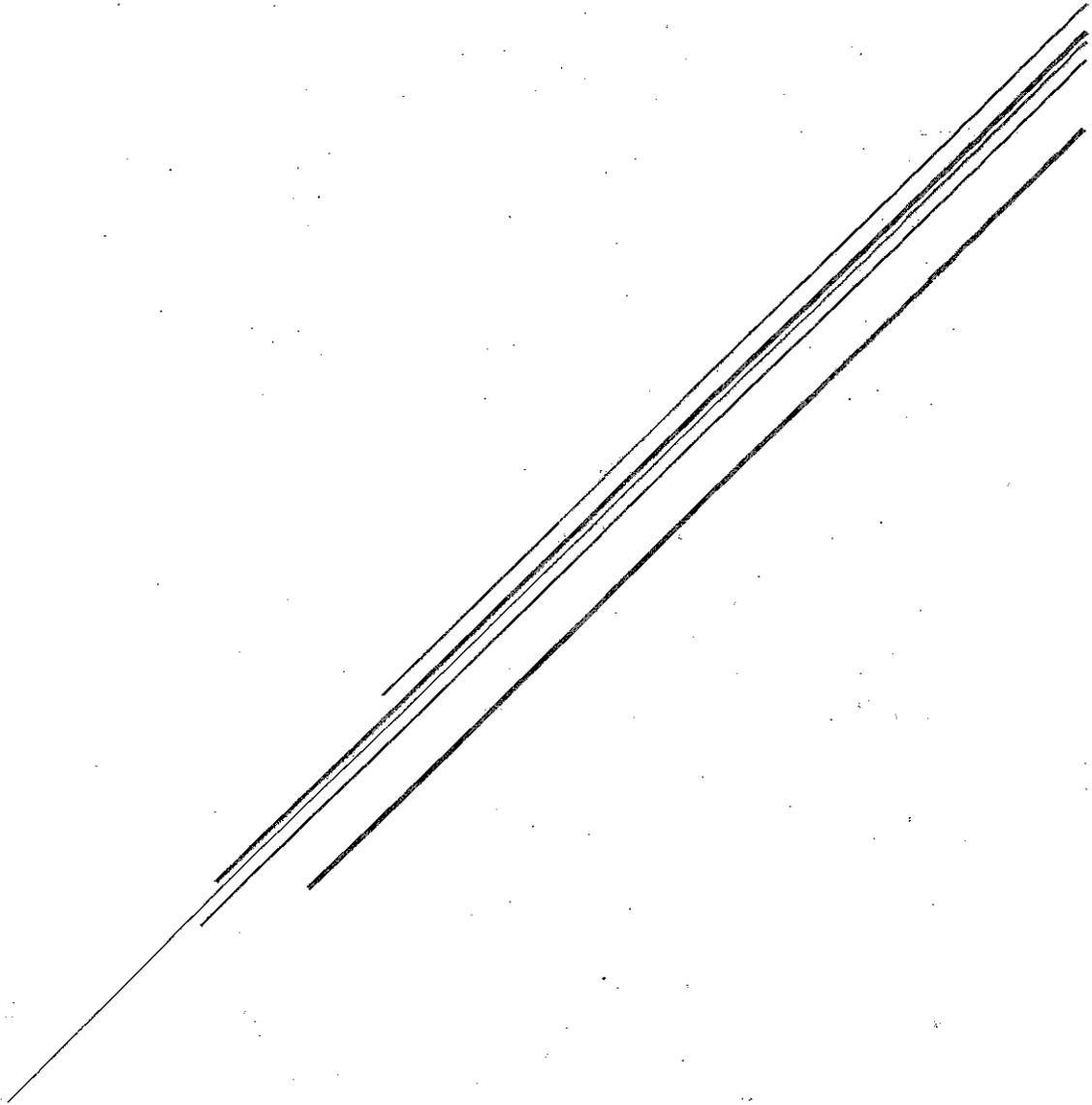


TOWN OF CLARENDON

Zoning Regulations



Adopted February 14, 2011

CLARENDON ZONING REGULATIONS

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ARTICLE I: ENACTMENT, OBJECTIVES, AND PURPOSE

Section 101: Enactment

In accordance with the Vermont Planning and Development Act, Chapter 117 of Title 24 of the Vermont Statutes Annotated, hereinafter referred to as the "Act", there are hereby established land use regulations for the Town of Clarendon which shall be known and cited as the "Town of Clarendon Zoning Regulations".

Section 102: Objectives and Intent

To implement the policies of the duly adopted Town Plan for Clarendon, Vermont.

Section 103: Purpose

These regulations promote the health, safety, and general welfare of the people of Clarendon and implement the Clarendon Town Plan. Specific objectives are to protect and enhance the value of property, to facilitate the adequate provision of transportation, water, wastewater treatment, schools, and other public facilities and services, to provide for orderly growth and to further the purposes set forth in the Plan.

Section 104: Permit Required

No person shall take or cause to be taken any of the following actions without first obtaining a permit: the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, and any change in the use of any building or other structure, or land, or extension of use of land and commercial extraction of soil, sand and gravel.

Section 105: Manual of Procedures

This manual (also known as Attachment C) provides language for the administrative and enforcement of municipal zoning bylaws in the State of Vermont. Copies of this manual will be available at the Town Clerk's office in the Clarendon Town Hall.

ARTICLE II: ESTABLISHMENT OF LAND USE DISTRICTS AND MAP

Section 201: Establishment of Land Use Districts

The Town of Clarendon hereby establishes the following four (4) land use districts and one (1) overlay district.

- A. Agricultural and Rural Residential
- B. Residential and Commercial
- C. Commercial and Industrial
- D. Conservation
- E. Flood Hazard Area Overlay (Attachment B)

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The permitted uses and conditional uses allowed in each district are as specified in Article III: Table of Uses

Dimensional requirements for each district are as specified in Article IV

Boundaries for each district are specified in the Land Use District Map (see Sections 203 and 204)

Section 202: Land Use District Descriptions and Purpose

A. Agricultural and Rural Residential District

a. Purposes:

- i. Protect lands with an economic capability for agriculture that are now predominantly undeveloped except for uses associated with agriculture or forestry
- ii. Planned residential developments and land uses that do not remove the potential of the land for agricultural production, such as open space, conservation, and certain forms of outdoor recreation
- iii. Low-density residential and recreational development that is compatible with the district purposes and guidelines
- iv. Compatible uses include agricultural and forest uses, family dwellings, professional residence-office, tourist home, motel/ hotel, religious institution, school, community center, hospital, private club, membership clubhouse, outdoor recreation, wildlife refuge, cemetery accessory use and home occupations.
- v. The following uses may be permitted after issuance of a Conditional Use Permit by the Board of Adjustment in accordance with the provisions of Article V, Section 504 of the Regulations:
light industry, gravel pit, gasoline station, animal hospital or veterinary clinic; (provided that any structure for the housing of animals shall be at least two hundred feet from any residential or any other use in the district to which it would be detrimental).

