

# TOWN OF LEICESTER ZONING BYLAWS

PC Hearing and Approval: January 31, 2005  
Selectboard Hearing: February 21, 2005  
Selectboard Adoption: February 21, 2005

# TABLE OF CONTENTS

<u>ARTICLE I: ENACTMENT, REPEAL OF FORMER ZONING BYLAWS, AMENDMENTS AND DEFINITIONS</u> .....	5
Section 110: <u>ENACTMENT</u> .....	5
Section 120: <u>PURPOSE</u> .....	5
Section 130: <u>REPEAL OF FORMER ZONING BYLAWS</u> .....	5
Section 140: <u>EFFECTIVE DATE</u> .....	5
Section 150: <u>SEPARABILITY</u> .....	5
Section 160: <u>AMENDMENTS</u> .....	5
Section 170: <u>INTERPRETATION</u> .....	5
Section 180: <u>FEES</u> .....	6
Section 190: <u>DEFINITIONS</u> .....	6
<u>ARTICLE II: ZONING DISTRICTS</u> .....	13
Section 210: <u>ESTABLISHMENT OF ZONING DISTRICTS</u> .....	13
Section 220: <u>ZONING MAP</u> .....	13
Section 230: <u>INTERPRETATION OF ZONING DISTRICTS</u> .....	14
Section 240: <u>VILLAGE DISTRICT</u> .....	14
Section 250: <u>RESIDENTIAL AGRICULTURAL DISTRICT</u> .....	15
Section 260: <u>RESIDENTIAL AGRICULTURAL COMMERCIAL DISTRICT</u> .....	16
Section 270: <u>LAKE DISTRICT</u> .....	17
Section 280: <u>INDUSTRIAL DISTRICT</u> .....	19
Section 290: <u>CONSERVATION DISTRICT</u> .....	20
<u>ARTICLE III: ADMINISTRATION AND ENFORCEMENT</u> .....	21
Section 300: <u>APPLICATION OF REGULATIONS</u> .....	21
Section 310: <u>ZONING PERMIT</u> .....	21
Section 311: <u>PERMIT APPLICATION</u> .....	21
Section 312: <u>ZONING ADMINISTRATOR ACTION ON PERMIT APPLICATION</u> .....	21
Section 313: <u>EFFECT OF ISSUANCE OF ZONING PERMIT</u> .....	22
Section 314: <u>POSTING OF PERMIT</u> .....	22
Section 320: <u>ZONING ADMINISTRATOR</u> .....	22
Section 330: <u>CERTIFICATE OF COMPLIANCE</u> .....	22
Section 340: <u>ZONING BOARD OF ADJUSTMENT</u> .....	23
Section 341: <u>PUBLIC NOTICE AND ZONING BOARD OF ADJUSTMENT REVIEW PROCEDURE</u> .....	23
Section 350: <u>CONDITIONAL USES</u> .....	25
Section 351: <u>GENERAL STANDARDS</u> .....	26
Section 352: <u>SPECIFIC STANDARDS</u> .....	26
Section 360: <u>APPEALS, VARIANCES, AND WAIVERS</u> .....	26
Section 361: <u>APPEALS</u> .....	27
Section 362: <u>VARIANCES</u> .....	27
Section 363: <u>WAIVERS</u> .....	28
Section 370: <u>PENALTIES</u> .....	28
Section 380: <u>APPEALS FROM DECISIONS OF THE ZBA TO ENVIRONMENTAL COURT</u> .....	28
<u>ARTICLE IV/V: SPECIAL USES</u> .....	29
Section 400: <u>EXEMPTION FROM PERMIT</u> .....	29
Section 410: <u>NON-CONFORMING USES AND STRUCTURES</u> .....	30
Section 420: <u>CONSTRUCTION APPROVED PRIOR TO AMENDMENT REGULATIONS</u> .....	30
Section 430: <u>OUTDOOR RECREATION</u> .....	30
Section 440: <u>QUARRY</u> .....	31
Section 450: <u>SAWMILL</u> .....	32
Section 460: <u>PUBLIC STABLE</u> .....	32
Section 470: <u>EXPLORATION OR EXTRACTION OF OIL OR GAS</u> .....	32
Section 480: <u>SWIMMING POOLS</u> .....	32
Section 490: <u>PUBLIC UTILITY SUBSTATIONS</u> .....	32
Section 500: <u>GASOLINE OR MOTOR VEHICLE SERVICE STATIONS</u> .....	33
Section 510: <u>MOBILE HOMES</u> .....	33
Section 520: <u>MOBILE HOME PARKS</u> .....	33

Section 530:	<u>CAMPGROUNDS</u> .....	33
Section 540:	<u>CAMPGROUND STANDARDS</u> .....	34
Section 550:	<u>ROADSIDE STANDS AND TAG SALES</u> .....	34
Section 560:	<u>FILLING OF LAND</u> .....	35
Section 570:	<u>SOLAR AND WIND ENERGY SYSTEMS</u> .....	35
Section 580:	<u>TELECOMMUNICATIONS FACILITIES</u> .....	35
ARTICLE VI:	<u>GENERAL REGULATIONS</u> .....	36
Section 610:	<u>EXISTING SMALL LOTS</u> .....	36
Section 611:	<u>REQUIRED FRONTAGE ON, OR ACCESS TO, STREETS OR PUBLIC WATER</u> .....	36
Section 612:	<u>PROTECTION OF HOME OCCUPATIONS</u> .....	36
Section 613:	<u>REQUIREMENTS FOR SEWAGE SYSTEM</u> .....	37
Section 614:	<u>LOTS IN TWO ZONING DISTRICTS</u> .....	37
Section 615:	<u>TWO DWELLINGS ON LOTS</u> .....	37
Section 616:	<u>REDUCTION OF LOT AREA</u> .....	37
Section 617:	<u>REQUIRED AREA OR YARDS</u> .....	37
Section 618:	<u>YARDS ON CORNER LOTS</u> .....	37
Section 619:	<u>PLANNED UNIT DEVELOPMENT</u> .....	37
Section 620:	<u>WATER-FRONT LOTS IN RESIDENTIAL DISTRICTS</u> .....	39
Section 621:	<u>ACCESS PERMIT AND DRIVEWAY STANDARDS</u> .....	40
Section 622:	<u>TEMPORARY USES AND STRUCTURES</u> .....	40
Section 623:	<u>ABANDONMENT OF STRUCTURES</u> .....	40
Section 624:	<u>CAMPER</u> .....	41
Section 625:	<u>OBSTRUCTION OF VISION</u> .....	41
Section 626:	<u>HEIGHT EXCEPTIONS</u> .....	41
Section 627:	<u>HEIGHT EXCEPTIONS BY SPECIAL PERMIT</u> .....	41
Section 631:	<u>OFF STREET PARKING SPACE REQUIREMENTS</u> .....	41
Section 632:	<u>OFF STREET LOADING SPACE REQUIREMENTS</u> .....	41
Section 633:	<u>SPECIAL PARKING AND LOADING SPACE REQUIREMENTS</u> .....	42
Section 634:	<u>SIGNS</u> .....	42
Section 635:	<u>ADVERTISING BILLBOARDS</u> .....	42
Section 636:	<u>SIGNS IN THE RA, LAKE AND CON DISTRICTS</u> .....	42
Section 637:	<u>SIGNS IN THE RAC, VL AND IND DISTRICTS</u> .....	42
Section 638:	<u>COMPUTATION OF PERMISSIBLE SIGN AREA</u> .....	43
Section 639:	<u>SIGNS-TRAFFIC, HAZARD, SAFETY AND OBSTRUCTION</u> .....	43
Section 640:	<u>ILLUMINATED AND FLASHING SIGNS</u> .....	43
Section 641:	<u>PERFORMANCE STANDARDS</u> .....	43
Section 642:	<u>SPECIAL PUBLIC USE EXCEPTIONS</u> .....	45
ARTICLE VII:	<u>FLOOD HAZARD AREA REGULATIONS (For Emergency Program)</u> .....	45
Section 710:	<u>STATUTORY AUTHORIZATION</u> .....	45
Section 711:	<u>PURPOSE</u> .....	45
Section 712:	<u>AREAS TO WHICH THESE REGULATIONS APPLY</u> .....	45
Section 713:	<u>INTERPRETATION OF DISTRICT BOUNDARIES</u> .....	46
Section 714:	<u>PERMITTED USES</u> .....	46
Section 715:	<u>CONDITIONAL USES</u> .....	46
Section 716:	<u>PERMIT REQUIREMENTS AND APPLICATION PROCEDURES</u> .....	46
Section 717:	<u>RECORDS</u> .....	47
Section 718:	<u>CONDITIONAL USE REVIEW PROCEDURES</u> .....	47
Section 719:	<u>CONSIDERATIONS BY THE BOARD OF ADJUSTMENT</u> .....	48
Section 720:	<u>CONDITIONS ATTACHED TO CONDITIONAL USE APPROVAL</u> .....	49
Section 721:	<u>TIME FOR ACTING ON APPLICATION</u> .....	51
Section 722:	<u>ISSUANCE AND TRANSMISSION OF PERMITS</u> .....	51
Section 723:	<u>EFFECTIVE DATE</u> .....	51
Section 724:	<u>APPEALS</u> .....	51
Section 725:	<u>VARIANCES</u> .....	51
Section 726:	<u>FEES</u> .....	51
Section 727:	<u>DISCLAIMER OF LIABILITY</u> .....	52
Section 728:	<u>PRECEDENCE OF REGULATIONS</u> .....	52

[Section 729:](#) [ANNUAL REPORT TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY](#) .....52  
[Section 730:](#) [DEFINITIONS](#) .....52

**A municipal planning grant from the Agency of Commerce and Community Development made funding for the revision of these regulations possible.**

# **ARTICLE I: ENACTMENT, REPEAL OF FORMER ZONING BYLAWS, AMENDMENTS AND DEFINITIONS**

## **Section 110: ENACTMENT**

In accordance with the Vermont Planning and Development Act, hereinafter referred to as the "Act", 24 V.S.A., Chapter 117, Subchapter 6, Sections 4401, 4402 and 4403, there are hereby established Zoning Regulations for the Town of Leicester which are set forth in the text and map that constitute these regulations. These regulations shall be known and cited as the "Town of Leicester Zoning Regulations". It is the intent of these Zoning Regulations to provide for orderly community growth and to further the purposes established in the Act, Section 4302.

## **Section 120: PURPOSE**

The purpose of this ordinance is to promote appropriate and orderly development in a manner implementing the Town Plan and purposes as set forth in 24 V.S.A. § 4302 that will promote public health and safety, to promote prosperity and comfort with the least possible amount of infringement on property rights.

## **Section 130: REPEAL OF FORMER ZONING BYLAWS**

The previous Zoning Regulations of the Town of Leicester are hereby repealed and replaced by these regulations as of the effective date of these regulations. Otherwise, except as specifically

provided to the contrary, these regulations will not repeal, annul or in any way impair any regulations or permits previously adopted or issued. Where these regulations impose a greater restriction upon use of a structure or land than required by any statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of these regulations shall control.

## **Section 140: EFFECTIVE DATE**

These regulations shall be effective immediately upon their adoption in accordance with the procedural requirements contained in 24 V.S.A. § 4442 of the Act.

## **Section 150: SEPARABILITY**

The invalidity of any article or section of these regulations shall not invalidate any other article or section thereof.

## **Section 160: AMENDMENTS**

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

## **Section 170: INTERPRETATION**

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of public health, safety, comfort, convenience and general welfare.

Except for Section 4413 of the Act and where these regulations specifically provide to the contrary, these regulations will not repeal, annul or in any way impair any regulations or permits previously adopted or issued.

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

**Section 180: FEES**

The fee for zoning permits or any other permit required by these regulations shall be established by the Board of Selectmen with the intention of covering the operating costs of administering these regulations.

**Section 190: DEFINITIONS**

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and singular includes the plural; the word "lot" includes "plot", 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, corporation, company or organization; and the word "street" is synonymous with "roadway". Doubt as to the precise meaning of any word used in these regulations shall be clarified by the Zoning Board of Adjustment.

**ABUTTING LANDOWNER:** The owner of record of a parcel of land or interest therein if that land:

1. Shares a boundary with the tract of land where a proposed or actual development or subdivision is located; or
2. Is adjacent to a tract of land where a proposed or actual

development or subdivision is located and the two properties are separated only by a river, stream, street or other public or private right-of-way.

**ACCESSORY DWELLING UNIT:** A dwelling unit located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

1. The property has sufficient wastewater capacity to satisfy state regulations.
2. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
3. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

**ACCESSORY USE OR BUILDING:** A use or building customarily incidental and subordinate to the principle use or building, located on the same lot, and not containing independent living quarters.

