildings, structures and other impervious surfaces shall not exceed 40% of the total ground area within a PUD. An impervious surface is made of any material that reduces or prevents absorption of storm water into previously undeveloped land. Impervious surfaces include graveled or paved streets, roads, parking areas or driveways, as well as buildings and other man-made structures.
- b. *Density* Total allowable dwelling units or non-residential uses shall equal the number which could be permitted, in the Planning Commission's judgment, if the land were subdivided into lots in conformance with these zoning regulations for the district in which such land is situated. Land areas within public and private road rights-of-way and utility easements shall not be included in the calculation of density.
- c. *Reductions in Density* The Planning Commission may make reductions in the density allowed if, in their judgment, steepness of slope, shallow depth to bedrock, wet areas or other physical features limit the site's ability to support development. In exercising such judgment, the Planning Commission will be guided by the soils maps and analyses contained within the USDA Soil Survey of Windham County, Vermont. Land with a slope of 25% or more shall not be included in the calculation of density.
- d. *Useable Open Space* Useable open space, defined as land and area devoted to plantings (natural and landscaped), patios, walkways and recreational areas, and any land so determined by the Planning Commission is required and shall not be less than 40% of the total ground area of the property in a PUD. Useable open space shall be accessible and available for the individual and collective use and benefit of the occupants of the development and shall be of a nature described in Section 422d. In

calculating useable open space, the Planning Commission may determine that all or part of stream areas, bodies of water, wetlands, drainage easements, or slopes in excess of 25% may be included by considering: the extent of these areas in relation to the total area of the PUD and the degree to which these areas contribute to the quality, livability and amenity of the PUD.

- e. *Common Space* All common open space development rights must be conveyed either to the Town (with the Town's approval) or a funded trust, to the covenants or deeds of the individual property owners, or to a homeowners association. The terms of the conveyance must include provisions which guarantee: 1) the continued use of the land for the intended purposes, 2) the continuance of proper maintenance of the open space, and 3) the availability of funds for proper open space maintenance.
- f. *Privacy and Access* Dwelling units shall be assured reasonable visual and aural privacy and shall have access to a public street, walkway or other area dedicated to common use.
- g. *Parking* Parking shall be provided as required under Section 413 of this Regulation. Screening of parking and service areas is required by use of landscaping, walls or fences. Traffic circulation and flow shall be designed to minimize both large-scale parking areas and through-traffic to other parking areas. Lighting in parking areas shall not reflect further than in the area itself.
- h. *Phased Development.* The PUD shall be proposed in phases over a reasonable period of time in order that adequate municipal facilities and services can be provided. Each phase of the proposed development must contain the required parking spaces, landscaping, roads, and utility areas necessary for creating and sustaining a desirable and stable environment. The Planning Commission shall require the developer to secure a performance bond, letter of credit, or equivalent surety, for each phase, in an amount sufficient to secure the full completion of improvements. Improvements and amenities must be installed and completed for each phase prior to the issuance of a Zoning Permit for the commencement of construction of a subsequent phase, unless otherwise waived by the Planning Commission in writing.
- i. *Setbacks* The zoning district requirements for lot size, yard setback and frontage are waived for the PUD. However, structures located on the perimeter of the development must be set back at least to the requirement of the underlying district and must be screened in a manner approved by the Planning Commission.
- j. *Protection of Agricultural Land* Where a PUD involves agricultural land, the development should make provisions for the use of such land for agricultural purposes and/or for maintaining its open, scenic quality. Examples of such provisions include minimizing the land that is developed by impervious surfaces, placing the land in common/usable open space to facilitate leaseback for farming, and annual mowing of meadowland.
- k. *Protection of Important Natural Resources* All buildings, roads, parking areas, drainage systems and utilities shall be laid out to minimize, to the fullest extent possible, their impact on the scenic qualities of riverine areas, and on important natural resources including wetlands, tributary watercourses, and critical wildlife habitat and corridors.

Section 509 Cluster Housing

Cluster housing is allowed as an innovative land saving technique that protects agriculture, forest, and mineral resource lands from development. Any cluster housing development will be

approved at no higher density than that which could be permitted if the land consisted of separate lots conforming with regulations in the district, giving due consideration to conditions limiting development such as shallow soil, wetness and steep slope. No subsequent development of the remaining land in such a development will be allowed. A specific conditional use permit is required. The application standards and specific use standards detailed in Section 508 apply.

Section 510 Campgrounds

No person or persons shall construct or operate a campground for tents, travel trailers or recreational vehicles without first obtaining a zoning permit from the Zoning Administrator following Conditional Use review and approval from the ZBA.