B. Residential and Commercial District

a. Purposes:

- i. Provide for residential areas and encourage affordable housing, while permitting commercial enterprises.
- ii. Provide for development compatible with existing commercial and residential structures.
- iii. Allow single and two-family residences and other compatible uses, such as small scale, multi-family housing
- iv. Allow uses at densities appropriate with the physical capability of the land and the availability of community facilities and services where applicable
- v. Compatible uses include all uses that are permitted in Agricultural and Rural Residential district excluding manufacturing.

C. Commercial and Industrial District

a. Purposes

- i. Provide employment opportunities in manufacturing, warehousing, and research and development.
- ii. Provide commercial and retail uses for employment opportunities as well as expand the economic base.
- iii. Allow commercial and industrial use commercial and industrial use including:
 - a. Manufacturing and/or processing and/or assembly
 - b. Warehouse storage and/or distribution of goods, services and material
 - c. Research facilities
 - d. Residential and agricultural uses in conformance with minimum standards under residential uses of these regulations
 - e. Commercial or industrial services
 - f. Retail and/or wholesale operations
 - g. Agriculture

D. Conservation District

i. Purposes

- a. Protect the critical and natural resource value of lands that are essentially undeveloped
- b. Protect wildlife and wildlife habitat, and lands unsuitable for land development.
- c. Maintain Class 3 roads in their present state.

E. Flood Hazard Area Overlay District

i. Purposes

- a. Minimize and prevent the loss of life and property.
- b. Minimize and prevent the disruption of commerce.

Section 203: Land Use District Map

The location and boundaries of land use districts are established as shown on the Official Land Use District Map. The Land Use District Map is hereby made a part of these land use district regulations. No changes shall be made to the Official Land Use District Map except in accordance with the procedures for amending zoning bylaws.

Regardless of the existence of copies of the Land Use District Map that may from time to time be made or published, the Official Land Use District Map shall be that located in the Clarendon Town Clerk's office.

Section 204: Interpretation of Land Use District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Land Use District Map, the following rules shall apply:

- A. Boundaries that approximately follow the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines;

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- B. Boundaries that approximately follow lot lines shall be construed to follow such lot lines;
- C. Boundaries that follow shorelines shall be construed as the low mean water level;
- D. Boundaries which are parallel to or extensions of features in A through C above shall be so construed;

Where circumstances are not covered by A through D above or the rules are not clear, the Zoning Administrator shall consult with the Planning Commission.

ARTICLE III: TABLE OF PERMITTED AND CONDITIONAL USES

Section 301: Permitted Uses

Permitted uses (P) are permitted in those districts specified in the Table of Permitted and Conditional Uses in Section 305.

Section 302: Conditional Uses

Conditional Uses are uses permitted upon compliance with Article V.

Section 303: Non-Listed Uses

Uses not listed in the Table of Permitted and Conditional uses shall not be allowed unless the BZA determines that a none-listed use has the same general characteristics and the same impacts on adjoining land uses as a listed use.

Section 304: Prohibited Uses

In all districts the following uses are not permitted: hide tanning or curing plants; rendering plants, junkyards; asphalt processing plants, cement plants, manufacturing or processing of fertilizer, bone, rubber, paper, ammonia, chlorine, or explosives; manufacturing or refining of petroleum or gas; crematories; and pornographic uses.

Section 305: Table of Uses

A person shall not use any land or structure within the town except in conformance with the use provisions of the Table of Uses.

District abbreviations: Agricultural and Rural Residential (ARR), Residential and Commercial (RC), Commercial and Industrial (CI), Conservation (CON), Flood Hazard Overlay (FHO)
For each district, permissible uses are given one of four designations:

Exempt (E) uses and structures are permissible without obtaining any town permit.
Notified (N) structures are permissible without obtaining any town permit *but* require a written notification to the Zoning Administrator of intent to build.

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Permitted (P) uses and structures are permissible upon issuance of a development permit. Such uses may be subject to site plan review (Article VI) by the Planning Commission prior to issuance of a permit.

Conditional (C) uses and structures are permissible only upon issuance of a conditional use permit by Board of Zoning Adjustment (Article V)

Uses not listed as exempt, notified, permitted, or conditional are prohibited in the district.

PROPERTY USE	ARR	RC	CI	CON	FHO	NOTES
Agricultural Structures (not including dwellings)	N	N	N	N	N	Allowed in all Districts.
Accepted Agriculture / Silviculture Practices	N	N	N	N	N	Allowed in all Districts.
Accessory Apartment	P	P	P	P	P	
Accessory Use or Structure	P	P	P	P	P	
Animal Hospital, Veterinary Clinic	C	P	P			
Automobile Repair	C	C	P			
Automobile Gas/Service Station	C	C	C			
Bed & Breakfast/Hotel/Motel	C	P	P			
Campgrounds/Trailer Camps	P	P		C		
Cemetery Accessory	P	P	P			
Child Care Facility, small	P	P	P			
Child Care Facility, large	C	C	C			
Community Center	P	P	P			
Contractor's Storage Yard	P	P	P			
Cottage Industry	P	P	P			
Home Occupation	P	P	P	P		
Hospital	P	P	P			
Light Industry and Warehouse	C	C	P			
Manufacturing, Processing and/or Assembly			P			
Membership Club House		P	P			
Minor Improvements	E	E	E			
Mobile Home Park	C	C	C			
Museum / Gallery/Places of Public Assembly	P	P	P			
Post Office	P	P	P			
Private Outdoor Recreation	P	P	P			
Private Club		P	P			
Professional Office/Personal Services	C	P	P			
Public Power Generating Plant / Transmission Facilities	E	E	E			
Research Facilities			P			
Residence, Single Family	P	P	C			
Residence, Two Family	P	P	P			
Residence, Multifamily		P	P			
Residential Care/Group Home (serving 8 or less)	P	P	P			
Residential Care/Group Home (serving 9 or more)	C	C	C			
Restaurant, Tavern		P	P			
Retail Establishment	C	P	P			
Sand & Gravel Pits	C	C	C			
Special Public Uses (Section 813)	E	E	E			
Trailers/Motor Homes	N	N	N			

ARTICLE IV: DIMENSIONAL REQUIREMENTS

The following requirements apply to all uses shown as Permitted (P) in the Table of Uses (see Section 301). Conditional Uses shall meet the requirements of this Section and any applicable requirements under Article V.