**AGRICULTURAL USE:** Land area of at least two acres, which is used for agricultural purposes. The term "agricultural purposes" shall mean agriculture, farming, dairying, pasturing, silvicultural and animal and poultry husbandry. The term "agricultural purposes" shall not include the slaughtering of animals or poultry for

commercial purposes that are not grown or raised on premises.

**ALTERATION:** Structural changes, change of square foot area, rearrangement, change of location, or addition to a building, other than repair and modification of building equipment.

**BASEMENT:** Basements are an area of a structure located at least partly underground. Basements will generally not be counted as a "story" so long as the vertical distance between the basement ceiling and the average grade level of the adjoining ground is not more than six feet.

**BED & BREAKFAST:** An inn or motel with less than ten guest rooms serving a transient traveling population.

**BOARDING HOUSE:** A building wherein more than four people are provided shelter and food for profit. Does not include motor lodge.

**BUILDING:** Structure having a roof supported by poles or walls and intended for the shelter or enclosure of persons, animals or chattel.

**BUILDING COVERAGE:** The building area of any lot shall constitute the footprint of the largest story of the principal building and of all accessory buildings. Uncovered porches, terraces and steps shall not be used to calculate the building area. All dimensions shall be measured between the exterior dimensions.

Any solar collection device or related apparatus not included as floor plans of a building is not included. All dimensions shall be measured between exterior face walls.

**BUILDING FRONT LINE:** Line parallel to the street line transecting that point in the building face that is closest to the street line. This face includes any carport, porch, terrace, deck and steps. Where a lot fronts on public waters but not a public roadway "mean water line" shall replace "street line" in this definition.

**BUILDING HEIGHT:** Vertical distance measured from the average elevation of the proposed finished grade of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

**BUILDING REAR:** Line parallel to the street line transecting that point in the building face that is furthest from the street line. This face includes any carport, porch, terrace, deck and steps. When a lot fronts on public waters but not on a street, "mean water line" shall replace "street line" in this definition.

**CAMP/SEASONAL HOME:** One cabin, mobile home, camper, shelter or other accommodation for limited use as seasonal or temporary living unit for a total of 6 months in any calendar year.

**CAMPER:** Any motorized or unmotorized vehicle mounted on wheels and used as sleeping, camping or living quarters, eight feet in width or less. This includes a camper body mounted on a truck and excludes mobile homes.

**CAMPGROUND:** Any tract or parcel of land occupied by two or more campers, tents or tent sites for vacation or recreational purposes.

**CHANGE OF USE:** A change of use constitutes a change of use or function

of a primary structure and will require a permit.

**COMMERCIAL STRUCTURE:** A structure used for commercial purposes.

**COMMERCIAL USE:** The provision of facilities, goods or services by a person to others in exchange for payment.

**COMMUNITY CENTER:** Any public or private meeting hall, government facility, place of assembly, museum, art gallery, library, school, church or other similar type of establishment which is not operated primarily for profit.

**CONTRACTOR'S YARD:** An area used for the long- or short-term storage of equipment or materials used in the construction service industries.

**CONDITIONAL USE:** A conditional use constitutes a use that may be permitted by the Zoning Board of Adjustment only after public notice, public hearing and approval by the Zoning Board of Adjustment finding that the proposed use conforms to general and specific standards.

**DECK:** An unenclosed structure without walls or a roof. Decks must not be more than 100 square feet and meet all setback requirements to be exempt from permitting under these regulations.

**DWELLING UNIT:** A building or part thereof used as living quarters for one family. The terms "dwelling", "one family dwelling", "two family dwelling", "dwelling ground" shall not include a motel, hotel, bed and breakfast, tourist home or similar structure.

**DWELLING, ONE FAMILY:** A building, including accessory buildings, used as living quarters by one family.

**DWELLING, TWO FAMILY:** A building, including accessory buildings, used as living quarters by two families living independently of each other.

**DWELLING, MULTIPLE FAMILY:** A building, including accessory buildings, used as living quarters by three or more families living independently of each other.

**EXCAVATION:** Substantially changing the contour of the land or extraction of sand, soil or gravel or other natural resources.

**FAMILY:** One or more persons living on the same premises as a single housekeeping unit.

**FENCE:** Structure or vegetation used primarily for enclosure or screening up to 6' in height without a permit. Permit required if in excess of 6' in height.

**FINISHED GRADE:** Completed surfaces of ground, lawn, walks, paved areas and roadways brought to grade as shown on plans relating thereto.

**FLOOR AREA:** Sum of the gross horizontal area of floors of a building, excluding basement floor areas. All dimensions shall be measured between interior faces of walls.

**FRONT YARD SETBACK:** Consists of the depth of the front yard (distance from building front line to street line) plus the distance from the street line to the centerline of the existing street. Where a lot front on public waters but not on a street, the front yard setback

shall consist only of the depth of the front yard (building front line to mean water line).

**GASOLINE OR MOTOR VEHICLE SERVICE STATION:** Any lot or area of land, including the building or buildings thereon, which is used for the sale of any motor vehicle fuel or lubricant, or which has commercial facilities for lubricating, washing, painting, repairing or servicing motor vehicles.

**HEALTH CARE FACILITY:** Any residential facility for the diagnosis or treatment of human ailments, including but not limited to hospital, sanitarium, nursing home, and convalescent home.

**HEAVY INDUSTRY:** The processing, assembly, distribution or packing of natural or man-made products, including the extraction of earth resources, where such an activity results in adverse off site effects on air quality, water quality, noise or vibration level, odor or glare, as determined by the Zoning Board of Adjustment after notice and hearing; or employs more than 20 employees for any consecutive four months during a calendar year, or occupies more than 20,000 square feet of floor and outdoor storage area in the aggregate.

**HOME OCCUPATION:** Activities conducted within a dwelling or accessory building by the residents thereof, which is clearly secondary to the dwelling's use as living quarters and does not change the character thereof.

**INTERESTED PERSON:** A person owning or occupying real property in the immediate neighborhood of a parcel of land that is the subject of any decision or act taken under this chapter, who can

demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. Please see 24 V.S.A., §4465 for a more complete definition.

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

**LIGHT INDUSTRY:** The processing, assembly, distribution, or packaging of natural or man made products where such activity results in no adverse off site effects on air quality, water quality, noise or vibration level, odor or glare, as determined by the Board of Adjustment; and employs no more than 20 employees for any consecutive four months during a calendar year, and occupies less than 20,000 square feet of floor and outdoor storage areas in the aggregate.

**LOADING SPACE:** Off street space, which is at least twelve feet wide, forty feet long, and fourteen feet high, not including access driveway, and having direct access to a street or alley, used for the temporary location of one licensed motor vehicle.

**LOT:** Land and premises, with or without buildings, having not less than the minimum area, width, depth and space required for a lot in the district in which such land is situated, and having

frontage on a street or public water, or other means of access as may be required elsewhere in these bylaws.

**LOT AREA:** Total area of a lot, not including any land lying within the boundaries of a street, or proposed street.

**LOT, CORNER:** Lot which has an interior angle of less than 135 degrees at the intersection of two streets.

**LOT COVERAGE:** That percentage of the lot area covered by the building area.

**LOT DEPTH:** The distance from the centerline of the traveled street to the rear of the lot measured at right angles to the centerline of the traveled street.

**LOT FRONTAGE:** Distance measured across the width of the lot at the street, or in absence of a street, the public waters.

**LOT LINES:** Property lines bounding a lot.

**LOT WIDTH:** Width measured at right angles to lot depth, at the proposed or existing building front line.

**MARINA:** Building or land for the rental, sales, provisioning, or other boat related services.

**MOBILE HOME:** A structure, transportable in one or more sections, greater than eight feet in width, which is built to be used with a permanent poured concrete foundation not less than 3 ½” in depth with at least six tie downs when connected to the required utilities. It does not include recreational vehicles or travel trailers.

**MOBILE HOME PARK:** Any parcel of land under single or common ownership or control which contains or is designed, laid out, or adapted to accommodate, two or more mobile homes.

**MOTOR LODGE:** A building or group of buildings in which the majority of the rooms are used for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals. Does not include boarding lodge.

**NON-CONFORMING STRUCTURE:** A structure or part of a structure that does not conform with the Zoning Regulations for the district in which it is located, but which was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator.

**NON-CONFORMING USE:** The use of land or structures which does not comply with all Zoning Regulations for the district in which it is located, but which did conform to all applicable laws, ordinances and regulations prior to enactment of these regulations including a use improperly authorized as a result of error by the Zoning Administrator.

**OIL AND GAS ACTIVITIES:** Oil and gas exploration and extraction, and any land development incidental thereto.

**PARKING SPACE:** Off street space used for the temporary location of one licensed motor vehicle, such space being at least nine feet wide and twenty-two feet long not including access driveway, and having direct access to a street or alley.

**PERMITTED USE:** A use specifically allowed in the district, by right or previously allowed as non-conforming uses.

**PERSON:** An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

**PERSONAL SERVICES:** Barbers, beauty parlor, shoe repair, Laundromat, dry cleaner, photographic studio, and other businesses providing similar personal services, except for medical services.

**PLANNED UNIT DEVELOPMENT: (PUD)** One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

**PRIVATE CLUB:** Building or use catering exclusively to club members and their guests for recreational purposes and not operated primarily for profit.

**PROFESSIONAL OFFICE:** Professional office including architect, accountant, dentist, doctor, lawyer, engineer, psychologist, or other similar occupation.

**SAND, SOIL AND GRAVEL EXTRACTION OR QUARRYING:**

Marble, granite, or other stone, sand, soil and gravel extraction operations and any land development incidental thereto. Sand, soil and gravel extraction or quarrying includes the enlargement of any existing sand, soil, and gravel extraction or quarrying excavations.

**RECREATION, INDOOR:** Bowling alley, theater, table tennis, pool table, arcade, skating rink, gymnasium, swimming pool, hobby workshop, or other similar places of indoor recreation.

**RECREATION, OUTDOOR:** Golf course, hunting preserve, skating rink, riding stable, park, beach, tennis court, swimming pool, skiing facility, playground, ball field, or other similar places of outdoor recreation.

**RESIDENTIAL USE:** All uses of buildings for one family, two family and multiple family dwellings and home occupational uses.

**RESTAURANT:** A public eating establishment in which the primary function is the preparation and servicing of food, whether inside or outside the principle structure.

**RETAIL STORE:** Includes enclosed restaurant, café, shop and store for the sale of retail goods and services and shall exclude any drive-up service, free standing retail stand, gasoline service and motor vehicle service, new and used car sales and service, trailer and mobile home sales and service ATV sales and service.

**RETIREMENT FACILITY:** An establishment providing residential care for persons who by reason of age wish to have such care provided for themselves, but who do not need

continuous medical or nursing treatment.

**SANITARY LANDFILL:** Land used for the disposal by abandonment, dumping, burial, burning or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discard machinery, vehicles or parts thereof, or waste material of any kind.

**SERVICE AREA:** A designated space used for waste storage or pickup, utility areas, or for the delivery of goods and services to any building or land use.

**SIDE YARD SETBACK:** Consists of the depth of the side yard measured from a property line to the side of the building most closely parallel to that property line.

**SIGN:** Any device, structure, building, or part thereof, for the visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

**SIGN, ADVERTISING OR BILLBOARD:** Sign which directs attention to a business, industry, profession, service, commodity, or entertainment conducted, sold or offered elsewhere than upon the same lot on which it is displayed.

**SIGN, BUSINESS:** Sign which directs attention to a business, industry, profession, service, commodity, or entertainment sold or offered upon the same lot on which it is displayed, including real estate signs.

**SINGLE FAMILY RESIDENCE:** A single-family dwelling used or improved to be used on a full-time year-round basis.

**SOLAR COLLECTOR:** A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.

**SOLAR ENERGY SYSTEM:** A complete design or assembly consisting of solar energy collector, an energy storage facility, where used, and components for the distribution or transformed energy to the extent they cannot be used jointly with a conventional energy system. Passive solar energy systems, those that use natural or architectural components to collect and store solar energy without using external mechanical power, are included in this definition.

**STORY:** That portion of a building included between a floor and the floor or roof next above it.

**STREET:** Public way for vehicular traffic, which affords the principle means of access to abutting properties. Streets shall include state highways, Class 1, 2 and 3 town highways and public roads in private ownership serving more than three residences.

**STREET LINE:** Right of way line of a street as dedicated by a deed or record. Where the width of the street is not established, the street line shall be considered to be thirty feet from the centerline of the street.

**STRUCTURE:** An assembly of materials for occupancy or use, including a building, mobile home or trailer, sign, wall, or fence.

**SUBSURFACE SEWAGE DISPOSAL SYSTEM:** A septic tank and leach field or leach pit used to treat and dispose of sewage into the ground.