1. *Specific Standards*

- a. The minimum parcel size necessary to receive approval for a campground is five acres.
- b. An individual access driveway and parking area, suitably surfaced, shall be provided for each campsite.
- c. Each site shall be at least 2,500 square feet in area. Each travel trailer and recreational vehicle site shall have a compacted gravel surface at least twenty-five (25) feet in width.
- d. Each site shall be located in a clean, dry and well-drained area.
- e. There shall be an undeveloped area of not less than 100 feet in depth between all camping sites and the traveled portion of any adjacent highway and other boundaries of the campground. These areas shall be landscaped with existing or planted trees or other plant material.
- f. Potable water and wastewater disposal systems are required and must be designed and installed in accordance with applicable municipal and state regulations, including the Vermont Environmental Protection Rules as most recently amended for campgrounds.
- g. All roads within the campground shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the utilization of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established.
- h. All campgrounds shall keep at least 25% of the total ground area for recreation or open space purposes.

2. *Exceptions* The following provisions apply to single travel trailers, recreational vehicles, and other mobile camping vehicles and are not subject to the above requirements for campgrounds; they must, however, meet the special requirements outlined below.

- a. The owner of a travel trailer, recreational vehicle, or other mobile camping vehicle may park it on his own property in the rear or side yards and no closer than six feet to any lot line. A travel trailer or recreational vehicle so parked shall not be used as living quarters and shall not be hooked up to any utilities. No zoning permit is required for this use.
- b. A property owner may park his own or another person's travel trailer, recreational vehicle, or other mobile camping vehicle on his property, and these may be used as temporary, seasonal living quarters by nonpaying occupants or guests. Any travel

trailer, recreational vehicle or other mobile camping vehicle so occupied shall: 1) meet all district setback requirements with respect to adjacent property boundaries, 2) adequately and safely control all wastes; and 3) secure a zoning permit if it remains on the lot for more than 30 days in a given year.

- c. Travel trailers, recreational vehicles, and other mobile camping vehicles shall not be used for permanent housing.

Article 6 Wireless Telecommunications Facilities

Section 600 Title

This bylaw shall be known as the Wireless Telecommunications Facilities Bylaw of the Town of Halifax. Telecommunications facilities shall include all telecommunications service providers and associated equipment and buildings.

Section 601 Purposes

The purpose of this bylaw is to protect the public health, safety and general welfare to the Town of Halifax while accommodating the communication needs of residents and businesses. This bylaw shall:

1. Preserve the character and appearance of the Town of Halifax while allowing adequate wireless telecommunications services to be developed.
2. Protect the scenic, historic, environmental, and natural resources of the Town of Halifax.
3. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of wireless telecommunications facilities and towers.
4. Minimize tower and antenna proliferation by requiring the sharing of existing communications facilities, towers and sites where possible and feasible.
5. Facilitate the provision of telecommunications services to the residences and businesses of the Town of Halifax.
6. Minimize the adverse visual effects of towers and other facilities through careful design and siting standards.
7. Encourage, through performance standards and incentives, the location of towers and antennas in non-residential areas and away from other sensitive areas including, but not limited to schools.

Section 602 Authority

Pursuant to 24 VSA 4401 et seq. the Planning Commission/Zoning Board of Adjustment of the Town of Halifax is authorized to review, approve, conditionally approve, and deny applications for wireless telecommunications facilities, including sketch, preliminary and final plans, and installation. Pursuant to 24 VSA 4407, the Board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for reasonable costs thereof.

Section 603 Consistency With Federal Law

In addition to other findings required by this bylaw, the Board shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. The bylaw does not: 1) prohibit or have the effect of prohibiting the provision of personal wireless services; 2) unreasonably discriminate among providers of functionally equivalent services; or 3) regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

Section 604 Permitted Locations

Wireless telecommunications towers or facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in the following districts: Village, Rural Residential and Conservation Districts.

Section 605 Prohibited Locations

Freestanding telecommunication towers or antennas over 20 feet in elevation may not be located in any of the following locations:

1. Within 300 feet of a State or Federally designated wetland.
2. Closer than the tower height plus zoning setbacks measured to the boundaries of the property on which the tower is located.
3. Closer than 500 feet horizontally to any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building.
4. Within 300 feet horizontally of any river or perennial stream.
5. Within 300 feet horizontally of any known archeological site.
6. Within 300 feet horizontally of a designated scenic road or highway.