DISTRICT	MIN LOT SIZE	MIN SET BACK			MIN LOT DEPTH	MIN LOT FRONTAGE	Max Building Coverage	Max Building Height**
		FRONT*	REAR	SIDE				
ARR	40,000 sq. ft.	40 ft.	30 ft.	20 ft.	150 ft.	125 ft.	20 percent	3 stories or 35 ft.
RC	40,000 sq. ft.	40 ft.	30 ft.	20 ft.	150 ft.	125 ft.	35 percent	3 stories or 35 ft.
CI	40,000 sq. ft.	40 ft.	30 ft.	20 ft.	150 ft.	125 ft.	50 percent	3 stories or 35 ft.
CON	40,000 sq. ft.	40 ft.	30 ft.	20 ft.	150 ft.	125 ft.	20 percent	3 stories or 35 ft.

All Town Road Rights-of-Way are assumed to be 49.5 feet minimum

*Front setbacks are measured from edge of road right of way

**Max. building height greater than 35 but less than 50 feet subject to conditional use

*See Section 810 for additional requirements for Residential Care/Group Home

Multiple residences are permitted without subdivision of the lot if location of the buildings results in the ability to subdivide at a future date within conformance of the minimum lot size, setbacks, lot depth, lot frontage and building coverage.

ARTICLE V: USES PERMITTED SUBJECT TO CONDITIONS

Section 501: Overall Intent

Uses listed as "conditional" in these regulations are considered to be permitted in the Town of Clarendon. However, certain attributes of these activities must be addressed. It is important that the activities being pursued will not have an "undue adverse effect".

Section 502: Scope

No development listed as Conditional in the Table of Uses (see Section 305) may commence without receipt of a conditional use permit from the Zoning Board of Adjustment (hereinafter BZA) following a public hearing and review. In making its determination, the BZA shall consider the provisions of this article and Article VI.

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Section 503: Submission Requirements

The owner and/or applicant shall submit three (3) sets of a site plan, application fee and supporting data to the Board of Adjustment (BZA):

- A. Basic Information including:
 - a. Name and address of the owner of record of this, adjoining lands, and lands adjacent (across a road);
 - b. Name and address of applicant, agent, lessee, or landowner;
 - c. Name and address of person or firm preparing the plan; and
 - d. A description of the property giving location of the property.
- B. Site Plan showing: (unless waived by the BZA)
 - a. Proposed structure(s), locations, and land use areas;
 - b. Roads, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks;
 - c. Utilities both existing and proposed, including water, wells, and wastewater disposal systems;
 - d. Landscaping plans, including site grading, screening, fencing, or gating.
- C. A traffic study if issues of safety are a significant concern to the BZA.
- D. The location, size and details of proposed signs.
- E. A certification signed by the applicant that all adjoining and adjacent property owners have been notified by mail of the application. A copy of the notice shall be filed with the certification.
- F. If deemed necessary for the proposed project by the Board of Adjustment, a Property Survey showing:
 - a. Scale of map, north point and date and/or
 - b. 20 foot or 3 meter contour lines and/or
 - c. Existing features including structures, stonewalls, and roads and/or
 - d. Utility easements and/or
 - e. Rights-of-way and/or
 - f. Land use and deed restrictions, and/or
 - g. Land use district classification and/or
 - h. Forested areas, existing surface waters (brooks, ponds, etc.), critical wildlife habitat (if any) and/or
 - i. The location of proposed structures with approximate distance from lot lines indicated.

Section 504: General Standards for Review

No permit shall be granted unless the applicant demonstrates that the proposed conditional use will not have an undue adverse effect on any of the following:

- A. The capacity of existing or planned community facilities,:

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- B. The character of the area, as defined by the purpose of the land use district. Conditional uses are created with the intent of allowing for a diversity of development types in various districts while at the same time retaining the unique character of each neighborhood in the town.
- C. Traffic on town or state highways in the vicinity:
 - a. The project shall have adequate traffic access and circulation and shall not cause unreasonable traffic congestion or unsafe conditions with respect to pedestrian or vehicular traffic or other transportation facilities.
 - b. The BZA may also consider any local or regional traffic plans or studies in place. Traffic engineering and/or impact studies may be required of the applicant.
- D. Local bylaws or ordinances in effect;
- E. The BZA will consider whether the proposed development will interfere with the sustainable utilization of renewable energy resources.

Section 505: Bond

The BZA may require the applicant to provide a suitable performance bond or other form of security to secure compliance with the standards set forth in Section 504.

ARTICLE VI: SITE PLAN

Section 600: Overall Intent

Uses requiring "Site Plan Review" are considered to be permissible in their listed districts (Article III). Site Plan review is to ensure that the proposed construction/use of the site will provide adequate parking and loading areas, adequate vehicular and pedestrian circulation, and the mitigation of adverse impacts from lighting on adjacent properties.

Section 601: Scope

A development permit shall be issued by the Zoning Administrator for any use or structure only after the Planning Commission grants site plan approval except in the following cases:

- A. One- and two-family dwellings and associated accessory uses and buildings;
- B. Any use or structure requiring a conditional use permit.

Section 602: Submission Requirements

The owner and/or applicant shall submit to the Planning Commission three (3) sets of a site plan and supporting data, which shall include the following information presented in drawn form and/or written text.

- A. Proposed structure(s), locations, and land use areas;
- B. Roads, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks;

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- C. Details of proposed signage;
- D. Landscaping plans, including site grading, screening or fencing, or gating.

Section 603: Site Plan Review Considerations

The Planning Commission shall review the site plan map and supporting data before approval or approval with stated conditions, or disapproval, is given, and taking into consideration the following objectives.

- A. Safety of pedestrian and vehicular circulation between the site and the streets.
- B. Adequacy of circulation, parking and loading facilities.
- C. Adequacy of landscaping, screening and setbacks in regard to adjacent property.
- D. Protection of the utilization of renewable energy sources
- E. The size, location and illumination of signs
- F. Exterior lighting

Where the Planning Commission is reviewing a "special public use" as described in Section 813, the BZA shall not impose conditions which shall have the effect of interfering with the intended functional use of the facility.

ARTICLE VII: NONCONFORMITIES

Section 700: Overall Intent

This section applies to all existing buildings and uses which do not conform to the requirements of these Regulations.

Section 701: Construction Approved Prior to Adoption or Amendment of Regulations

Nothing contained in these Regulations shall require any change in a nonconformity where such nonconformity conformed to all applicable laws, ordinances, and regulations, or the permit for which was issued, prior to the enactment of these regulations.

Section 702: Change of Nonconforming Use

A Nonconforming Use may be changed to another Nonconforming Use only with the approval of the BZA and then only to a use which in the judgment the BZA is of a lesser, or no more, nonconforming nature. Whenever a Nonconforming Use has become conforming, it shall not be changed back to a Nonconforming Use.