**TELECOMMUNICATIONS**

**FACILITY:** A tower or other support structure, including antennae, that will extend 20 or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

**TRAILER:** Any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery or boats, or is used as an office.

**VETERINARY CLINIC/ANIMAL HOSPITAL:** A building or premises for the medical or surgical treatment of domestic animals or pets, including dogs and cats.

**WAREHOUSE:** A structure or part of a structure for storing goods, wares and merchandise. A warehouse may include a wholesale establishment, discount house, bulk storage and bulk sales outlet.

**WIND ENERGY CONVERSION SYSTEM:** A device that converts wind energy to mechanical or electrical energy.

**YARD:** Space on a lot not occupied with a building or structure.

**YARD, FRONT:** Yard between the street line and the front line of a building. Where a lot fronts on public waters but not on a street, "mean water

line" shall replace "street line" in this definition.

**YARD, REAR:** Yard between the rear lot line and the rear line of a building.

**YARD, SIDE:** Yard between the principle building or accessory building and a side lot line.

## **ARTICLE II: ZONING DISTRICTS**

### **Section 210: ESTABLISHMENT OF ZONING DISTRICTS**

Leicester is hereby divided into the following zoning districts as shown on the Town Zoning Map:

1. VL: Village District
2. RA: Residential-Agricultural District
3. RAC: Residential-Agricultural-Commercial District
4. L1: Lake District
5. L2: Lake District
6. IND: Industrial District
7. CON: Conservation District
8. FL: Floodplain District

### **Section 220: ZONING MAP**

The location and boundaries of Zoning Districts are established as shown on the Zoning Map. The Zoning Map is hereby made a part of these regulations, and a part of all future amendments to these regulations. Where discrepancies exist between this language and the official Zoning Map, created by the Addison County Regional Planning Commission, and adopted by the Selectboard with these regulations and located in the

Town of Leicester offices, the Zoning Map shall govern. Maps attached to these regulations are non-official reproductions included for convenience only and should not be relied on for official purposes.

**Section 230: INTERPRETATION OF ZONING DISTRICTS**

If uncertainty exists with respect to the boundary of any zoning district on the Zoning map, the Planning Commission shall determine the location of such boundary.

**Section 240: VILLAGE DISTRICT**

**A. Objectives and Guidelines**

The smallest of Leicester's land use districts, the Village District is located in the geographic center of Leicester. This district is intended to preserve the character of the town as well as its historic value. The boundaries of this district are as follows:

Using the intersection of Route 7 as a center point:

- a. from the center point of 585 feet south
- b. from the center point of 725 feet north
- c. from the center point of 1047 feet east
- d. from the center point of 704 feet west

**B. Permitted Uses**

In the Village District the following are permitted, or permitted as conditional uses, unless prohibited by the flood hazard area regulations of Article VII, other provisions of

these bylaws, or state or federal regulations:

Permitted:

- 1. Forestry
- 2. Agriculture
- 3. One-family dwelling
- 4. Home occupation
- 5. Professional office
- 6. Boarding house
- 7. Enclosed storage
- 8. Accessory use or building
- 9. Bed & Breakfast
- 10. Day care under 6 fulltime students

Permitted as conditional uses:

- 1. Two-family or multiple family dwelling
- 2. Indoor or outdoor recreation
- 3. Motor lodge
- 4. Parking lot
- 5. Commercial use
- 6. Light industry
- 7. Community center
- 8. Private club
- 9. Health care facility
- 10. Personal service
- 11. Retirement facility
- 12. Veterinary clinic/animal hospital
- 13. Gasoline or motor vehicle service station
- 14. Retail store
- 15. Restaurant
- 16. Drive-up service
- 17. New and used car sales and service
- 18. Trailer and mobile home sales and service
- 19. ATV sales and service
- 20. Non-exempt free standing retail stand
- 21. Daycare over 6 fulltime students

The above permitted and conditional uses shall be subject to the standards set forth in Section 240(C) below and

elsewhere, if applicable, in these bylaws.

C. Specific Regulations

- Lot area minimum 2 acres
- Lot frontage minimum 100 feet
- Lot depth minimum 200 feet
- Front yard setback minimum
  - Adjacent to Route 7 95 feet
  - Adjacent to all other
- Roadways & rights of way 75 feet
  - Side yard minimum 25 feet
- Rear yard minimum 50 feet
- Building height maximum
  - The lesser of two stories or 35 feet, except as specified in Sections 626 and 627 of these regulations.

**Section 250: RESIDENTIAL AGRICULTURAL DISTRICT**

A. Objectives and Guidelines

The largest of Leicester's land use districts, the RA district encompasses much of the land in the Town that is suitable for development, primarily residential and agricultural in type. Consequently, residential and agricultural uses are permitted. As the Town wishes to promote orderly growth while avoiding "urban sprawl" characteristics, particularly along Route 7, delay the withdrawal of family farms from agricultural uses, and yet promote employment opportunities for its citizens, commercial, light and heavy industrial uses are permitted as conditional uses. Variation in soil conditions and slope limitations support a minimum of two acres.

B. Permitted uses:

In the RA District the following are permitted, or permitted as conditional

uses, unless prohibited by the flood hazard area regulations of Article VII, other provisions of these bylaws, or state or federal regulations:

Permitted:

1. Forestry
2. Agriculture
3. One-family dwelling
4. Home occupation
5. Professional office
6. Boarding house
7. Enclosed storage
8. Accessory use or building Bed & breakfast
9. Day care under 6 fulltime students

Permitted as conditional uses:

1. Two-family or multiple family dwelling
2. Indoor or outdoor recreation
3. Motor lodge
4. Parking lot
5. Commercial use
6. Light industry
7. Heavy industry
8. Quarry
9. Extraction of soil, sand or gravel
10. Camps
11. Sawmill
12. Community center
13. Private club
14. Health care facility
15. Personal service
16. Retirement facility
17. Veterinary clinic/animal hospital
18. Gasoline or motor vehicle service station
19. Retail store
20. Restaurant
21. Public stable
22. Exploration or extraction of oil or gas
23. Mobile home park
24. Campground
25. Wind energy conversion system

- 26. New and used car sales and service
- 27. Drive-up service
- 28. Trailer sales and service
- 29. ATV sales and service
- 30. Free standing retail stand
- 31. Trailer and mobile home sales and service
- 32. Daycare over 6 fulltime students

The above permitted and conditional uses shall be subject to the standards set forth in Section 250 (C) below and elsewhere, if applicable, in these bylaws. Any proposed industrial or commercial uses in this district should require landscaping and a buffer zone.

**C. Specific Regulations**

- Lot area minimum 2 acres
- Lot frontage minimum 200 feet
- Lot depth minimum 200 feet
- Front yard setback minimum
- Adjacent to Route 7 95 feet
- Adjacent to all other roadways & rights of way 75 feet
- Side yard minimum 40 feet
- Rear yard minimum 50 feet
- Building height maximum  
The lesser of two stories or 35 feet, except as specified in Sections 626 and 627 of these regulations.

**Section 260: RESIDENTIAL AGRICULTURAL COMMERCIAL DISTRICT**

**B. Objective and Guidelines**

This district consists mainly of land along Route 7 and the Swinington Hill Road. It is intended as a multiple use district, with the highest priority for residential and agricultural uses. As the Town wishes to promote orderly growth while avoiding "urban sprawl"

characteristics, particularly along Route 7, delay the withdrawal of family farms from agricultural uses, and yet promote employment opportunities for its citizens, commercial, light and heavy industrial uses are permitted as conditional uses.

**C. Permitted Uses:**

In the RAC District the following are permitted, or permitted as conditional uses, unless prohibited by the flood hazard area regulations of Article VII, other provisions of these bylaws, or state or federal regulations:

**Permitted:**

- 1. Forestry
- 2. Agriculture
- 3. One-family dwelling
- 4. Home occupation
- 5. Professional office
- 6. Boarding house
- 7. Enclosed storage
- 8. Accessory use or building
- 9. Bed & breakfast
- 10. Day care under 6 fulltime students.

**Permitted as conditional uses:**

- 1. Two-family or multiple family dwelling
- 2. Indoor or outdoor recreation
- 3. Motor lodge
- 4. Parking lot
- 2. Commercial use
- 3. Light industry
- 4. Quarry
- 5. Extraction of soil, sand or gravel
- 6. Camps
- 7. Sawmill
- 8. Community center
- 9. Private club
- 10. Health care facility
- 11. Personal service

12. Retirement facility
13. Veterinary clinic/animal hospital
14. Gasoline or motor vehicle service station
15. Retail store
16. Restaurant
17. Public stable
18. Exploration or extraction of oil or gas
19. Mobile home park
20. Campground
21. Wind energy conversion system
22. Drive-up service
23. Free standing retail stand
24. New and used car sales and service
25. Trailer and mobile home sales and service
26. ATV sales and service
27. Daycare over 6 fulltime students

The lesser of two stories or 35 feet, except as specified in Sections 626 and 627 of these regulations.

**Section 270: LAKE DISTRICT**

- D. A. Objectives and Guidelines
- The Lake District around Lake Dunmore and Fern Lake is already developed almost to the saturation point. The land is in great demand for seasonal and year round residences and other recreational uses. Strict control, especially of second tier and further back development, is essential to preserve the delicate balance between the present good health of the lakes and potential deterioration. Any more overcrowding could destroy them as assets to the Town with an attendant loss of taxes. Some conditional use permits may be approved for small businesses that enhance the recreational value of the lakes. The district around Lake Dunmore and Fern Lake are divided into two areas:
- a. L1: For one hundred and fifty feet from mean water level of either lake medium density residential development is permitted.
  - b. L2: The area from one hundred and fifty feet to two thousand five hundred feet from mean water level of either lake is steep and rocky in some areas and is intended to be limited to development to prevent saturation of the soil with sewage run off into the lakes and thereby to preserve their present healthy condition as recreation areas. It is also intended to prevent overcrowding of the recreational facilities on and around the lake and to avoid congesting the roadways. Consequently, low-density

The above permitted and conditional uses shall be subject to the standards set forth in Section 260 (C) below and elsewhere, if applicable, in these bylaws. Any proposed industrial or commercial uses in this district should require landscaping and a buffer zone. Lot depth maximum for commercial and industrial will be measured from the center of Route 7.

C. Specific Regulations

- Lots are minimum 2 acres
- Lot frontage minimum 200 feet
- Lot depth minimum 200 feet
- Lot depth maximum for Industrial & commercial 1000 feet
- Front yard setback minimum
  - Adjacent to Route 7 95 feet
  - Adjacent to all other roadways & rights-of-way 75 feet
- Side yard minimum 40 feet
- Rear yard minimum 50 feet
- Building height maximum

residential development is permitted.

B. Permitted uses:

In the L Districts, the following uses are permitted, or permitted as conditional uses, unless prohibited by the flood hazard area regulations of Article VII, other provisions of these bylaws, or state or federal regulations:

Permitted:

L1: Within 150 feet of lake

1. Seasonal camps
2. One family dwelling
3. Conversion of a camp to a one family dwelling
4. Home occupation
5. Accessory use or building
6. Personal services
7. Day care under 6 fulltime students

L2: Within 150-250 feet of lake

1. Forestry
2. Agricultural
3. One family dwelling
4. Home occupation
5. Accessory use or building
6. Professional office
7. Seasonal camps
8. Personal services
9. Day care under 6 fulltime students

Permitted as conditional uses:

1. Marina
2. Beach
3. Retail store
4. Restaurant
5. Motor lodge
6. Boarding house
7. Indoor or outdoor recreation
8. Public utility
9. Two family or multiple family dwelling

10. Public stable
11. Exploration or extraction of oil or gas
12. Gasoline or motor vehicle service station
13. Mobile home park
14. Campground
15. Wind energy conversion system
16. Daycare over 6 fulltime students
17. Drive-up service-L2
18. Free standing retail stand-L2
19. New and used car sales and service-L2
20. Trailer and mobile home sales and service-L2
21. ATV sales and service-L2

The above permitted and conditional uses shall be subject the standards set forth in Section 270 (C) below and elsewhere, if applicable, in these bylaws.

C. Specific Regulations

Residential

Lot area minimum

Within 150 ft of lake	1 acre
150-2500 ft of lake	2 acres

Lot frontage minimum

Within 150 ft of lake	100 feet
150-2500 ft of lake	200 feet

Front yard setback

minimum 75 feet

L1 Side yard minimum 25 feet

L1 Rear yard minimum 25 feet

L2 Side yard minimum 40 feet

L2 Rear yard minimum 50 feet

Building height maximum

The lesser of two stories or 35 feet, except as specified in Sections 626 and 627 of these regulations.

Non-Residential

Lot area minimum

Within 150 ft of lake	2 acres
-----------------------	---------

150-2500 ft of lake 2 acres  
 Lot frontage minimum  
 Within 150 ft of lake 200 feet  
 150-2500 ft of lake 200 feet  
 Front yard setback  
 minimum 75 feet  
 Side yard minimum 50 feet  
 Rear yard minimum 50 feet  
 Building height maximum  
 The lesser of two stories or 35 feet, except as specified in Sections 626 and 627 of these regulations.  
 No portion of any septic system shall be closer than 50 feet from the lake.