Section 606 Small Scale Facilities

1. The placement of wireless telecommunications antennas, repeaters or microcells on existing buildings, structures, roofs, or walls and not extending more than 10 feet from the same, or the installations of ground facilities less than 20 feet in height may be approved by the Zoning Administrator, provided the antennas meet the applicable requirements of this bylaw, upon submission of:
 - a. A final site and building plan.
 - b. A report prepared by a qualified engineer indicating the structure's suitability for the telecommunications facility and that the method of affixing the antenna or other device to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.
 - c. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure. However, no such device may be located closer than 50 feet to an existing residence.

Section 607 Application Requirements for Wireless Telecommunications Facilities

Applications for a wireless telecommunications facility is made to the Zoning Administrator. An applicant for a permit not covered in Section 606 must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity when an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

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

2. In addition to information otherwise required in the town of Halifax's Zoning Bylaws, applications for wireless telecommunications towers or facilities shall include the following supplemental information:
 - a. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.
 - b. The name address and telephone number of the person or persons to be contacted and who are authorized to act in the event of an emergency regarding the structure or safety of the facility.
 - c. The names and addresses of the record owners of all abutting property.
 - d. A report from a qualified Vermont professional engineer that:
 - i. Describes the facility height, design and elevation. (Licensed structural engineer)
 - ii. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas. (Radio Frequency Engineer)
 - iii. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate. (Structural Engineer)
 - iv. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures within 5 miles of the proposed site cannot reasonably provide adequate capacity to the Town of Halifax. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable.
 - v. Demonstrates that the applicant has analyzed the feasibility of using "repeaters" or micro-cells in conjunction with all facility sites to provide coverage to the intended service area.
 - vi. Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.
 - vii. Describes output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
 - viii. Includes a written explanation for use of the proposed facilities, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.
 - ix. Demonstrates the tower's compliance with the municipality's structural standard and setbacks for towers and support structures.
 - x. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio-frequency exposure. The Planning Commission/Zoning Board of Adjustment may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.
 - xi. Includes other information required by the Board that is necessary to evaluate the request. Includes a licensed Vermont structural engineer's stamp and registration number, where appropriate.

- xii. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use, including provisions of this bylaw.
 - e. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Zoning Administrator at the time an application is submitted).
 - f. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
 - g. A copy of the application or draft application for an Act 250 permit, if applicable. The permit shall be signed under the pains and penalties of perjury.
3. Site Plan Requirements for Wireless Telecommunication Facilities
- In addition to site plan requirements found elsewhere in the Town of Halifax's Zoning Bylaws, site plans for wireless telecommunications facilities shall include the following supplemental information:
- a. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed facility site.
 - b. Vicinity Map showing the entire vicinity within a 2500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed facility site parcel and all easements or rights-of-way needed for access from a public way to the facility.
 - c. Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.
 - d. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
 - e. Computer generated photo simulations of the proposed facility showing the facility from all public rights-of-way and any adjacent property from which it may be visible. Each photo must be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
 - f. In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
 - g. Construction sequence and time schedule for completion of each phase of the entire project.

Section 608 Collocation Requirements

Collocation is defined as locating wireless communications equipment from more than one provider on a single site. An application for a new wireless telecommunications facility shall not be approved unless the Planning Commission/Zoning Board of Adjustment finds that the facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

1. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.

2. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost.
3. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create excessive radio-frequency exposure.
4. Existing structure is too far from the area of needed coverage to function reasonably as documented by a qualified engineer.
5. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
6. There is no existing or approved tower in the area in which coverage is sought.
7. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
8. Towers must be designed structurally and in all other respects to accommodate both the applicant's antennas and antennas for the Town of Halifax's public safety agencies, and to allow for future placement of additional antennas upon the tower when overall permitted height allows.

Section 609 Access Roads and Above Ground Facilities

Where the construction of a new wireless telecommunications tower and facilities requires construction of, or improvement to, access roads, such roads shall follow the contour of the land, to the extent practicable, and be constructed or improved within forest or forest fringe areas, not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area. The Town may require access to be restricted to wireless facility personnel.

Section 610 Tower and Antenna Design Requirements

Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for its intended use and public safety.

1. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color. There shall be minimum disruption of existing vegetation. Materials used for the exterior of any structure shall be of a type, color, and location so as to minimize glare and the impact on any scenic or historic areas, public vantage points or abutting properties.
2. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the Planning Commission/Zoning Board of Adjustment that the additional height is necessary in order to provide adequate coverage in the Town of Halifax or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

3. Towers, antennas and any necessary support structures shall be designed to avoid having an undue adverse impact on prominent ridgelines and hilltops. In determining whether a tower's aesthetic impact would be undue and adverse, the Board will consider:
 - a. The period of time during which the proposed tower would be viewed by the traveling public on a public highway.
 - b. The frequency of the view experienced by the traveling public.
 - c. The degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures.
 - d. Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous.
 - e. The distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline.
 - f. The sensitivity or unique value of a particular view affected by the proposed tower.
 - g. Significant disruption of a viewshed that provides context to a historic or scenic resource.