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Section 703: Extension of a Nonconforming Use within an Existing Structure

A nonconformity may be extended throughout the structure, provided no structural alterations or changes are made therein, except those required by law or ordinance or as may be required for safety or necessary to secure or ensure the continued advantageous use of the structure during its lifetime.

Section 704: Enlargement of a Nonconforming Use

A Nonconforming Use may be enlarged on the same lot provided that:

- A. All provisions of these Regulations, except type of use, are complied with;
- B. The BZA determines that there will be no undue, adverse effect on the character of the neighborhood;
- C. Only one such extension is made; and
- D. The total enlargement does not exceed fifty (50%) percent of the area of the Nonconforming Use in existence at the time of the adoption of these Regulations.

Section 705: Restoration of a Use Nonconformity

Any use nonconformity which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a one year period, to the same use nonconformity as existed before such damage. This use nonconformity may be restored further upon annual application to the BZA where it can be demonstrated that restoration within the original time period is not possible.

Section 706: Discontinuance of Use Nonconformity

Any use nonconformity which has ceased by discontinuance, or abandonment for a period of one year shall thereafter conform to the provisions of the Regulations. Intent to resume a use nonconformity shall not confer the right to do so unless actual resumption occurs within the specified time period or application for an extension is made to the BZA.

Section 707: Maintenance of a Dimensional Nonconformity

A dimensional nonconformity of a structure may be normally maintained and repaired provided that such action does not increase the degree of nonconformance.

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Section 708: Expansion of a Dimensional Nonconformity

A dimensional nonconformity of a structure may be expanded provided such action does not increase the degree of nonconformity or create a greater nuisance, detriment to the public health, safety or welfare than the existing dimensional nonconformity.

Section 709: Restoration of a Dimensional Nonconformity

Any dimensional nonconformity which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a one year period, to the same use nonconformity as existed before such damage. This dimensional nonconformity may be restored further upon annual application to the BZA where it can be demonstrated that restoration within the original time period is not possible.

Section 710: Alternation of a Lot or Parcel with a Dimensional Non-Conformity

The boundaries of a lot or parcel with a dimensional nonconformity may be altered only in a manner that decreases, or does not increase, its degree on nonconformity.

ARTICLE VIII: GENERAL REGULATIONS

Section 801: Compliance with Regulations

No land, building, or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure, shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with this Regulation.

No lot shall have an area, width, or a front, side or rear yard, less than that set forth unless otherwise provided with these Regulations.

No building or buildings shall occupy in the aggregate a greater percentage of lot area than set forth unless otherwise provided with these Regulations.

Section 802: Existing Small Lots

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet. If a lot not conforming to the minimum lot size requirements in the district in which it is located is or subsequently comes under common ownership with one or more

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contiguous lots, the nonconforming lot(s) shall not be deemed merged and shall be considered separate lots.

Section 803: Required Frontage on, or Access to, Public Roads or Public Waters

Land development may be permitted on lots that do not have frontage on either a public road or public waters provided that access through a permanent easement or right of way, has been approved by the Planning Commission. All such access shall be at least twenty (20) feet in width and have a maximum sustained grade of not more than 18%. When reviewing an application for an easement for access to a public road or public water from an otherwise inaccessible parcel, permission and any agreed-upon use restrictions, in writing, from the landowner of the property to be used for the easement or deeded right-of-way and a map or sketch of the proposed easement with verification of grade shall be submitted to the Planning Commission.

Section 804: Home Occupation

No regulation herein is intended to infringe upon the right of any resident to use a portion of a dwelling or accessory building for an occupation which is customary in residential areas and

- A. The use does not have an undue adverse impact on the character of the area and the dwelling, accessory buildings, and the lot shall maintain a residential appearance at all times.
- B. The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference significantly beyond what normally occurs in the applicable zoning district.
- C. Storage of equipment and inventory related to the Home Occupation shall be within an enclosed structure or properly screened to maintain the character of the area.

Section 805: Equal Treatment of Housing

Nothing herein shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

Nothing herein shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in Section 4382(a) (10) of the Chapter 117 of Title 24 of the Vermont Statutes Annotated.

Nothing herein shall be construed to prevent the establishment of mobile home parks in accordance with chapter 153 of Title 10 of the Vermont Statutes Annotated.

Section 806: Multifamily Dwellings

A multifamily dwelling shall be considered a permitted use in the Residential and Commercial District and the Commercial and Industrial District.

Section 807: Accessory Apartment

An accessory dwelling unit that is located within or appurtenant to a single-family dwelling shall be a permitted use. An accessory dwelling unit is an efficiency or one-bedroom apartment, located within or appurtenant to a single-family dwelling, that is clearly subordinate to a single-family

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dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- A. The owner occupies either the primary dwelling or accessory dwelling
- B. The property has sufficient wastewater capacity.
- C. The unit does not exceed *50 percent* of the total habitable floor area of the single-family dwelling.
- D. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Section 808: Child Care Facilities

A "family child care home or facility" as used in this section means a home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but requires site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part time children shall be reviewed as a conditional use.

Section 809: Residential Care / Group Homes

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi-family dwelling and shall be subject to conditional use and site plan review

Section 810: Trailers/Motor Homes

Parking a camping trailer, travel trailer, pickup coach or motor home on any public or private property, is permitted only in accordance with the following regulations:

- A. It is not used as a permanent living quarters; and
- B. If more than ten (10) feet in length it is parked so as to comply with the setback requirements of the district; and
- C. It is not occupied for more than 180 days in any 12 month period unless it is being used as temporary living quarters for a maximum of two years while a permanent residence is under construction.

Section 811: Trailer Camp Permits

No person or persons shall construct or operate a travel trailer camp without first obtaining site plan approval from the Planning Commission and a permit from the Zoning Administrator.

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Application for travel trailer camp site plan approval shall be made to the Planning Commission. The application shall be accompanied with a site plan and drawings showing property lines, sanitary sewer and storm sewer drainage facilities, garbage collecting stations and electrical distribution.

Travel trailer camps shall comply with applicable State Regulations.

Section 812: Agricultural Structures

Pursuant to 24 V.S.A. § 4413(d) agricultural structures, excluding dwellings, are exempt from local permitting requirements. However, persons intending to erect a agricultural structure must notify the municipality of the intent to build and abide by setbacks contained in Article IV, unless they obtain an approval of lesser setbacks by the Commissioner of Agriculture, Food and Markets.

The notification shall contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way. Additionally, all agricultural structures within the Flood Hazard Overlay District must comply with the National Flood Insurance Program.