**Section 280: INDUSTRIAL DISTRICT**

A. Objectives and Guidelines

This District is intended to recognize the existing rail transportation businesses could utilize. The district adjoins the Brandon Town line and would be accessible from the Swingleton Hill Road. The new roadway could also be used to serve residential and some commercial property.

E. B. Permitted uses:

In the IND District the following are permitted, or permitted as conditional uses, unless prohibited by the flood hazard area regulations of Article VII, other provisions of these bylaws, or state or federal regulations:

Permitted:

1. Forestry
2. Agriculture
3. One family dwelling
4. Home occupation
5. Professional office
6. Boarding house

7. Enclosed storage
8. Accessory use or building
9. Bed & breakfast

Permitted as conditional uses:

1. Two-family or multi family dwelling
2. Indoor or outdoor recreation
3. Motor lodge
4. Parking lot
5. Commercial use
6. Light industry
7. Heavy industry
8. Quarry
9. Extraction of soil, sand or gravel
10. Camps
11. Sawmill
12. Community center
13. Private club
14. Health care facility
15. Personal service
16. Retirement facility
17. Veterinary clinic/animal hospital
18. Gasoline or motor vehicle service station
19. Retail store
20. Restaurant
21. Public stable
22. Exploration or extraction of oil or gas
23. Mobile home park
24. Campground
25. Wind energy conversion system
26. Drive-up service
27. Free standing retail stand
28. New and used car sales and service
29. Trailer and mobile home sales and service
30. ATV sales and service

The above permitted and conditional uses shall be subject to the standards set forth in Section 280 (C) below and elsewhere, if applicable, in these bylaws. Any proposed industrial or

commercial uses in this district require landscaping and a buffer zone.

F. Specific Regulations:

Industrial

- G. Lot area minimum 25 acres
- H. Lot frontage minimum 200 feet
- I. Lot depth minimum 200 feet
- J. Front yard setback
- K. minimum 75 feet

Side yard minimum 40 feet

L. Rear yard minimum 50 feet

Building height maximum

The lesser of two stories or 35 feet, except as specified in Sections 626 and 627 of these regulations.

**Section 290: CONSERVATION DISTRICT**

M. Objectives and Guidelines

This district consists mainly of land within the Green Mountain National Forest and flood prone land which has been identified by the Flood Insurance Administration (FIA) of the Flood Hazard Boundary Map revised January 21, 1997 currently in effect for Leicester. In order to protect these areas, which have significant environmental values and physical conditions limiting development opportunities, to prevent excess development of land in flood prone areas, and to minimize losses due to floods, permitted uses are limited to recreational, forestry, conservation and agricultural activities. Residential and other uses prescribed in Section 290 (B) of these Regulations are conditional uses, subject to review by the Zoning Board of Adjustment.

N. Permitted Uses

In the CON District, the following uses are permitted, or permitted as conditional uses, unless prohibited by the flood hazard area regulations of Article VII, other provisions of these bylaws, or state or federal regulations:

Permitted:

1. Forestry
2. Agriculture
3. Accessory use or building

Permitted as conditional uses:

4. One family or two family dwelling
5. Home occupation
6. Outdoor recreation
7. Public utility
8. Camp(s)
9. Wind energy conversion system

The above permitted and conditional uses shall be subject to the standards set forth in Section 290 (C) and elsewhere, if applicable, in these bylaws.

C: Specific Regulations

Lot area minimum 25 acres

Lot frontage minimum 200 feet

Front yard setback minimum

Adjacent to all other streets

& rights of way 100 feet

Side yard minimum 100 feet

Rear yard minimum 100 feet

Building height maximum

The lesser of two stories or 35 feet, except as specified in Sections 626 and 627 of these regulations.

## **ARTICLE III: ADMINISTRATION AND ENFORCEMENT**

### **Section 300: APPLICATION OF REGULATIONS**

The application of these regulations is subject to Sections 4411 and 4413 of the Act. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof, shall be occupied or used unless in conformity with the regulations herein specified for the district in which it is located.

### **Section 310: ZONING PERMIT**

No land development or construction may commence unless a zoning permit has been duly issued, as provided for in Section 4449 of the Act, or the use or structure anticipated is exempt as per Section 400 or the provisions of the Act.

### **Section 311: PERMIT APPLICATION**

The Zoning Administrator shall not issue a Permit unless a completed application is filed with the Zoning Administrator. The application shall include the following information:

1. A permit fee.
2. A completed Zoning Application identifying the applicant, the owner(s), and the location of the parcel to be developed, the parcel identification number, the book and page number of the deed and a description of the developments and uses proposed, signed and sworn by the applicant. The application shall

also include a Site Plan identifying the location of the parcel and accurately depicting the development proposed in relationship to the lot lines and other structures on the parcel. Any sheet of the Site Plan shall be on a piece of plain white or graph paper, not more than 24" wide x 36" long drawn to scale, with the scale clearly identified and large enough to depict the details clearly. An arrow shall depict north. The drawing shall depict the shape, design, size and height of the proposed structure, plus the location of all infrastructure proposed to serve the structure, including driveways, parking areas, utilities, drainage and other proposed improvements.

3. Written approval by the Selectboard regarding access plans to any street including location of driveway, culverts, and, if required, drainage along streets.
4. Written approval by or waiver of jurisdictional matters by the State of Vermont, Department of Environmental Conservation regarding applicant's plans for sewage disposal and water supply.
5. Any other approvals required by these regulations.

### **Section 312: ZONING ADMINISTRATOR ACTION ON PERMIT APPLICATION**

The Zoning Administrator shall within thirty days of submission of complete application, including approvals, either issue a decision or refer an application to the appropriate municipal panel. If the Zoning Administrator fails to act upon a complete application, upon

which the Zoning Administrator has a duty and the authority to issue a decision, within 30 days, a permit shall be deemed issued on the 31<sup>st</sup> day for a permit. If denied, the Zoning Administrator shall notify the applicant in writing, stating the reasons therefore. If the zoning permit is approved, all activities authorized by its issuance shall be completed within two years of its date or renewal for one year of issue, or the zoning permit shall become null and void and reapplication to complete any activities shall be required.

**Section 313: EFFECT OF ISSUANCE OF ZONING PERMIT**

No permit issued pursuant to this section shall take effect until the time for appeal in Section 4465 of this title has passed, or in the event that a notice of appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the appropriate municipal panel is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken to the environmental court, the permit shall not take effect until the environmental court rules in accordance with 10 V.S.A. § 8504 on whether to issue a stay, or until the expiration of 15 days whichever comes first.

**Section 314: POSTING OF PERMIT**

Each permit issued under this section shall contain a statement of the period of time within which an appeal may be taken. The applicant shall be required to post a notice of permit on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property

until the time for appeal (15 days) has passed.

**Section 320: ZONING ADMINISTRATOR**

The Zoning Administrator, duly nominated by the Planning Commission and appointed by the legislative body, shall administer the Zoning Regulations, as provided for in Section 4448 of the Act. Said Officer shall literally enforce the provisions of these regulations. Said officer shall also inspect developments, maintain records and perform all necessary tasks to carry out the provisions of these regulations, including providing interested persons with forms and information necessary to obtain municipal permits and coordinating a unified effort on behalf of the municipality in administering its development review programs.

**Section 330: CERTIFICATE OF COMPLIANCE**

Upon completion of any work or change in use requiring a permit under these regulations and prior to its occupancy, the permittee shall request a Certificate of Compliance from the Zoning Administrator.

Within seven days after notification of the Zoning Administrator by the applicant that a building, structure, premises or part thereof is staked and about to have its footings poured and again when the building or structure is completed or ready for occupancy or use, the Zoning Administrator may make inspection of it. Upon determining that the structure conforms with the provisions of these regulations and any other conditions contained within a validly issued zoning permit, the Zoning

Administrator will issue a Certificate of Compliance.

### **Section 340: ZONING BOARD OF ADJUSTMENT**

There is hereby established a Board of Adjustment whose members may consist of the members of the Planning Commission. The Zoning Board of Adjustment shall review:

1. Conditional Use Applications.
2. Appeals of Zoning Administrator decisions.
3. Requests for variances.
4. Requests for waivers.
5. Any other form of land use request for which it is the appropriate panel as authorized by these regulations and 24 V.S.A. §4460.

Rules of procedures, nature of appeals, public notice, conditions for variance relief, and all other matters shall be established as provided by the Act and as set forth in this article of these regulations.

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

### **Section 341: PUBLIC NOTICE AND ZONING BOARD OF ADJUSTMENT REVIEW PROCEDURE**

The applicant shall submit to the Zoning Administrator, at least 25 days prior to the regular meeting of the Zoning Board of Adjustment, three copies of those materials required by the appropriate section of these regulations governing the type of action requested:

Conditional Use: See Section 350

Appeal: See Section 360

Variance: See Section 362.

Waivers: See section 363.

1. **Notice procedures:** All development review applications or appeals before the Zoning Board of Adjustment shall require notice for a warned public hearing as follows:

- a. Public Notice of hearings for **conditional use review, variances, appeals of decisions of the Zoning Administrator, and final plat review for subdivisions** shall be given not less than **15 days** prior to the date of the public hearing by all the following:
  - i. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected. The Zoning Administrator or clerk of the Planning Commission shall place the notice in the paper.
  - ii. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made. The clerk shall post notices two places within town. The applicant shall be responsible for posting the property.

iii. Written notification to the applicant or appellant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The clerk shall be responsible for notifying all adjoining landowners and shall do so by a certificate of mailing or hand delivery. At the first hearing, the clerk shall demonstrate compliance with this provision by producing a copy of the letter sent, a list of those it was sent too and the certificate of mailing demonstrating that the letters were sent (The clerk need only demonstrate that the letter was sent, not that it was received) or signed receipts if the letter was hand-delivered.

b. Public Notice of 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, and shall include, at a minimum all the following:

- i. Posting of the date, place, and purpose of the hearing in three or more public places within the municipality in compliance with the notice requirements for special meetings contained in 1 V.S.A. § 312(c)(2); The clerk shall post notices two places within town. The applicant shall be responsible for posting the property.
- ii. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The clerk shall be responsible for notifying all adjoining landowners and shall do so by a certificate of mailing or hand delivery. At the first hearing, the clerk shall demonstrate compliance with this provision by producing a copy of the letter sent, a list of those it was sent too and the certificate of mailing demonstrating that the letters were sent (The clerk need only demonstrate that the letter was sent, not that it was received) or signed receipts if the letter was hand-delivered.

2. **Review Procedures.** Pursuant to the requirements of 24 V.S.A. §

4461, for development review and §4468 for appeals, the Zoning Board of Adjustment shall set a date and place for a public hearing of an application or an appeal under this chapter that shall be within 60 days of the filing of a complete application or the notice of appeal with the Zoning Board of Adjustment. The Zoning Board of Adjustment shall give public notice of the hearing pursuant to the procedure described in Subsection 1 of this section and shall mail to the applicant, or in the case of appeals, the appellant, a copy of that notice at least 15 days prior to the hearing date. Any person or body empowered by Section 4465 of the Act to participate as an interested party or to take an appeal with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing. The Zoning Board of Adjustment may adjourn the hearing from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. §810, Vermont Statute.

3. **Decisions.** The Zoning Board of Adjustment shall issue a written decision, which shall include findings of fact, any conditions, and provisions for appeal within 45 days after completing the hearing and

shall within that period send the applicant or appellant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every interested person who appeared and was heard at the hearing. A copy of the decision shall be filed with the Zoning Administrator and the town clerk who shall record the decision as a public record.

**If the Zoning Board of Adjustment fails to make a decision within 45 days, on the 46<sup>th</sup> day the Zoning Board of Adjustment shall be deemed to have rendered a decision in favor of the applicant.**

### **Section 350: CONDITIONAL USES**

Structures or activities deemed to be conditional uses as defined by §4414(3) and pursuant to these regulations may be permitted only after public notice, public hearing and approval by the Board of Adjustment that the proposed use conforms to general and specific standards of these regulations.

The applicant shall submit three sets of site plan maps and supporting data to the Zoning Board of Adjustment that shall include the following information presented in drawn form and accompanied by written text including property identification numbers of the property taken from the latest tax records; Name and address of the owner of record and those of adjoining lands; The name and address of person or firm preparing the map; Scale of Map, north point and date.

In addition to the information noted above, the Board of Adjustment may require the following:

1. An accurate map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions.
2. A scaled plan, showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
3. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
4. A description of energy utilization and conservation measures for each heated structure.
5. Other information pertinent to the issue before the Zoning Board of Adjustment.