The Board shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. Furthermore, the Board may suggest an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impact. In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's communication objectives.

4. All buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Board) shall meet the minimum setback requirements of the underlying zoning district. If the minimum setbacks of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum distance from the tower to any property line shall be no less than the height of the tower, including antennas and other vertical appurtenances plus zoning setbacks.
5. Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

Section 611 Tower Lighting and Signage; Noise Generated by Facility

Unless required by the Federal Aviation Administration, (FAA) no lighting of towers is permitted. In the case where a tower is determined to need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted by the applicant. Heights may be reduced to eliminate the need for lighting or another location selected.

No commercial signs or lettering shall be placed on a tower.

The Board may impose conditions to minimize the effect of noise from the operation of machinery or equipment upon adjacent properties.

Section 612 Amendments to Existing Permit

An alteration or addition to a previously approved wireless telecommunications facility shall require a permit amendment when any of the following are proposed:

1. Change in the number of buildings or facilities permitted on the site.
2. Addition or change of any equipment resulting in greater visibility or structural windloading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

Section 613 Temporary Wireless Communication Facilities

Any wireless telecommunications facility designed for temporary use is subject to the following:

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

Section 614 Continuing Obligations

Upon receiving a permit, the permittee shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding radio frequency exposure, and provide the basis for his or her representations. [Submission of measurements assumes that they were necessary to demonstrate compliance. Most compliance can be established by other means.]

Section 615 Facility Removal

Abandoned or unused towers or non-compliant towers or facilities governed under this bylaw shall be removed as follows:

1. The owner of a facility/tower shall annually, on January 15, file a declaration with the Town of Halifax's Zoning Administrator certifying the continuing safe operation of every facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and considered abandoned.
2. Abandoned or unused towers and associated facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the Planning Commission/Zoning Board of Adjustment. In the event the tower or facility is not removed within 180 days of the cessation of operations at a site, the municipality shall notify the owner and may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
3. Towers and facilities which are constructed in violation of permit conditions or application representations shall be removed within 180 days of cessation of operations at the site unless a time extension or negotiated solution is approved by the Planning Commission/Zoning Board of Adjustment. In the event the tower or facility is not removed within 180 days of notification of such violation, the municipality may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.

4. An owner who has failed to file an annual declaration with the Zoning Administrator by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.
5. The applicant shall, as a condition of the conditional use permit, provide the Town of Halifax with a financial surety bond, from an AM Best “A” rated company, acceptable to the Planning Commission/Zoning Board of Adjustment, to cover the cost of the removal of the facility and remediation of the landscape should the above clauses be invoked.

Section 616 Maintenance of Telecommunications Facilities

The Applicant shall maintain all facilities. Such maintenance shall include, but not be limited to painting, structural integrity and landscaping. In the event the applicant fails to maintain the facility, the Town of Halifax may undertake such maintenance at the expense of the applicant or landowner.

Section 617 Insurance Requirements

The applicant shall submit to the Planning Commission/Zoning Board of Adjustment, proof of appropriate liability insurance with respect to the proposed facilities prior to construction.

Section 618 Fees

A fee for filing an application to build or alter a wireless telecommunications facility shall be as established by the Halifax Planning Commission/Zoning Board of Adjustment. Additional fees may include the reasonable costs of an independent technical assessment of the application that may be incurred during the review and permitting process.

Section 619 Enforcing Agent

The Zoning Administrator shall be the agent to enforce the provisions of this bylaw.

Section 620 Severability

If any portion of this bylaw is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this bylaw shall not be affected.

Section 622 Glossary of Telecommunications Terms

Adequate Capacity Capacity for wireless telephony is considered to be “adequate” if the grade of service (GOS) is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may offer in either the land line or radio portions of a wireless network, Adequate Capacity must be determined prior to the installation of the personal wireless services facility in question, Adequate Capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

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

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

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

Applicant A person who applies for a telecommunications facility siting. An applicant may be the telecommunications service provider with the owner’s written permission (or other legally designated representative) or the owner of the property.

Cellular Service A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones. A cell site contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with an ancillary to cellular communications transmission.

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

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

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

Monitoring The measurement, by the use of instruments in the field, of radio frequency exposure from telecommunications facilities, towers, antennas or repeaters.

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

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

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

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

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

Spectrum Relating to any transmissions or reception of electromagnetic waves.