Section 813: Special Public Uses

The following "special public uses" shall be subject to Article VI, Section 604 Site Plan Review (24 V.S.A. Section 4416)

- A. State- or community-owned and operated institutions and facilities.
- B. Public and private schools and other educational institutions certified by the State Department of Education.
- C. Houses of worship and all related and appurtenant structures
- D. Public and private hospitals.
- E. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
- F. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

Section 814: Mobile Home Parks

Mobile home parks are permitted as a conditional use in the specific zoning districts listed in Article III and are subject to review under Article V of these bylaws. New mobile home parks and any addition or alteration to an existing mobile home park, requires conditional use approval by the BZA. The following requirements shall apply to mobile home parks:

- A. Mobile home lots in a Mobile Home Park shall not be located within a flood way and all mobile home pads within the park, if located in a Flood Hazard Area, shall meet the requirements of Appendix A: Clarendon Flood Hazard Zoning Regulations.
- B. A minimum of eight thousand (8,000) square feet of land shall be provided for each mobile home lot within a Mobile Home Park.

- C. Within the Mobile Home Park the minimum width of a lot shall be fifty (50) feet, front setbacks shall be 20 feet and the side and rear setbacks shall be fifteen (15) feet. All buildings not physically connected to a mobile home must be at least fifteen (15) feet from all buildings.
- D. The access right-of-way width to the Park and its Lots shall be a minimum of thirty (30) feet with the traveled portions of the road to be at least twenty (20) feet in width. The Right of Way shall have suitable grade and alignment to allow for servicing of the Lots by fire, rescue, utility and other vehicles ordinarily and necessarily incident to such use.
- E. Minimum radius of curves on access rights-of-way shall be at least thirty (30) feet.
- F. There shall be no dead end rights of-way unless with a turnaround or cul de sac having at least a fifty (50) foot interior radius.
- G. At least two (2) off street parking spaces shall be provided for each mobile home. Minimum surface treatment of such parking spaces shall be gravel. The space may be included in the minimum lot area requirement and shall be indicated on the site plan.
- H. Each lot shall be landscaped and maintained by the owner and or lessee according to State regulations.

Section 815: Calculation of Minimum Lot Size

To calculate the required lot area, existing public road rights-of-way shown on the official map shall not be considered as part of the minimum lot size.

Section 816: Temporary Uses and Structures

Temporary permits may be issued by the Zoning Administrator for a period not exceeding one year, for use as a temporary building, for construction and conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. A 6 month extension of this date may be approved by the Zoning Administrator.

Section 817: Abandonment of Structures

Within one year after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all excavation remaining shall be filled to the normal grade by the owner and all building waste and/or structures shall be removed.

Section 818: Obstruction of Vision

In all districts on a corner lot, within the triangular area formed at the intersection of two street property lines 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 819: Open Storage

In any district, unlicensed motor vehicles shall not be parked in front yard.

2/14/11

Section 820: Off Street Parking and Loading Space Requirements

Off street parking spaces shall be provided at least as set forth below.

A required driveway shall be at least twenty feet (20) clear in width, except for one and two family dwelling use. A parking space shall be at least nine (9) feet by eighteen (18) feet.

A. Residential:

Single family, two family dwelling units:

- a. two parking spaces for every unit

Multifamily dwelling units:

- a. two parking spaces for every unit;

Professional residence office;

- a. one (1) parking space plus one (1) additional parking space for every three hundred square feet of office space

B. Hotel, Motel, Bed and Breakfast;

- a. One space (1) for every guest room

C. Nursing home, Hospital;

- a. One (1) space for every two (2) beds

D. Places of Public Assembly

- a. One (1) parking space for every five (5) seats; where there are no seats, one (1) parking space shall be provided for every two hundred (200) square feet of floor area.

E. Business, Professional and Medical Office

- a. One (1) parking space for every two hundred (250) square feet of office space

F. Retail Establishment;

- a. One (1) parking space for every motor vehicle used in the business, plus one (1) parking space for every two hundred (250) square feet of office space.

G. Restaurant, Tavern and Private Club;

- a. One (1) parking space fore every one hundred-fifty (150) square feet of floor space

Section 821: Signs

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

A. One (1) professional or home occupation sign, not exceeding six (6) square feet.

B. One (1) temporary real estate sign, not exceeding six (6) square feet

C. Signs identifying any permitted non-residential use, within any district including, not exceeding a total of twenty square feet.

D. Signs necessary for public welfare or deemed to be in the public interest by the planning commission.

NOTE: Signs for non-residential use that trigger Act 250 will be regulated by the State of Vermont.

Section 822: Commercial Extraction of Soil, Sand and Gravel

The removal of soil, sand or gravel for sale shall be permitted only upon approval of a plan as part of a conditional use permit for the rehabilitation of the site by the BZA. Rehabilitation shall complement the landscaping in the immediate vicinity.

ARTICLE IX: WAIVERS

Waivers may be considered by the BZA to reduce dimensional requirements, but not density requirements, if the proposed development meets ANY of the following criteria:

- A. The proposed development conforms to the existing development patterns of the immediate neighborhood
- B. The proposed development will more effectively preserve open land or scenic vistas.
- C. The proposed development will provide for energy conservation and renewable energy structures
- D. Meeting the dimensional requirements will create an undue hardship on the applicant and the hardship was not created by the applicant.

The BZA may grant a conditional use waiver if the Board finds that the proposed development meets ALL of the following standards:

- A. Shall not reduce the dimensional requirements by more than the minimum amount necessary.
- B. Does not alter the essential character of the neighborhood or district in which the property is located.
- C. Does not substantially or permanently impair the appropriate use or development of adjacent property.
- D. Shall not be detrimental to the public welfare including the safety and maintenance of the Town's highways.

The BZA may impose conditions regarding the design and screening of the project to mitigate any impacts on neighboring properties.

ARTICLE X: DEFINITIONS

Accepted Agricultural / Silvicultural Practices: as defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively.

Agricultural Structure: 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.

2/14/11

Accessory Dwelling Unit (24 V.S.A. § 4412(1)(E)): An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The property has sufficient wastewater capacity.
- The unit does not exceed 50 percent of the total habitable floor area of the single-family dwelling.
- Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Accessory Use or Structure: A use or building customarily incidental and subordinate to the principal use or building and located on the same lot. Accessory uses or structures are subject to the same requirements as principal structures.

Bed and Breakfast: An owner-operated lodging facility located within a residential dwelling with up to ten rooms designed for two persons each, or twenty guests.

Building Height: Vertical distance measured from the average elevation of the finished grade to the highest point of the roof for flat and mansard roofs, and to the average height between eave and ridge for other types of roofs. Building height provisions shall not apply to agriculture structures.

Contractor's Storage Yard: An unenclosed portion of the lot or parcel upon which a contractor maintains its principal office. Designation of the area as a contractor's storage yard would allow the area to be used to store and maintain construction equipment and other materials customarily used in the trade carried on by the contractor.

Cottage Industry: An expanded home occupation conducted by the resident(s) of a dwelling unit, which is carried on within the principal dwelling and/or an accessory structure and has no more than four (4) nonresident employees.