**Section 351: GENERAL STANDARDS**

General standards shall require that the proposed conditional use shall not result in any undue adverse effect on any of the following:

2. The capacity of existing or planned community facilities;
3. 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.
4. Traffic on roadways and highways in the vicinity;
5. Bylaws and ordinances then in effect; or
6. Utilization of renewable energy resources.

**Section 352: SPECIFIC STANDARDS**

Specific standards may include requirements listed below applied consistently with the criteria in Articles IV – VIII of these bylaws: See Article IV for conditional uses requiring specific standards.

7. Minimum lot size;
8. Distance from adjacent or nearby uses;
9. Performance standards, per 24 V.S.A. § 4414(5);
10. Minimum off-street parking and loading facilities per 24 V.S.A. 4414(4);
11. Landscaping and fencing;
12. Design and location of structures and service areas;
13. Size, location, and design of signs;
14. Such other factors as the zoning regulations may include.
15. In granting such conditional use, the Zoning Board of Adjustment may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of the Act and these regulations.

Specific standards relating to a number of uses are listed in ARTICLE IV of these regulations. Sign requirements are listed in ARTICLE VI.

**Section 360: APPEALS, VARIANCES, AND WAIVERS**

Appeals of any decision of the Zoning Administrator or requests for variances or waivers from the provisions of these regulations shall be made to the Zoning Board of Adjustment. The Zoning Board of Adjustment shall conduct hearings on

appeals or requests for variances or waivers pursuant to the authority derived from and the procedures contained in 24 V.S.A. § 4414(8) (Waivers) and §§ 4465-4469 (Appeals and Variances) and in accordance with Section 341 and the remainder of ARTICLE III of these regulations.

## **Section 361: APPEALS**

### **1. Deadline for Appeal**

An appeal taken with respect to an act or decision of the Zoning Administrator must be filed within 15 days of such act or decision.

### **2. Interested Persons**

Only an “interested person” as defined in Section 180 of these regulations, referencing by 24 V.S.A. § 4465(b), may appeal the decision or action of the Zoning Administrator under these regulations.

### **3. Notice of Appeal**

The appellant shall file a Notice of Appeal with the secretary of the Zoning Board of Adjustment or with the town clerk if no such secretary has been elected. The following information shall be included as part of the submittal:

- a. Name and address of the appellant
- b. Names and addresses of the applicant, co-applicant or any person party to the original application;
- c. A brief description of the property from which the appeal is taken;
- d. A reference to the regulatory provisions applicable to that appeal;
  - a. The relief requested;

- b. The grounds as to why the relief requested is proper under the circumstances;

### **4. Notice, Review and Decision Requirements**

Notice of hearing, review procedures at the hearing and decisions shall be provided pursuant to the requirements of the Act set forth in Section 341(1)(a) of these regulations.

## **Section 362: VARIANCES**

### **1. Notice, Review and Decision**

Other than as laid out below, variances shall be filed, heard and acted upon in accordance with the provisions for action before the Zoning Board of Adjustment in Section 341 of these regulations.

### **2. Criteria**

The Zoning Board of Adjustment shall make its decision on the request for variance by applying the facts presented in the application and at hearing to the criteria listed in the definitions of these regulations, citing 24 V.S.A. § 4469 and incorporating all into its decision.

### **3. Conditions**

In approving a project the Zoning Board of Adjustment shall act to insure, and may impose conditions requiring that the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

### **4. Enforcement**

The nature of any variance and any conditions attached to it shall be entered on the face of the zoning permit, incorporated therein and shall be enforceable in the same

manner as all other applicable requirements of these regulations.

### **Section 363: WAIVERS**

#### **6. Notice, Review and Decisions**

Except for the provisions laid out below, requests for waivers shall be filed, heard and acted upon in accordance with the provisions for action before the Zoning Board of Adjustment in Section 341(1)(b) of these regulations.

#### **7. Criteria**

The Zoning Board of Adjustment may grant waivers to reduce dimensional requirements, if the applicant can satisfy the following standards:

- a. The waiver requested is for a use permitted within the district in question as by right use (as opposed to a conditional use.).
- b. The waiver requested is in conformance with the town plan and the goals set forth in Section 4302 of the Act.
- c. The waiver requested is designed to conform to the character of the land use area in which it lies as defined in the Plan and further designed to reasonably limit impact or the potential for impact upon ones neighbors.
- d. The design used incorporates design techniques (restricted height, lack of windows) screening (fencing or plantings) or other remedies to reasonably limit impact or the potential for impact upon ones neighbors.
- e. The waiver requested accommodates structures providing for disability accessibility, fire safety and other requirements of land or

energy conservation or renewable energy structures.

#### **3. Conditions**

In approving a project the Zoning Board of Adjustment shall act to insure, and may impose conditions requiring that the waiver, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

#### **4. Enforcement**

The nature of any waiver and any conditions attached to it shall be entered on the face of the zoning permit, incorporated therein and shall be enforceable in the same manner as all other applicable requirements of these regulations.

### **Section 370: PENALTIES**

As prescribed in Sections 4451 and 4452 of the Act, any person who violates any bylaw after it has been adopted under the Act or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than one hundred dollars for each offense. Each day that a violation is continued shall constitute a separate offense. This will not prevent the Town or Zoning Administrator from exercising other remedies as prescribed by the Act.

### **Section 380: APPEALS FROM DECISIONS OF THE ZBA TO ENVIRONMENTAL COURT**

An interested person who has participated in a proceeding before the Zoning Board of Adjustment may appeal a decision rendered in that proceeding to the environmental court. Participation in a local regulatory

proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. An appeal from a decision of the Zoning Board of Adjustment shall be taken in such a manner as the Supreme Court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3.

Notice of the appeal shall be filed by certified mailing, with fees, to the environmental court and by mailing a copy to the municipal clerk or the administrative officer, if so designated, who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

## **ARTICLE IV/V: SPECIAL USES**

### **Section 400: EXEMPTION FROM PERMIT**

The following are exempt from the required permits.

1. One structure 100 sq. feet or less and less than 8 feet in height and not attached to a dwelling or another structure. Must conform to all setback requirements in district.
2. Decks: Not greater than 100 sq. feet. Must conform to all setback requirements in the district.
3. Handicap access ramp.

4. Any structure destroyed by natural disaster and reconstructed in original footprint.
5. Fences 6' and under in height.
6. Any normal exterior maintenance that does not change the dimensions of a building such as roof repair/replacement, siding repair/replacement, window replacement. Any interior construction or remodeling that does not change the use of the building.
7. Excavation for water or sewer lines or landscaping.
8. Roadside agricultural stands and tag sales, provided that they comply with Section 647 of these regulations.
9. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and Section 4810 of Title 6 are exempt from these regulations:
  - a. For the purposes of this section, "farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.
  - f. A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by

the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

**Section 410: NON-CONFORMING USES AND STRUCTURES**

Any non-conforming use or structure may be continued indefinitely, but:

1. Shall not be changed to another non-conforming use without approval by the Board of Adjustment, and then only to a use that, in the opinion of the Board, is of the same or of a more restricted nature.
2. Shall not be re-established if such use has been discontinued for a period of at least three years or has been changed to, or replaced by a conforming use. Intent to resume a non-conforming use shall not confer the right to do so. If a non-conforming use is not re-established within one year, the future use of the lot or structure shall be in conformance with the provisions of these regulations.
3. Shall not be restored or reconstructed for other than a conforming use after the damage from any cause unless the non-conforming use is re-established with the completion of construction or restoration within one and one half (1 1/2) years of such damage, or approval is obtained from the Board of Adjustment, otherwise, the non-conforming use of such structure shall be deemed to have been discontinued, unless such non-conforming use is carried on uninterrupted in the undamaged part of the structure.
4. Shall not be moved, extended, or enlarged unless the Board of

Adjustment shall grant a WAIVER pursuant to Section 363 of these regulations.

Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-complying structure provided that such action does not increase the degree of non-compliance.

With regard to non-conforming uses and non-complying structures, the Board of Adjustment may make findings, hold hearings and attach conditions as deemed necessary pursuant to the hearing procedure established in Article III of these regulations.

**Section 420: CONSTRUCTION APPROVED PRIOR TO AMENDMENT REGULATIONS**

The Town shall not require any change in the plans for, or construction of, a structure or use for which a zoning permit has been issued and which has subsequently been made non-complying or non-conforming by an amendment to these bylaws if the activities authorized by the zoning permit are completed while the permit is valid.

**Section 430: OUTDOOR RECREATION**

Specific conditional use requirement for outdoor recreation:

8. Parking and loading areas shall be set back at least 100 feet from all abutting property lines.
9. All sewage and other effluent shall be safely disposed of so that they will not become a hazard to public health.
10. Landscaped screening shall be required adjacent to all residential uses and streets.

## **Section 440: QUARRY**

Special conditional uses requirements for a quarry or for the extraction of sand, soil or gravel:

The removal of soil, sand, or gravel for sale, except when incidental to construction, shall be permitted only after conditional use review and approval by the Board of Adjustment. The Administrative Officer may issue a zoning permit only after having received written notification of the Board of Adjustment's approval of the proposed project. In any district, the following provisions shall apply:

1. All surface drainage affected by removal operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property.
2. No removal or stockpiling of materials shall take place within 100 feet of any street or abutting property line. However, if an abutting property is primarily used for a soil, sand or gravel removal operation, a person may extend his operation to a line common with such abutting property.
3. No power activated machinery or equipment shall be located within 200 feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
4. Parking and loading spaces shall be set back at least 200 feet from all abutting property lines.
5. Screening shall be required adjacent to all residential uses and streets.
6. Before approval of any new sand or gravel operation, or extension thereof, a performance bond shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end. The bond shall be sufficient to cover the cost of the plan.
7. The removal of all material shall be conducted so as to result in the improvement of the land, having due regard to the contours in the vicinity such as leveling slopes and removing hills.
8. For soil, sand and gravel operations the digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pit. The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched, and re-seeded so as to establish vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Zoning Administrator.
9. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the Zoning Administrator.
10. No excavation, blasting or stock piling of materials shall be located within two hundred feet of any other street or property line.

11. No power activated sorting machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
12. All excavation slopes in excess of one to two shall be adequately fenced as determined by the Administrative Officer.
13. Extension of an existing non-conforming operation shall not be permitted.
14. The Board of Adjustment may attach any additional conditions as it may find necessary for the safety and general welfare of the public.

**Section 450: SAWMILL**

Conditional use requirements for a sawmill:

1. Screening shall be provided adjacent to all residential uses and streets.
2. Parking and loading spaces shall be set back at least 100 feet from all abutting property lines.
3. All machinery shall be equipped with satisfactory dust and sound elimination devices.
4. The Board of Adjustment may attach any conditions as it may find necessary for the safety and general welfare of the public.

**Section 460: PUBLIC STABLE**

Conditional use requirements for a public stable:

15. Minimum lot area shall be one acre plus 5000 square feet per horse over four horses.
16. Front, side and rear yard setbacks shall be at least 100 feet

17. Screening shall be provided adjacent to all residential uses.
18. Parking shall not be allowed in front yard area.

**Section 470: EXPLORATION OR EXTRACTION OF OIL OR GAS**

Conditional use requirements for exploration or extraction of oil or gas:

1. Groundwater resources must not be contaminated.
2. Erosion control measures must be instituted around any well site.
3. After completion of drilling, the area around a well site must be graded smooth with topsoil, seeded and mulched.

**Section 480: SWIMMING POOLS**

A private in-ground swimming pool is required to have a wall or fence with a lockable gate that is at least four feet high and extends around the entire pool. An above ground swimming pool is required to have a lockable gate at pool access.

**Section 490: PUBLIC UTILITY SUBSTATIONS**

Public utility substations and similar utility structures, where permitted, shall be conditional uses and shall comply with the following:

1. The facility shall be surrounded by a fence set back from the property lines in conformance with the district regulations for front, side and rear yards.
2. A landscaped area at least twenty-five feet wide shall be maintained for front, side and rear yards. Such landscaping shall be designed to reasonably screen the view of the

facility from the neighboring properties. Grouping of trees resembling natural formations shall be preferred.

### **Section 500: GASOLINE OR MOTOR VEHICLE SERVICE STATIONS**

Where permitted, gasoline or motor vehicle service stations shall be conditional uses and shall comply with the following:

11. A gasoline station lot shall not be located within 300 feet of any lot occupied by a school, hospital, library or religious institution.
12. Lot size shall conform to minimum requirements in district where permitted.
13. Lot frontage shall conform to minimum requirements in district where permitted.
14. Lot depth shall conform to minimum requirements in district where permitted.
15. Pumps, lubricating and other service devices shall be located at least 50 feet from the front lot line and side and rear lot lines.
16. All fuel and oil shall be stored at least 50 feet from any property line when stored below grade.
17. All automobile parts and dismantled vehicles shall be stored within a building or screened from public view.
18. No signs shall extend beyond the pumps, nor exceed 15 feet in height.
19. There shall be no more than two access driveways from the street. The maximum width of each access driveway shall be 40 feet.
20. A suitably curbed landscaped area shall be maintained at least five feet

in depth along all street frontage not used as driveway.