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

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

Temporary Wireless Communication Facility Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference.

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

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

where base zone heights must be limited in order to protect the view.

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

Article 7 Definitions

Except where specifically defined herein, all words used in this Regulation shall carry their customary meanings. Words used in the present tense shall include the future; the singular includes the plural; the word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged or designed to be used or occupied"; "person" includes individual, partnership, association, cooperative, corporation, company, organization or any governmental body.

Accessory Use or Structure A use or structure customarily incidental and subordinate to the principle use or building and located on the same lot, and clearly related to the principle use or structure.

Agricultural Use The use of land for raising livestock, agricultural, or forest product, including farm structures and the storage of agricultural products raised on the property. Agricultural uses include, but are not limited to, production of crops, vegetables and eggs; raising of cattle, sheep, fowl and similar animals; dairying; orchards; and maple syrup products.

Alteration Structural changes, rearrangement, change of location, or addition to a building.

Automotive Service Station Land or structures used for the sale of petroleum products, motor fuel, oil or other fuel for the propulsion of motor vehicles, which may include facilities for lubrication, washing or servicing motor vehicles. A service station is not a sales or repair agency for any type of motor vehicle.

Bed and Breakfast The renting out of not more than ten (10) rooms in a residential dwelling to transient guests on a day-to-day basis, whereby breakfast is served to those guests. Bed and breakfast facilities shall be operated under a license issued by the Department of Labor and Industry or the Department of Health. Cooking facilities shall not be provided in individual guest rooms.

Boarding House (Rooming House): A dwelling in which lodging is provided by the owner or operator to more than three (3) unrelated people for profit. Boarding houses are distinguished from Motels/Hotels by the sharing of bathrooms, living rooms and/or kitchens.

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

Building Height The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and of the average height between eaves and ridge for other types of roofs.

Camp or Campground Land on which is located a cabin, travel trailer, recreational vehicle, shelter, houseboat or other recreation accommodation for, recreational, seasonal or temporary living, excluding mobile homes. Camp- a single structure as defined above that must meet all standards for residential development in the district. Campground -- any development of more than one camp structure on a single lot, parcel or water area. Includes tent camping facility.

Commercial Animals Animals housed and boarded for a fee, or rented out or sold for profit (e.g., riding and boarding stables). This definition excludes the raising and selling of small animals, such as tropical fish, hamsters, etc., for hobby or home occupation purposes.

Conditional Use A use permitted in a particular zoning district only upon a finding by the Zoning Board of Adjustment that such use in a specified location will comply with the conditions and standards for the location or operation of such use as specified in this Regulation.

Coverage That portion of a lot that is covered by buildings, structures and man-made improvements on the ground surface, such as paving, that prevent the absorption of storm water.

Development The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of any structure; any mining, excavation, landfill or the construction of ponds or other impoundments, and any change in use or extension of the use of land or structures. The following are not included in the definition of development: a) the removal of interior walls of a structure; b) the installation or replacement of windows or doors; and other alterations that would not enlarge a structure, encroach on any setback or other dimensional requirements, or be likely to change the use of a structure; c) constructing one building or structure per parcel 100 square feet in area or less; and d) landscaping or excavation or filling incidental and accessory to a lawful use of the land. Activities a through d above must comply with all setback and other provisions of these regulations. For definition in Special Flood Hazard Area see Article 8, §810.

Dwelling Unit A building or portion thereof connected together containing cooking, sanitary and sleeping facilities that constitute a separate, independent housekeeping establishment. It shall include prefabricated modular units and mobile homes but shall not include a motel, hotel, boarding house, tourist home, shelter or similar structure.

Family One or more persons occupying a single dwelling unit and living as a single household unit.

Forestry The developing, caring for or cultivating of forests, or the management and harvesting of timber.

Frontage Distance along the established division line between a lot and a public right of way. The provisions of Section 401 of this Regulation apply for development purposes.

Garage, Repair Any building, premises and/or land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

Garden/Farm Supply or Nursery A retail business or commercial activity concerned with the sale of tools, small equipment, plants and related goods used in gardening or farming. Related goods are defined as only those used on the plant or in its soil to preserve the life and health of the plants sold (e.g., fungicides, peat moss and mulches).

Health Care Facility A facility or institution, whether private or public, principally engaged in providing services for health maintenance and for the diagnosis and treatment of human ailments, that has equipment and facilities for extensive testing and provisions for extended periods of 24-hour care by full-time certified medical staff.