Development: The division of a parcel into two (2) or more parcels; the construction, reconstruction, conversion, exterior structural alteration, relocation or enlargement of any building(s) or other structure(s) or of any mining, excavation, or landfill; or any change in the use of any building or other structure, or land, or extension of use of land.

Development shall not include the usual and customary removal of rock, gravel or related materials from mining operations that pre-exist this regulation or are operating under a valid permit.

Dwelling Unit: A building or part thereof used as living quarters for one family.

Family Child Care Home: A family day care home is a day care facility which provides for care on a regular basis in the caregiver's own residence. For the purpose of this section, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These shall not include children who reside in the residence of the caregiver.

2/14/11

Group Home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Home Occupation: An accessory use conducted within a portion of a dwelling or an accessory building by the residents thereof.

Light Industry: The manufacture of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Includes those uses which are generally not objectionable because of noise, frequent and/or heavy truck traffic, or fumes. Light industry uses are those which consist of the production, processing, cleaning, testing or distribution of materials or goods.

Minor Improvement: Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion of change of use. Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use. Exterior alterations to structures which do not result in any change to the footprint or height of the structure or a change in use.

Mobile Home (Statutory Definition 24 V.S.A. Sections 4412 and 4413): A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is transportable in one or more sections.

Mobile Home Park (10 V.S.A. § 6201(2)): Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes.

Modular (or Prefabricated) Housing (24 V.S.A. Sections 4412 and 4413): A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Nonconforming Lots or Parcels (24 V.S.A. § 4303(13)): Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

Nonconforming Structure: (24 V.S.A. § 4303(14)): A structure or part of a structure that does not conform to the present bylaws but 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.

2/14/11

Nonconforming Use (24 V.S.A. § 4303(15)): Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Zoning Administrator.

Professional Office: An office or office structure, not greater than 3,000 square feet in total area, whose use is limited to work that causes ordinary noise, odor, air, water, or soil pollution.

Residence, Single-Family (to include mobile homes & modular homes): Building used as living quarters by one family.

Residence, Two-Family: Building used as living quarters by two families living independently of each other, with separate entrances and cooking and toilet facilities for each dwelling unit.

Residence, Multi-Family: Building designed for occupancy by three or more families living independently of each other, with separate entrances and cooking and toilet facilities for each dwelling unit.

Residential Care Home (33 V.S.A. § 7102(1)): A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator.

Restaurant: An establishment whose principal business is the selling of food and beverages primarily to persons served within or adjacent to the building. Typical uses include cafes and coffee shops.

Retail Establishment: a store used primarily engaged in selling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.

Structure: an assembly of materials for occupancy or use, including a building, mobile home, trailer, sign, wall or fence.

Substantially Commenced: will apply to a permitted project that has approximately +/- 40% of the permitted project constructed including but not limited to a foundation, well/septic and/or walls with a roof.

CLARENDON, VERMONT

Land Use District Map

Legend

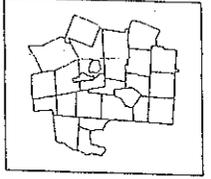
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- State Highway
- Class 2 Town Road
- Class 3 Town Road
- Class 4 Town Road
- State Forest Road
- Private Road
- Other Road
- Surface Water

- Agricultural + Rural Residential District
- Residential + Commercial District
- Commercial + Industrial District
- Conservation District

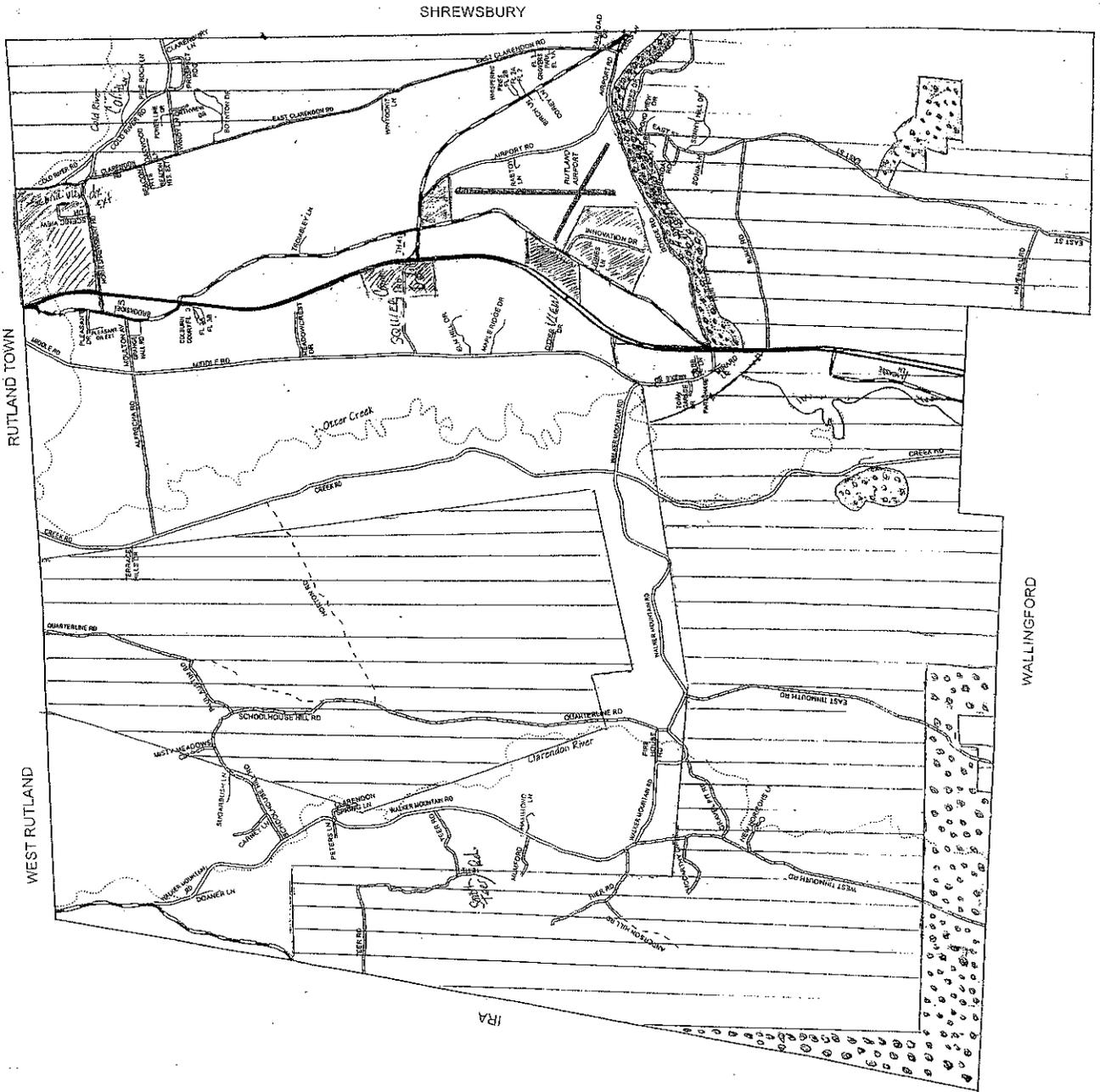
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LOCATION MAP