21. Lighting shall be in accordance with Section 641 of these regulations.
22. Architecture shall be designed to conform to the character of the surrounding neighborhood, including its size, scale, materials and architectural period design.

### **Section 510: MOBILE HOMES**

Mobile homes shall be considered the same as conventional homes except in a mobile home park. Any mobile home shall be located on a slab of concrete a minimum of 3.5 inches deep. The base of a mobile home shall be completely enclosed.

### **Section 520: MOBILE HOME PARKS**

No person shall establish or enlarge a mobile home park without first obtaining conditional use approval from the Board of Adjustment. Said approval shall be granted if the applicant demonstrates to the Board's satisfaction that the regulations required by the State and the general standards of Section 450(A) have been met.

### **Section 530: CAMPGROUNDS**

1. No person or persons shall establish or enlarge a campground without first obtaining conditional use approval from the Board of Adjustment and a permit from the Zoning Administrator. Before approving the permit, the Board of Adjustment shall require a performance bond from the applicant to ensure that the area is developed in a satisfactory manner.

2. Application for approval shall be made to the Board of Adjustment. The application shall be accompanied with a site plan and drawings prepared by a professional engineer showing the property lines and area of the campground, a contour map showing the property lines and area of the campground, a contour map showing the proposed grading of the area, a layout of the roadways, walkways, campsites, parking areas, garbage collection stations, electrical distribution, water lines, sanitary sewer facilities and storm sewer drainage facilities.

#### **Section 540: CAMPGROUND STANDARDS**

The following regulations shall apply in respect to all campgrounds:

1. A campground shall have not less than three acres.
2. Campground shall provide for individual vehicles, access driveways and parking.
3. Each campsite shall have at least 2500 square feet with no dimension less than 25 feet.
4. All access driveways within a campground must be at least fifteen feet in width and have a compacted gravel surface (or other type of all weather roadway).
5. The water supply source must be approved by the State Agency of Environmental Conservation or other appropriate agency.
6. Each campsite shall have access to toilets and sewage disposal. The method of sewage disposal must be in compliance with State Agency of Environmental Conservation regulations.

7. A strip of land at least twenty five feet in width shall be maintained as a landscaped area abutting all public roadways and property lines.
8. No vehicle or tent shall be parked closer than twenty-five feet to a property line.
9. The area shall be closed to the public for a period of not less than thirty days each year.

#### **Section 550: ROADSIDE STANDS AND TAG SALES**

Temporary roadside stands may be erected by the lawful occupant of a property for the purpose of selling agricultural or silvicultural products produced by the stand operator, and other items made primarily by the lawful occupant of the property and/or that occupant's family members provided that:

1. No stand shall be nearer the front, side or lot lines than twenty feet;
2. Access to, or egress from, any stand shall not create a traffic hazard; and
3. If selling items other than agricultural or silvicultural products, such stand shall not remain in place for more than 8 weeks in any calendar year.

Any lawful occupant of a property may engage in the temporary sale of household goods on the premises they occupy, provided that:

1. Such person shall not engage in a temporary sale events more than two times per year, with each such event not to exceed 5 days in duration.
2. Any and all signs erected advertising such a sale shall be taken down by 5 p.m. on the day the sale concludes.

3. Access to, or egress from, any sale event shall not create a traffic hazard; and
4. No person shall sell items in bulk, commercial items or goods that are not customary to a personal sales event.

**Section 560: FILLING OF LAND**

A permit shall be necessary if the activity significantly alters existing drainage patterns, cause soil erosion, or result in any hazard or expense to the community. State laws governing the filling of land must be adhered to.

**Section 570: SOLAR AND WIND ENERGY SYSTEMS**

The use of solar energy systems, whether as part of a building or incidental to a building, is permitted accessory use within all districts. Wind energy conversion systems not subject to 30 V. S. A. §248 are conditional uses in all districts, with the Board of Adjustment considering the following criteria in addition to those specified in Section 4407(2) of the Act.

1. Climbing access to the tower shall be restricted.
2. For rotors 20 feet in diameter or less, a setback from any lot line shall be 275 feet minus 11 feet for each foot of rotor diameter less than 20 feet; for rotors larger than 20 feet in diameter, a setback from any lot line shall be 275 feet plus 6 feet for each foot of rotor greater than 20 feet; and
3. Systems shall be sited to the extent possible to not interfere with the view sheds from neighboring properties;

4. Systems shall be designed wherever possible to eliminate the need for lighting such structures. Other than lights required by the FAA, all other lights shall conform to Section 641 of these regulations.

**Section 580: TELECOMMUNICATIONS FACILITIES**

The purpose of this provision is to preserve the character and appearance of the Town of Leicester and to regulate the location of commercial wireless telecommunications services to be developed. Small-scale devices for personal use (satellite dishes, antennas, etc.) are exempt from this regulation.

The use of existing structures to locate wireless telecommunications antennas is encouraged and will be subject to only site plan review by the Zoning Administrator. Wherever possible, communications antennas shall be mounted on existing structures, such as silos or water towers, and camouflaged to blend with their existing surroundings.

The Zoning Administrator shall conduct a review pursuant to the site plan criteria contained in the Act (24 V.S.A., 4416). Applications submitted shall include all criteria requirements for site plan review. Additionally, at the discretion of the Zoning Administrator, and pursuant to 24 V.S.A. § 4440(a), the Zoning Administrator is authorized to hire qualified persons to determine an application’s compliance with these regulations and to require the applicant to pay for all reasonable costs thereof. New telecommunications towers shall be allowed as conditional uses in the Residential Agricultural District, the

Residential Agricultural Commercial District, the Industrial District and Conservation District only, and shall be allowed only after the applicant has demonstrated that no existing structures are suitable for their proposed use and the applicant has agreed to provide the opportunity for co-location.

Siting of the towers shall be accomplished in a manner designed to limit the aesthetic impact of the towers on Leicester's countryside and ridgelines and to be camouflaged to blend in with its surroundings to the greatest extent possible. In addition to the conditional use review by the Zoning Board of Adjustment, pursuant to 24 V.S.A. § 4440(d), the Zoning Board of Adjustment is authorized to hire qualified persons to determine an application's compliance with these regulations and to require the applicant to pay for all reasonable costs thereof.

All telecommunications towers shall be maintained in accordance with the requirements of permits granted. Abandoned or unused towers or antennas shall be removed from the property within 180 days of cessation of their use and the Planning Commission or Zoning Board of Adjustment, depending upon the entity with jurisdiction may require a bond or other guarantee be posted with the town to cover such removal.

## **ARTICLE VI: GENERAL REGULATIONS**

### **Section 610: EXISTING SMALL LOTS**

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

### **Section 611: REQUIRED FRONTAGE ON, OR ACCESS TO, STREETS OR PUBLIC WATER**

No land development may be permitted on lots which do not have either frontage on a street or public waters or, with the approval of the Planning Commission, access to such a street or waters by a permanent easement or right of way at least 20 feet in width.

### **Section 612: PROTECTION OF HOME OCCUPATIONS**

No regulation herein is intended to infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character thereof.

As a home occupation may be considered an accessory use to a residential use, a home occupation is allowed in any district in which residential uses are also allowed. If you are unsure if you fall under home occupation, please check with the Zoning Administrator for clarification.

To the extent that the following standards are not inconsistent with the foregoing, a home occupation shall be subject to the following:

1. The business shall be operated by a member or members of the family residing in the principle building.
2. Not more than one person outside the family shall be employed or conduct business from the premises.
3. Signs are permitted as specified in Sections 650-640.
4. The noise level shall not be of such a volume as to be a nuisance to abutting property owners.

**Section 613: REQUIREMENTS FOR SEWAGE SYSTEM**

Any subsurface sewage disposal system in the Town of Leicester must be constructed and operated in such a way that it will not violate the State Regulations governing water supply or wastewater treatment as such regulations may be amended from time to time.

**Section 614: LOTS IN TWO ZONING DISTRICTS**

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

**Section 615: TWO DWELLINGS ON LOTS**

The erection or conversion of more than one residential building on a lot shall be a conditional use, unless said unit qualifies as an accessory unit. Said use shall meet the requirements the applicable district in ARTICLE V and of other sections, if applicable, of these

bylaws, except that a Planned Unit Development (PUD) shall meet the requirements of Section 619.

Where there is more than one residence building to be constructed on a lot in any district, the space between such buildings shall be no less than the sum of the side yard setbacks and front yard setbacks required as the case may be, and minimum lot area requirements shall apply to each structure.

**Section 616: REDUCTION OF LOT AREA**

No lot shall be so reduced in area that the area, yards, frontage, coverage or other requirements of these regulations do not conform to the requirements herein prescribed for each district except that variances may be granted in accordance with Section 4468 of the Act. The provisions of this section shall not apply when part of the lot is taken for a public purpose.

**Section 617: REQUIRED AREA OR YARDS**

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

**Section 618: YARDS ON CORNER LOTS**

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

**Section 619: PLANNED UNIT DEVELOPMENT**

In accordance with the provisions set forth in Section 4417 of the Act, PUDs are encouraged in all districts within the Town of Leicester and the modifications of the district is permitted simultaneously with subdivision plat approval, under the following procedures.

1. **Purpose:** The purpose of the planned unit development (PUD) provision is to encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic provision of streets and utilities, to preserve the natural and scenic qualities of open land, to provide for a mixture and variety of housing types at different densities, and to provide for the development of existing lots which because of physical, topographic or geological conditions could not otherwise be developed.
2. **Application Procedure:** A site plan shall be submitted to the Planning Commission showing the location, height and space of buildings, open spaces and their landscaping, streets, driveways and off-street parking spaces, water systems, sewage disposal plans, unique natural or man made features, and physical conditions of the site, accompanied by a statement setting forth the nature of all proposed modifications, changes or supplementation of existing zoning regulations. Copies of any appropriate agreements or restrictive covenants shall be included.
3. **Public Hearing:** The Planning Commission shall hold at least one public hearing that has been duly warned in a newspaper of general

publication in the municipality at least 15 days prior to the date of the hearing. The warning shall specify the date, time, place and purpose of the hearing. The Planning Commission shall approve or disapprove any application within 60 days after the first public hearing unless such time restriction is waived by mutual consent of the Planning Commission and the applicant. Failure to act within such period shall be deemed approval.

4. **General Standards for Review:** The following general standards shall be met in order for the Planning Commission to approve the application:
  - a. The PUD is consistent with the Town Plan.
  - b. The overall density of the project does not exceed the number of dwelling units which could be permitted in the Planning Commission's judgment, if the land (excluding the area within the boundaries of any proposed street) where subdivided into lots in accordance with the district regulations, except for mobile home parks.
  - c. The uses proposed for the project are residential; dwelling units may be of varied types, including one-family, two-family, or multi-family, construction.
  - d. The PUD is an effective and unified treatment of the development possibilities of the project site and the development plan makes appropriate provision for preservation of streams and stream banks, steep slopes, wet

- areas, and unique natural and man made features.
  - e. The development plan is proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.
  - f. Where possible, buildings shall be sited so as to take advantage of southeast, south, or southwest orientations. No building in the development shall cast shadows that preclude the proposed or potential use of solar energy collectors that are located upon and/or within the most southerly facing wall or roof of any other dwelling unit within the development, except where topographical conditions make compliance unreasonable.
  - g. Any modification of the zoning regulations approved under this section shall be specifically set forth in terms of standards and criteria for the design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be noted or appended to the plat.
5. **Specific Standards for Review:** Planning Commission approval may be granted only upon the project proposal meeting each and all of the following specific standards:
- a. District regulations on height and spacing between main buildings shall be met unless otherwise waived by the Planning Commission.
  - b. To ensure adequate privacy for existing or proposed uses adjacent to the PUD, structures on the perimeter of the PUD shall be set back 50 feet and screening may be required.
  - c. Adequate water supply and sewage disposal facilities shall be provided.
  - d. The total number of allowable residential units and /or commercial space within the PUD shall not exceed the number that, in the Zoning Board of Adjustment's judgment, could be permitted if the land were subdivided into lots in conformance with the zoning regulation for the district in which the project is located.
  - e. A PUD may include any permitted or conditional uses allowed in the district in which it is located. Multiple principal structures and/or uses on a lot, or multiple ownership of a single structure may be permitted.
  - f. Principal buildings and mixed uses shall be arranged to be compatible, and buffered as appropriate, to ensure visual and acoustical privacy for the residents of the development and for adjacent properties.
6. **Open Space:** If the PUD results in land available for parks, recreation, open space or other municipal purposes, the Planning Commission as a condition of its approval may establish such conditions as to the ownership, use and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purposes.