Interested Person For the purpose of appeals regarding decisions of the Zoning Administrator, as defined in 24 VSA § 4465(b), an interested person is: 1) a person owning title to a property or a municipality or solid waste management district affected by a bylaw who alleges that the bylaw imposes unreasonable or inappropriate restrictions on present or potential uses in the particular circumstances of the case, 2) the municipality that has a plan or bylaw at issue in

an appeal or any adjoining municipality, 3) a person owning or occupying property in the immediate neighborhood of a property subject to any decision under this chapter who can demonstrate a physical or environmental impact on their interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of the municipality, 4) any ten combination of property owners or voters within the municipality who, by signed petition allege that any relief granted under appeal will not be in accord with the policies, purposes or terms of the plan or bylaw of the municipality. The petition must designate one person to serve as the representative of the petitioners in all matters related to the appeal, 5) the Vermont agency of commerce and community development or any department and administrative subdivision of the state of Vermont owning property or any interest in property in the municipality.

Inn A residential dwelling in design and previous use, now used for commercial purposes wherein the patronage is of a transitory nature, the guests being entertained from day to day. Such use must include food service for guests within the structure and may include a restaurant with or without a lounge.

Kennel An establishment in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for profit on a regular basis. No kennel, runway, or exercise pen shall be located within 300 feet of any lot line.

Lot A parcel of land, with or without structures, that conforms to all the requirements of the zoning district in which it is situated. Such lot shall have frontage on an improved public street, or other means of approved access. In no case shall the division or combination of land

result in the creation of a parcel which does not meet the requirements of this Regulation.

Mini-Storage A one-story structure containing separate storage spaces of varying sizes leased or rented on an individual basis for the enclosed storage of such items including, but not limited to, inactive business records, household goods, recreation vehicles, and antique cars, and excluding the storage of hazardous, toxic, explosive or otherwise dangerous materials. Spaces shall not be used for any retail, assembly, or manufacturing uses, or as a music rehearsal hall.

Motel/Hotel A building containing rooms which are rented as a series of sleeping units for transients, each sleeping unit consisting of at least a bedroom and a bathroom, wherein the patronage is of a transitory nature, the guests being entertained from day to day as opposed to having an express contract at a certain rate for a certain length of time, such as a boarding house.

Nonconforming Use or Structure Use or a structure which does not currently conform to all applicable zoning regulations, but did comply with all applicable laws, ordinances or regulations prior to enactment of this regulation.

Nonconforming Lot A lot, the area, dimensions or location of which was lawful under prior zoning regulations, but which fails to conform to the present requirements of the zoning district.

Office A room or group of rooms used for conducting the affairs of a single business, profession, service, industry, charitable organization, studio or governmental agency.

Personal Service Includes a barbershop, hairdresser, beauty parlor, shoe repair store, laundry, laundromat, dry cleaner, travel agency, upholsterer, caterer, funeral services or other

business providing similar services of a personal nature.

Public Utility Facility Structures used by regulated utilities in the generation, distribution or collection of their products, including but not limited to electrical generating and transforming substations; satellite dish or antenna receivers and senders; water pumping facilities; gas tanks; and similar mechanisms. Poles, cables, pipes, mains and exchange boxes occupying no more than fifteen (15) square feet are not included.

Recreation Indoor Includes an indoor bowling alley, theater, table tennis facility, pool hall, skating rink, gymnasium, swimming pool or similar place of indoor recreation.

Recreation Outdoor Includes a trap, skeet, shooting range and/or archery range, golf course, swimming pool, amusement park, outdoor concert area, tennis court, skiing facility, campground or similar place of outdoor recreation. Limited Outdoor Recreation includes such facilities as trap, skeet, shooting range and/or archery range, and cross-country skiing centers, hiking, picnicking, campgrounds and other similar, low-intensity recreational uses.

Resource Industry An activity involved in the primary processing of agricultural or forestry products, including saw mills, but excluding those activities identified in the definition of Agricultural Use. Includes earth and mineral extraction.

Restaurant (With or without Lounge): A structure for public eating in which the primary business is the preparation and serving of food for consumption on the premises.

Retail Use A personal service shop, department store or shop or store for the retail sale of goods, excluding any freestanding retail stand.

Road Line The dividing line between a lot and a road, as determined by deed, record or survey. Where the width of the road is not clearly established, the road line shall be considered 25 feet from the center line of the traveled portion of the road.

Sign: Any structure, device or representation used to advertise or attract attention to any object, person, institution, organization, business, product, service, event or location by any means.

Sign Area Includes the advertising surface and any framing, trim or molding, but not the supporting structure. For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any background of a different color than the finish material of the building. When a sign has two or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two feet from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

Structure Anything constructed or erected for occupancy or use, including but not limited to a building, mobile home, trailer, satellite dish antennae, inground swimming pool, or sign. Structure does not include retaining walls, fences, poles or lamp posts.