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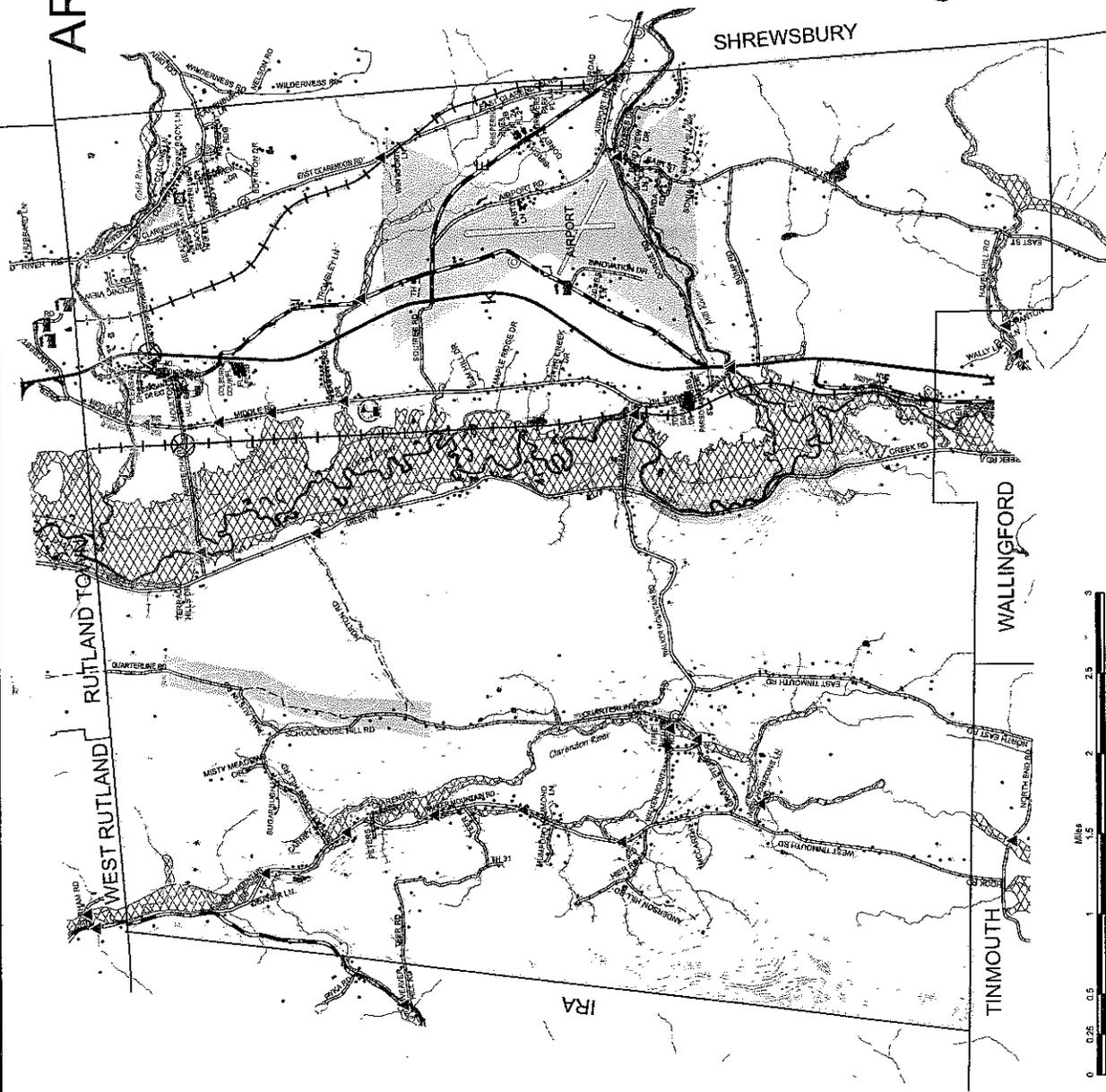


AREAS OF LOCAL CONCERN Clarendon, VT

Flood Hazard Area Regulations

- | | |
|---|--|
| <ul style="list-style-type: none"> — US Highway — State Highway — Class 2 Town Road — Class 3 Town Road — Class 4 Town Road — State Forest Road — Private Road — Other Road — Rail Road — Rivers & Streams — 50' Contours — Lakes & Ponds — Flood Hazard Area 2008 | <ul style="list-style-type: none"> • Structure ■ Town Hall/Office ■ City/Town Garage ★ Fire Station ■ Education Facility ■ Church ■ Cultural ⊙ Gathering Home ■ Nursing Home ■ Banking ■ Industrial ■ Substation ■ Dam ⊙ Culvert ▲ Bridge |
|---|--|

- Areas of Concern
- Vulnerable Population
 - ▨ Fluvial Erosion Hazard Issues
 - ▨ Flooding Issues
 - ▨ High Accident Rate
 - ▨ Potential Airplane Accident Area
 - ▨ Regional Significance



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**Town of Clarendon Manual of Procedures
for Administration & Enforcement
of Vermont Zoning Bylaws under 24 V.S.A Chapter 117**

ADOPTED BY CLARENDON SELECTBOARD SEPTEMBER 26, 2011

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MUNICIPAL APPOINTMENTS

Zoning Administrator

The Clarendon SelectBoard shall appoint an Zoning Administrator from nominations submitted by the Planning Commission for a term of three (3) years in accordance with the Act [§4448]. The Clarendon SelectBoard may remove an Zoning Administrator for cause at any time after consultation with the Planning Commission.

An acting Zoning Administrator may be appointed by the Clarendon SelectBoard, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Zoning Administrator in the Zoning Administrator's absence. In the event an acting Zoning Administrator is appointed, the Clarendon SelectBoard shall establish clear policies regarding the authority of the Zoning Administrator relative to the authority of the acting Zoning Administrator.

The Zoning Administrator shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

In addition, the Zoning Administrator shall coordinate the municipality's development review programs. If other municipal permits or approvals are required, the Zoning Administrator shall provide the applicant with necessary forms. The Zoning Administrator may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

Planning Commission

The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Clarendon SelectBoard in accordance with the Act [§§4321- 4323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Clarendon SelectBoard.