**Section 620: WATER-FRONT LOTS IN RESIDENTIAL DISTRICTS**

Waterfront lots may have a one-story boathouse chiefly for the purpose of boat storage and one end may extend

into the water 16 feet, if permitted by state statute or regulation. Width of boathouses is not to exceed twelve feet; height not to exceed ten feet above mean water level.

**Section 621: ACCESS PERMIT AND DRIVEWAY STANDARDS**

Any activity for which a zoning permit is required and which involves the construction or modification of a driveway intersecting with a public right of way, shall obtain an access permit from the Selectboard prior to the issuance of a zoning permit. The Board of Adjustment may attach conditions to the access permit with respect to the design, construction, landscaping, or location of such driveways in order to ensure safety, provide access by emergency vehicles and minimize traffic difficulties. Specific standards for driveways include:

1. To provide for fire and ambulance access, driveways shall be constructed and maintained with an unobstructed corridor of at least 12 feet in width, minimum vertical clearance of 14 feet, a grade not to exceed 15% and a minimum outside curve radius of curvature of 48 feet.
2. No driveway shall be constructed in a corridor of land or ROW having a width of less than 20 feet. To provide room for snow, drainage and landscaping a driveway shall be set back at least 5 feet from the lot or right of way lines.
3. A driveway shall be constructed in accordance with Agency for Transportation Standard B-71

with respect to slope and site distances only.

4. Drives serving more than one property shall be permitted only where the interests of both property owners will be protected by a deed or agreement providing for the private joint maintenance of the driveway.
5. No residential lot shall be served by more than one access drive or roadway, unless such access roadway is approved as part of a subdivision review. No driveway shall be wider than reasonably necessary to accommodate traffic passing over it.

**Section 622: TEMPORARY USES AND STRUCTURES**

Temporary permits may be granted by the Zoning Administrator for a period not exceeding one year for non conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit or completion of construction, whichever occurs sooner. Such permits may be renewed upon application for an additional period not exceeding one year.

**Section 623: ABANDONMENT OF STRUCTURES**

Within six months after work on an excavation for a building has begun or within six months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site and the excavation thus remaining shall be covered over or filled to the normal grade by the owner.

**Section 624: CAMPER**

A camper shall not be occupied more than 6 (six) months of the year and in no case shall be used as a residence, except as specified under Section 631.

Campgrounds shall meet the requirements of Sections 644 and 645 of these bylaws.

**Section 625: OBSTRUCTION OF VISION**

On corner lots in all districts within the triangular area formed by the intersection of two roads and a third line joining them at points twenty five feet away from their intersection, there shall be no obstruction to vision between the height of three feet and ten feet above the average grade of each street.

**Section 626: HEIGHT EXCEPTIONS**

Except within 2000 feet of a public aircraft landing strip, nothing herein contained shall be interpreted to limit or restrict the height of silos, church spires, cupolas, bell, clock, fire, telecommunications and observation towers and essential public utility structures.

**Section 627: HEIGHT EXCEPTIONS BY SPECIAL PERMIT**

No telecom radio or television tower, water or cooling tower, oil or gasholder, elevator bulkhead, chimney, or similar structure in excess of thirty-five feet may be erected unless conditional use approval is obtained from the Board of Adjustment.

**Section 631: OFF STREET PARKING SPACE REQUIREMENTS**

For every building hereafter erected, altered, extended or changed in use, there shall be provided off street parking spaces at least as set forth below:

1. Residential Use: One family, two family and multi family dwelling units, two parking spaces for every unit.
2. Motor lodge, boarding house: One space for every guestroom.
3. Community Center and Outdoor Recreation: One parking space for every five seats. Where there are no seats provided, one parking space shall be provided for every two hundred square feet of floor space.
4. Professional Office: One space for every two hundred square feet of floor space.
5. Commercial, business and unspecified uses: One parking space for every motor vehicle used in the business, plus one parking space for every two hundred square feet of floor space.
6. Restaurant: One parking space for every one hundred and fifty square feet of floor space.
7. Industrial, wholesale, warehouse, storage, freight and trucking uses: One parking space for every motor vehicle used in the business; one parking space for every two employees.

**Section 632: OFF STREET LOADING SPACE REQUIREMENTS**

For every building hereafter erected, altered, extended or changed in use for the purpose of business, trade or

industry there shall be provided off street space for loading and unloading of vehicles as set forth below:

1. Motor Lodge, boarding house, health care facility, commercial, business, service and industrial establishments: One off street loading space for every ten thousand square feet of floor space.
2. Wholesale, warehouse, freight and trucking uses: One off street loading space for every seven thousand five hundred square feet of floor area.

**Section 633: SPECIAL PARKING AND LOADING SPACE REQUIREMENTS**

1. The Board of Adjustment, where conditional use approval is required, may required additional off street parking and loading spaces for any use if they find the spaces provided are not sufficient.
2. Where any non residential district or use abuts a residential district or use, the parking or loading space shall be no closer than fifteen feet to the property lines abutting the residential district, and the spaces shall be suitably screened and landscaped.

**Section 634: SIGNS**

No signs or billboards shall be permitted without meeting the following criteria:

1. Be in the public interest and not to the detriment of the public safety or welfare.

2. Not be detrimental to surrounding properties.
3. Be of a character, size and location that will be in harmony with the orderly development of the district.

**Section 635: ADVERTISING BILLBOARDS**

Off premise signs shall conform to State statue and regulation.

**Section 636: SIGNS IN THE RA, LAKE AND CON DISTRICTS**

The following signs are permitted when located on the immediate property:

1. One professional or home occupation sign, not exceeding six square feet.
2. One temporary Real Estate sign, not exceeding six square feet.
3. Signs identifying any non-residential building or use permitted in residential districts, not exceeding four square feet.
4. Directional or information signs, not exceeding four square feet.
5. Signs necessary for public safety or welfare.

**Section 637: SIGNS IN THE RAC, VL AND IND DISTRICTS**

The following signs are permitted when located on the immediate property:

1. All signs permitted under Section 636 plus,
2. One Wall Sign provided it shall:
  - a. Not exceed the highest point of the building's roof;
  - b. Not exceed 16 square feet, or
3. One projecting sign provided it shall:
  - a. Not extend beyond the street line;

- b. Not extend more than four feet from the building wall;
- c. Not be less than ten feet above the surface of a public walkway area;
  - a. Not exceed 16 square feet, or
- 4. One ground sign provided it shall:
  - a. Not exceed twenty feet in height above the finished grade;
  - b. Be set back at least twenty feet from any street line, and at least ten feet from any other lot line;
  - c. Not exceed 16 square feet.

**Section 638: COMPUTATION OF PERMISSIBLE SIGN AREA**

When computing the total permissible sign area for any use:

- 1. Existing signs shall be included.
- 2. The total area of all signs shall not exceed the requirements as set forth in these regulations.
- 3. Signs consisting of free standing letters, numerals or other devices shall include any intervening space between them.
- 4. Only the larger faced area of a double-faced sign shall be used.
- 5. Back to back signs may be counted as one sign.

**Section 639: SIGNS-TRAFFIC, HAZARD, SAFETY AND OBSTRUCTION**

Every sign shall be designed and located in such a manner as to:

- 1. Not impair public safety.
- 2. Not restrict clear vision between a sidewalk and street.

- 3. Not be confused with any traffic sign or signal.
- 4. Not prevent free access to any door, window or fire escape.
- 5. Withstand a wind pressure load of at least thirty pounds per square foot.

**Section 640: ILLUMINATED AND FLASHING SIGNS**

- 1. Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other properties.
- 2. Flashing, oscillating, or revolving signs shall not be permitted, unless necessary for public safety or welfare.

**Section 641: PERFORMANCE STANDARDS**

No land or building in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose. The burden of proof that the following standards are met shall be on the applicant:

- 1. **Noise** volume shall be limited to levels that will not be a nuisance to adjacent uses. Noise levels or frequencies which are not customary in the district or neighborhood or which represent a substantial repeated disturbance to others shall be presumed to constitute a nuisance.
- 2. **All outdoor lighting and illuminated signs** shall be installed,

constructed and maintained to minimize the intrusion of light across property lines, eliminate upward illumination and reduce glare and to maximize the effectiveness of site lighting by limiting light to a target area. Up lighting is prohibited. All parking area lighting will be full cut-off type fixtures. Lights on poles will be shorter than the building they illuminate or not greater than 15 feet, whichever is less. Commercial signs may be internally illuminated or externally lit if the light is fully cut off or shielded or shown from the top down. All building lighting for security or aesthetics will be cut off or shielded and targeted. Wall pack lights are prohibited. All outdoor lighting fixtures, including display fixtures shall be turned off after the close of business, unless needed for safety or security, in which case the lighting shall be minimized. Technical definitions and lighting levels should conform to those recommended by the Illuminating Engineering Society of North America (IESNA) as contained in the IESNA Lighting Handbook, as revised from time to time.

3. **Earth moving** and hauling, rock drilling or crushing, jackhammer and similar excessively loud equipment shall not be operated on Sundays or between the hours of 5:30 p.m. and 7:00 a.m. This shall not apply to emergency activities such as utility repairs.
4. **Blasting** and other activities causing substantial vibration shall require evidence to demonstrate that it will not cause vibrations or sound waves

that would cause damage beyond their property line.

5. **Dust and air pollution** shall be controlled to conform to the State of Vermont Air Quality Performance Standards.
6. **Electromagnetic & microwave transmissions** shall be shielded or otherwise controlled so as not to cause a health hazard or a nuisance to adjacent land uses. Transmissions regulated by the Federal Communications Commission shall be exempt from this provision.
7. **Drainage** shall be managed so as not to cause a nuisance or damage to other properties. Changes in grading shall be done so that drainage is directed to established drainage courses, and controlled so as not to cause ponding, flooding or siltation of other properties, or to exceed the capacity of downstream drainage facilities. Changes to natural drainage patterns shall not be allowed to alter wetlands or stream flows.
8. **Excavation**, filling and re-grading shall conform to the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites (1982 edition - as amended). The location of fill sites and access restrictions for hauling equipment shall be reviewed and approved by the Director of Public Works consistent with State Solid Waste Management (Rule 6-309 or as amended).
9. **Noxious odors** shall not be detectable beyond property lines (Note: odors from customary agricultural activities shall not be restricted.)

10. **Fire, explosive and similar safety hazards** which would substantially increase the risk to an abutting property, or which would place an unreasonable burden on the Fire Department, shall be prohibited.
  11. **All sewage and other wastes** shall be safely disposed of so that there will not be a hazard to public health. Any activity which poses a clear threat to water supplies or which would cause undue water pollution shall be prohibited.
  12. **Commercial, industrial or institutional fuel storage facilities**, where regulated by the Vermont Department of Labor and Industry, shall maintain all tanks and related equipment with leak detection and spill control systems incorporating the best available safety practices and technology, consistent with government and industry standards.
4. Churches, convents and parish houses.
  5. Public and private hospitals.
  6. Regional Solid Waste Facilities certified under 10 V.S.A. Chapter 159.
  7. Hazardous Waste Management Facilities for which a notice of intent to construct has been received under Section 6606a of Title Ten.

However, it is the intent of the Town of Leicester to regulate each of these institutions or facilities to the maximum extent allowed for by the law consistent with its regulation of all other development within the municipality pursuant to these regulations.

## **ARTICLE VII: FLOOD HAZARD AREA REGULATIONS (For Emergency Program)**

### **Section 642: SPECIAL PUBLIC USE EXCEPTIONS**

Unless reasonable provision is made in these bylaws for the location of any of the following uses, the following uses may only be regulated with respect to size, height, bulk, yards, courts, setbacks, density of buildings, off street parking and loading facilities, and landscaping or screening requirements:

1. Public utility power generating plants and transmission lines.
2. State or community owned and operated institutions and facilities.
3. Public and private schools and other educational institutions certified by the Vermont Department of Education.

### **Section 710: STATUTORY AUTHORIZATION**

To affect the purposes of 10 V.S.A. Chapter 32, and in accordance with Section 4424 of the Act, there are hereby established zoning regulations for areas of special flood hazard in the Town of Leicester.

### **Section 711: PURPOSE**

The purpose of these flood hazard area regulations is to protect the public health, safety and general welfare, persons, and property from the hazards of floodwaters.

### **Section 712: AREAS TO WHICH THESE REGULATIONS APPLY**

These regulations, and any revisions thereto, shall apply to all lands within Zone A on the Federal Emergency Management Agency's (FEMA) Flood Hazard Boundary Maps for the Town of Leicester, Vermont dated 21 January 1977. This area is also called the Flood Plain District.