Substantial Improvement Repair, reconstruction or improvement, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure or item either (a) before the change or repair is started, or (b) if damage has occurred and is being restored, before the damage occurred. Substantial improvement covers substantial change.

Trailer A vehicle capable of being used as a seasonal sleeping or living quarters, not exceeding three hundred (300) square feet in floor area, whether self-propelled or towed, or a camper body mounted on a motor vehicle. Trailer shall also include any vehicle that may be towed or used for carrying goods, equipment, machinery or recreation vehicles, or as a site office.

Water Body Any natural or artificial collection of water, including ponds, lakes, reservoirs, etc., but excluding swimming pools.

Water Course Any natural or artificial stream, river, or waterway in which water flows continuously in a definite direction or course, and has a definite channel, bed and banks.

Wildlife Refuge An area set aside for the conservation of plants, animals and general environment within it. These are noncommercial areas usually without any structures on them. A single parking area and walking trails are characteristic of a wildlife refuge.

Yard Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

Yard, Front A space extending across the full width of the lot between any buildings and the road or front line, and measured perpendicular to the building at the closest point to the street or front line.

Yard, Rear A space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

Yard, Side A space extending from the front yard to the rear yard between the principal building and the side lot line, and measured perpendicular to the building to the closest point to the side lot line. enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

Article 8 Flood Hazard Area Regulations

Section 800. Statutory Authorization and Effect

In accordance with 10 VSA Chapter 32, and 24 VSA Chapter 117 §4411, §4414 and §4424, there is hereby established a bylaw for areas at risk of flood damage in the Town of Halifax, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

Section 801. Statement of Purpose

It is the purpose of this bylaw to:

- A. Implement the goals, policies, and recommendations in the current municipal plan;
- B. Avoid and minimize 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;
- C. Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor;
- D. Manage the flood hazard area designated pursuant to 10 VSA Chapter 32 §753, the municipal hazard mitigation plan; and make the Town of Halifax, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

Section 802. Other Provisions

A. Precedence of Bylaw

The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

B. Validity and Severability

If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

C. Warning of Disclaimer of Liability

This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood damages. This regulation shall not create liability on the part of the Town of Halifax, or any municipal official or employee thereof, for any flood damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

Section 803. Lands to Which these Regulations Apply

A. Regulated Flood Hazard Areas

These regulations shall apply to the Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 VSA Chapter 32 §753, which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.

B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits *have not* been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

Section 804. Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood.

#	Activity	Hazard Zone	
		Special Flood Hazard Area	Floodway
	P Permitted C Conditional Use Review X Prohibited A Exempted		
1	New Structures	X	X
2	Storage	X	X
3	Improvements to Existing Structures	P, C	C
4	Small Accessory Structures	P	X
5	At Grade Parking	P	C
6	Replacement water supply or septic systems	C	C
8	Fill as needed to elevate existing structures	C	C
9	Fill	X	X
12	Grading	C	C
13	Road maintenance	A	A
14	Road improvements	C	C
15	Bridges and culverts	C	C
16	Channel management	C	C
17	Recreational vehicles	P	P
18	Open space, recreation	A	A
19	Forestry	A	A
20	Agriculture	A	A

Section 805. Development Review in Hazard Areas

A. Permit

A permit is required from the Zoning Administrator for all development in all areas defined in §803 of this bylaw. Development that requires conditional use approval, non-conforming use approval, or a variance from the Zoning Board of Adjustment (ZBA) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in §805 and §806 of this bylaw. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

B. Permitted Development

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard Area where outside of the Floodway, and meeting the Development Standards in Section 806, require only an administrative permit from the ZA:

1. Non-substantial improvements;
2. Accessory structures;
3. Development related to on-site septic or water supply systems;
4. Building utilities;
5. At-grade parking for existing buildings; and,
6. Recreational vehicles.

C. Prohibited Development in Special Flood Hazard Area

1. New residential or non-residential structures (including the placement of manufactured homes);
2. Storage or junk yards;
3. New fill except as necessary to elevate structures above the base flood elevation;
4. Accessory structures in the floodway;
5. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
6. All development not exempted, permitted, or conditionally permitted.

D. Conditional Use Review

Conditional use review and approval by the ZBA, is required prior to the issuance of a permit by the ZA for the following proposed development:

1. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
2. New or replacement storage tanks for existing structures;
3. Improvements to existing structures in the floodway;
4. Grading, excavation; or the creation of a pond;
5. Improvements to existing roads;
6. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
7. Public utilities;

E. Exempted Activities

The following are exempt from regulation under this bylaw:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the ZBA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

F. Variances

Variances may be granted in writing by the ZBA only in accordance with all the criteria in 24 VSA Chapter 117 §4469 and §4424 (E), and 44 CFR §60.6, after a public hearing noticed as described in §807 of this bylaw.

Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

G. Nonconforming Structures and Uses

The ZBA may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in §806 of this bylaw;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and
4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

Section 806. Development Standards – The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

A. Special Flood Hazard Area

1. *All development* shall be:
 - a. Reasonably safe from flooding;
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - c. Constructed with materials resistant to flood damage;
 - d. Constructed by methods and practices that minimize flood damage;
 - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - f. Adequately drained to reduce exposure to flood hazards;
 - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1 – A30 *where base flood elevations and/or floodway limits have not been determined*, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
3. *Structures to be substantially improved* in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;
4. *Non-residential structures to be substantially improved* shall:
 - a. Meet the standards in §806 A 3; or,
 - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a

registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

5. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.
6. *Fully enclosed areas that are above grade*, below the lowest floor, below BFE and subject to flooding, shall
 - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. *Recreational vehicles* must be fully licensed and ready for highway use;
8. A *small accessory* structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in §806 A 6 (above).
- 9.. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
11. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
12. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
13. *Bridges and culverts*, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.

- 14 *Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.*
15. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.*

B. Floodway Areas

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
 - a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

Section 807. Administration

A. Application Submission Requirements

1. Applications for development shall include:
 - a. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
 - b. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin;

B. Referrals

1. Upon receipt of a complete application for a substantial improvement or new construction the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 VSA Chapter 117 §4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.

C. Records

The Zoning Administrator shall properly file and maintain a record of:

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

Section 808. Certificate of Occupancy

In accordance with 24 VSA Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of occupancy is issued therefore by the Zoning Administrator, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in conformance with the zoning permit and

associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy can not be issued, notice will be sent to the owner and copied to the lender.

Section 809. Enforcement and Penalties

A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA Chapter 59 §1974a, and Chapter 117 §4451, and §4452. A copy of the notice of violation will be mailed to the State NFIP Coordinator.

B. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to §1316 of the National Flood Insurance Act of 1968, as amended.

C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 VSA Chapter 215 §4812.

Section 810. Definitions

“Accessory Structure” means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

“Area of Special Flood Hazard” is synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

“Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the “100-year flood”).

“Base Flood Elevation” (BFE) is the elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

“BFE” see Base Flood Elevation

“Common plan of development” is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

“Critical facilities” - include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

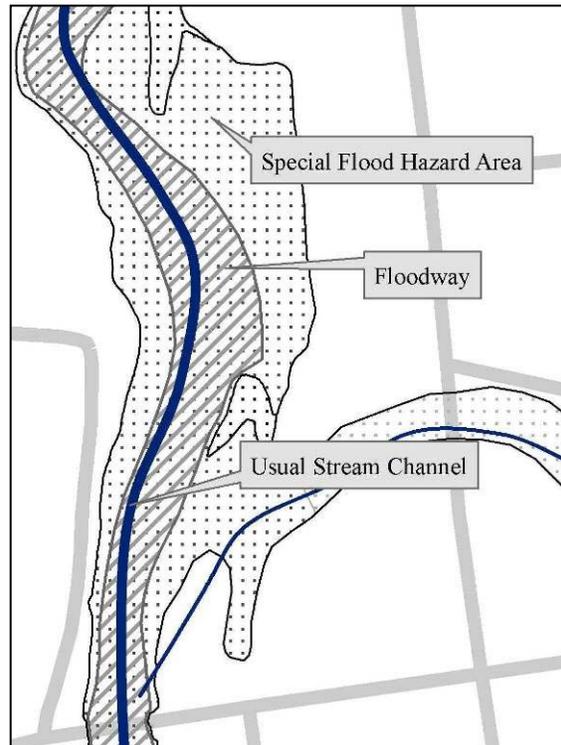
“Development” means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Fill” means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

“FIRM” see Flood Insurance Rate Map

“Flood” means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

“Flood Insurance Rate Map” (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).



“Flood Insurance Study” means an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flood”).

“Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on separate map panels.

“Floodway, Regulatory in Town of Halifax” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

“Historic structure” means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

“Letter of Map Amendment (LOMA)” is a letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor

provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR §60.3.

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

“New construction” for regulation under this bylaw, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

“Non-residential” includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

“Recreational vehicle” means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Special Flood Hazard Area” is the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

“Start of construction” for purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing,

piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

“Structure” means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

“Violation” means the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3 is presumed to be in violation until such time as that documentation is provided.