**Section 713: INTERPRETATION OF DISTRICT BOUNDARIES**

The Zoning Administrator shall determine the boundaries of any designated area of special flood hazard by utilizing the base flood elevation data contained in the Flood Insurance Study or in the absence of such data, by obtaining, reviewing, and reasonably utilizing any base flood elevation data available from a federal or state agency. Appeals of the decision at the Zoning Administrator can be made by filing a notice with the Secretary of the Board of Adjustment within 15 days of the decision or act with respect to a boundary interpretation.

**Section 714: PERMITTED USES**

Upon issuance of a permit by the Zoning Administrator, the following open space uses shall be permitted within the area of special flood hazard to the extent that they are not prohibited by any other ordinance and provided that they do not require the erection of structures or storage of materials and equipment, the borrowing of fill from outside the flood hazard area, or channel modification or relocation, and do not obstruct flood flows, affect the water carrying capacity of the regulatory floodway or channel, or increase offsite flood damage potential.

1. Agricultural uses, such as general farming, pasture, orchard grazing, outdoor plant nurseries, truck farming, and forestry.
2. Recreation uses, such as parks, camps, picnic grounds, tennis courts, golf courses, golf driving ranges, archery and shooting ranges, hiking and riding trails, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas, and boat launching sites.
3. Accessory residential uses, such as lawns, gardens, parking areas, and play areas.

**Section 715: CONDITIONAL USES**

All new construction, substantial improvement, and development uses prescribed by the Town of Leicester zoning ordinance that do not meet the requirements of Section 714 and fall within the designated area of special flood hazard are permitted only upon the granting of a conditional use permit by the Board of Adjustment in accordance with the procedures and requirements of Sections 716, 718, 719 and 720 of these regulations.

**Section 716: PERMIT REQUIREMENTS AND APPLICATION PROCEDURES**

Permits are required for all proposed new construction, substantial improvements and other developments, including the placement of mobile homes, within all lands to which these regulations apply.

All zoning permit applications shall be submitted to the Zoning Administrator, on forms furnished by him, who shall determine, on application, whether or not the proposed development is located within the area of special flood hazard by the procedures established in Section 713 of these regulations.

If the proposed use will be located in the areas of special flood hazard and meets the requirements of Section 714 of these regulations, the Zoning Administrator shall issue a permit. If the proposed use does not meet the requirements of Section 714, the Zoning Administrator shall refer all applicants to the Secretary of the Board of Adjustment.

#### **Section 717: RECORDS**

The Zoning Administrator shall maintain a record in the Town Office of:

1. The elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures and whether or not such structures contain a basement; and
2. The elevation, in relation to mean sea level, to which such structures have been flood proofed.

#### **Section 718: CONDITIONAL USE REVIEW PROCEDURES**

Upon receiving an application for a conditional use permit under these regulations, the Board of Adjustment shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant:

1. Base flood elevation data for all subdivisions and other proposed

new developments greater than 50 lots or 5 acres, whichever is the smaller;

2. The elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
3. Where flood proofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement has been flood proofed;
4. Certification from a registered professional engineer or architect that the flood proofed structure meets the flood proofing criteria of Section 720 of these regulations;
5. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

In addition, the Board of Adjustment shall require such of the following information as it deems necessary for determining the suitability of the particular site for the proposed use:

1. Plans in triplicate, drawn to scale, showing the location, dimensions, contours, and elevation of the lot; the size and location on the site of existing or proposed structures, fill or storage of materials; and sanitary facilities; and the relation of the above to the location of the channel, floodway, and base flood elevation.
2. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, and cross-sectional areas to be occupied by the proposed development.

3. A profile showing the slope of the bottom of the channel or flow line of the stream.
4. Specifications for building construction and materials, flood proofing, mining, dredging, filling, grading, paving, excavation, or drilling, channel improvement, storage of materials, water supply, and sanitary facilities.

In unnumbered A zones, the Board of Adjustment shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, as criteria for approval of all new construction and substantial improvements under Section 718(1), (2) and (3) below.

The Board of Adjustment shall notify adjacent communities and the Vermont Agency of Natural Resources, Department of Environmental Conservation River Management Section prior to approval of an alteration or relocation of a watercourse and shall submit copies of such notifications to the FEMA Administrator.

The Secretary of the Board of Adjustment shall transmit one copy of the information required by subsections 718 to the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. Section 4424(2)(D).

In reviewing each application, the Board of Adjustment shall consider the evaluation of the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section and shall determine that the proposed use will conform to the development standards of Section 719 of these regulations.

In accordance with 24 V.S.A. Section 4424(2)(D), no permit may be granted for new construction or the development of land in any area designated as a flood plain prior to the expiration of a period of 30 days following the submission of a report to the Vermont Department of Water Resources.

### **Section 719: CONSIDERATIONS BY THE BOARD OF ADJUSTMENT**

In reviewing each application, the Board of Adjustment shall consider:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments;
2. The danger that materials may be swept onto other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
5. The importance of the services provided by the proposed facility to the community;
6. The necessity to the facility of a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

9. The relationship of the proposed use to the proposed comprehensive plan, insofar as it has been developed;
10. The safety of access to the property in times of flood of ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
12. The costs of providing governmental and public facilities and services during and after flooding;
13. Such other factors as are relevant to the purposes of this ordinance.

**Section 720: CONDITIONS ATTACHED TO CONDITIONAL USE APPROVAL**

As a condition of approval, the Board of Adjustment shall specifically require that:

1. All new construction or substantial improvement of any residential structure have the first floor and basement floor elevated to or above the base flood elevation, unless the Town of Leicester has been granted an exception by the Administrator for the allowance of basements flood proofed below the base flood level;
2. All new construction or substantial improvement of nonresidential structures have the lowest floor, including basement, elevated to or above the base level elevation, or be flood proofed below the base flood level in accordance with subsection (3) of this section;
3. The lowest floor, including basement, and attendant utility and

sanitary facilities of all new construction or substantial improvement below the base flood elevation be flood proofed so that 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 the effects of buoyancy;

4. Structures be designed and anchored to resist flotation, collapse, or lateral movement;
5. Any encroachment, including fill, new construction, substantial improvement, or other development, be prohibited that will result in any increase in flood levels within the regulatory floodway during the occurrence of the base flood discharge, except as a flood control measure;
6. The flood carrying capacity within any portion of an altered or relocated watercourse be maintained;
7. All gas and electrical equipment, circuits, and appliances be located and constructed to minimize or eliminate flood damage;
8. All new and replacement water supply systems be designed so as to minimize or prevent the infiltration of flood waters into the systems;
9. All new and replacement sanitary sewage systems be designed to minimize or prevent infiltration of flood waters into the systems and discharges from the systems into flood waters;
10. On-site waste disposal systems be located to avoid impairment to

them or contamination from them during flooding;

11. No mobile home shall be placed in the floodway, except in an existing mobile home park or existing mobile home subdivision;
12. All mobile homes to be placed in the designated area of special flood hazard or regulatory floodway be anchored to resist flotation, collapse, or lateral movement by:
  - a. Over-the-top ties at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, and mobile homes less than 50 feet long requiring one additional tie per side;
  - b. Frame ties at each corner of the home, with five additional ties per side at intermediate points, and mobile homes less than 50 feet long requiring four additional ties per side;
13. All components of the mobile home anchoring system required for mobile homes placed in the designated area of special flood hazard or regulatory floodway shall be capable of carrying a force of 4,800 pounds and any additions to the mobile home shall be similarly anchored;
14. Within zones A 1-30, for new mobile home parks and subdivisions, for expansions to existing mobile home parks and subdivisions, for existing mobile home parks and subdivisions where the repair, reconstruction, or improvement of the streets, utilities, and pads equals, or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement has commenced, and for mobile homes not placed in a mobile home park or subdivision;
  - a. Stands or lots be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
  - b. Adequate surface drainage and access for a hauler be provided; and
  - c. In the instance of elevation on pilings, (1) the lots are large enough to permit steps, (2) piling foundations are placed in stable soils no more than six feet above the ground level.
15. An evacuation plan indicating alternate vehicular access and escape routes be filed with an approved by the Deputy Civil Defense Director for mobile home parks and mobile home subdivisions located within the designated area of special flood hazard;
16. All necessary permits be obtained from those governmental agencies from which approval is required by federal or state law;
17. All subdivision proposals be reasonable safe from flooding and that;
  - a. All public utilities and facilities serving subdivisions, such as sewer, gas, electrical, and water systems, be located and constructed to minimize or eliminate flood damage, and
  - b. Adequate drainage is provided within subdivisions to reduce exposure to flood hazards.
  - c. Upon consideration of those factors in Section 911, and the purposes of these regulations, the Board of Adjustment shall attach such additional conditions to the granting of a permit as are

necessary to meet the purposes and flood hazard area management requirements of these zoning regulations.

**Section 721: TIME FOR ACTING ON APPLICATION**

The Board of Adjustment shall hold a properly warned hearing pursuant to Section 341 of these regulations, and shall act on such application in a manner described in Sections 718, 719 and 720.

**Section 722: ISSUANCE AND TRANSMISSION OF PERMITS**

Upon granting a permit, the Board of Adjustment shall send to the applicant, by certified mail, a copy of the decision. Copies of the decision also shall be mailed to every person appearing and having been heard at the hearing, with the Administrative Office, who shall forthwith issue a permit, and with the Town Clerk as a part of the public records.

**Section 723: EFFECTIVE DATE**

A permitted use permit shall take effect 15 days from the date of issuance. Conditional use permits shall take effect upon adjudication by the Board of Adjustment.

**Section 724: APPEALS**

An interest person, as defined in 24 V.S.A. Section 4464(b), may appeal a decision of the Board of Adjustment to the Superior Court in accordance with the provisions of 24 V.S.A. Section 4471.

**Section 725: VARIANCES**

1. Variances shall be granted by the Board of Adjustment only:
  - a. In accordance with the provisions of 24 V.S.A., Section 4469;
  - b. Upon a determination that during the base flood discharge the variance will not result in increased flood levels in the designated regulatory floodway, threats to public safety, extraordinary public expense, or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
2. The Secretary of the Board of Adjustment shall notify the applicant that the issuance of a variance to construct a structure below the base flood level;
  - a. Will result in increased premium rates for flood insurance commensurate with the resulting increase in risk up to amounts as high as \$25 for \$100 of insurance coverage;
  - b. Increase risks of life and property.
3. The Secretary of the Board of Adjustment shall:
  - a. Maintain a record of all variance actions, including justification for their issuance, and
  - b. Report such variances issued to the Administrator upon request.

**Section 726: FEES**

The Selectboard shall establish such fees as may be necessary for the filing of notices and the processing of hearings and action thereon. All such fees shall be paid to the Secretary of the Board of Adjustment upon application for a

conditional use permit under these regulations.

**Section 727: DISCLAIMER OF LIABILITY**

These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Leicester or any town official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**Section 728: PRECEDENCE OF REGULATIONS**

The provisions of these regulations shall take precedence over any conflicting and less restrictive local laws.

**Section 729: ANNUAL REPORT TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY**

The Zoning Administrator shall, to the extent possible, submit to the Administrator the information required by the FEMA annual report form with respect to the administration and enforcement of these flood hazard area bylaws.

A copy of the annual report shall be submitted to the state-coordinating agency.

**Section 730: DEFINITIONS**

**Administrator:** The Federal Emergency Management Administrator.

**Area of Special Flood Hazard:** The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given

year. The area includes all A zone designations on the FIRM, or, in the absence of the FIRM, on the FHBM. It does not include Zones B and C.

**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

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

**FEMA:** Federal Emergency Management Agency.

**FHBM:** Flood Hazard Boundary Map. An official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community A FHBM is issued before the FEMA has conducted a flood study of the community.

**FIRM:** Flood Insurance Rate Map. An official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM is issued after the FEMA has completed a flood study of the community.

**Floodproofed or Floodproofing:** Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures that substantially reduce or eliminate flood damage to any combination of real estate or improved real property, water or sanitary facilities, structures and their contents.

**Floodway:** 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

accumulatively increasing the water surface elevation more than one foot.

**Hazard Area:** Land subject to landslides, soil erosion, earthquakes, water supply contamination, or other natural or human-made hazards as identified within a “local mitigation plan” in conformance with and approved pursuant to the provisions of 44 C.F.R. Section 201.6.

**Mobile Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

**Mobile Home Park or Mobile Home Subdivision:** A parcel of land divided into two or more mobile home lots for rent or sale.

**New Construction:** Construction of structures or filling commenced on or after the effective date of the adoption of a community’s flood hazard bylaws.

**Start of Construction:** See FEMA definition in Section 1909.1 of the current National Flood Insurance program rules and regulations.

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

**Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before damage occurred. The term does not, however include either (1) any project or improvement of a structure to comply with existing state

or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alterations of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.