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The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under the Act [§4323(b)] and Vermont's Open Meeting Laws. In accordance with the Act, the Commission shall have the following duties in association with these regulations:

- to prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition (Section 4325);
- to prepare and approve written reports on any proposed amendment to these regulations as required by the Act [§4441(c)]; and
- to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Clarendon SelectBoard [§4441(d)].

The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law. The Commission shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- applications for rights-of-way or easements for development lacking frontage (Section 4325),
- applications for site plan approval (Section 4325),

Board of Adjustment

The Board of Adjustment shall consist of not less than three (3) nor more than nine (9) members appointed by the Clarendon SelectBoard for specified terms in accordance with the Act [§4460(b) and (c)]. The Clarendon SelectBoard also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Board of Adjustment may be removed for cause by the Clarendon SelectBoard upon written charges and after public hearing.

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as

Manual of Procedures for Administration and Enforcement of Vermont Zoning Bylaws

required under the Act [§4461(a)] and Vermont's Open Meeting Law. The Board shall have all powers and duties as set forth in the Act (Section 4325) to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- appeals from any decision, act or failure to act by the Zoning Administrator, and any associated variance requests (Section 4466),
 - applications for conditional use approval (Section 4414),
 - requests for waivers from one or more dimensional standards (see Sections 4460,4414).
- (1) *section(s) of the bylaw that include conservation, design, housing, historic preservation standards, etc.]* for consideration by the Clarendon Planning Commission at the public hearing on the application;
 - (2) meet with the applicant, interested parties, or both, conduct site visits, and perform other fact finding that will enable the preparation of recommendations; and
 - (3) inform applicants of any negative recommendations prior to the public hearing, and suggest remedies to correct identified deficiencies in the application.

ZONING PERMIT

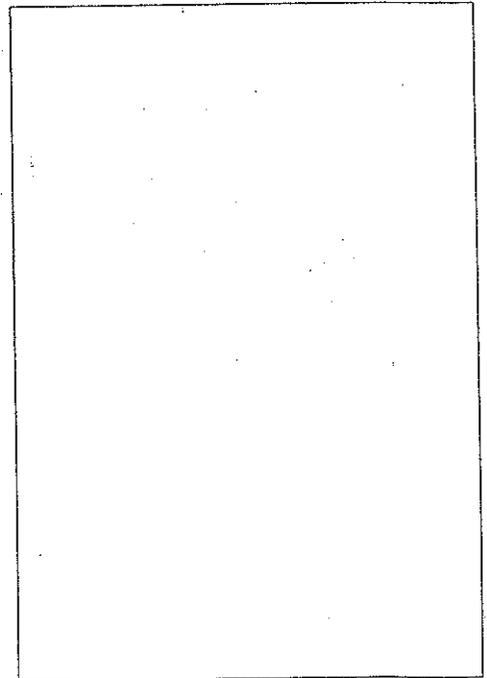
Applicability

No land development as defined herein, which is subject to these regulations, shall be commenced in the **Town of Clarendon** until a zoning permit has been issued by the Zoning Administrator, as provided for in the Act [§§4448, 4449].

Exemptions

No zoning permit shall be required for the following activities:
[Note: The following uses are exempted under §4413. Limitations on Municipal Bylaws.]

- (1) Accepted agricultural (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)] and Article III. Written notification, including a sketch plan showing structure setback distances from road rights-or-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for



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AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary of Agriculture.

- (2) Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
- (3) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Clarendon Town Plan.
- (4) Hunting, fishing, and trapping as specified under 24 V.S.A. §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.
- (5) Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
- (6) Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
- (7) Exterior alterations to structures which do not result in any change to the footprint or height of the structure or a change in use.
- (8) Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
- (9) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Article III.
- (10) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.

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- (11) A single accessory building associated with a residential use which is 64 square feet or less of floor area and less than eight (8) feet in height, and is not located within required setback areas.
- (12) Signs that are approved in accordance with Act 250.
- (13) Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.
- (14) Swing sets, satellite dishes, "wishing wells", flagpoles and outdoor wood furnaces (boilers) are also exempted.

Application

Application Requirements. An application for a zoning permit shall be filed with the Zoning Administrator on form(s) provided by the municipality. Required application fees, as set by the Clarendon SelectBoard, also shall be submitted with each application. In addition, the following information will be required as applicable:

Permitted Uses. Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to approximate scale that depicts the following:

- (1) the dimensions of the lot, including existing property boundaries,
- (2) the location, footprint and height of existing and proposed structures or additions,
- (3) the location of existing and proposed accesses (curb cuts), driveways and parking areas,
- (4) existing and required setbacks from property boundaries, road rights-of-way,
- (5) the location of existing and proposed water and wastewater systems, and
- (6) other such information as required by the Zoning Administrator to determine conformance with these regulations.

Uses Subject to Development Review. For development requiring one or more approvals from the CPC and/or BZA prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit.

Flood Hazard Area Approval. Any application for development within the Flood Hazard Area Overlay District

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shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, the Federal Insurance Administrator, and adjacent municipalities in accordance with the Act [§4424(D)] and Attachment B of the Clarendon Zoning Regulations.

Issuance

A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act [§4449] and the following provisions:

- (1) Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the **CPC and/or BZA** and/or state for consideration. In accordance with the Act [§§4448, 4449], if the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- (2) No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the **CPC, BZA, Sewage Officer and/ or Clarendon SelectBoard** until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
- (3) If public notice has been issued by the Clarendon SelectBoard for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Zoning Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [§4449(d)].
- (4) A zoning permit shall include a statement of the time within which appeals may be taken under Section 4465; and shall require posting of a notice of permit by the Applicant/Permittee, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.

- (5) The Zoning Administrator, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.

Effective Date

No zoning permit shall take effect until the time for appeal under Section 4465 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

Zoning permits and associated approvals shall remain in effect for two (2) year(s) from the date of issuance, unless the permit and associated approvals specify otherwise. All development authorized by the permit shall be substantially commenced within this two-year period or reapplication and approval shall be required to continue development. ("Substantially commenced" shall mean, for the purposes of these bylaws, +/- 40 % completed within the 2 year period.) The Zoning Administrator may administratively renew a permit for a period not to exceed one (1) additional year upon finding that there was reasonable cause for delay in the start of the development.

APPEALS

Zoning Administrator Actions

Any interested person as defined under the Act [§4465] may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Town Clerk, and by filing a copy of the notice with the Zoning Administrator.

- (1) The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act §4468. The Board shall give public notice of the hearing under Section §4464 and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- (2) The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant §4470.

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- (3) In accordance with the Act §4468, all appeal 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 state statutes [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place adjourned hearing shall be announced at the hearing.
- (4) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Municipal Clerk as part of the public records of the municipality, in accordance with [Section 4464 (b) (1)]. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

Interested Persons

The definition of an interested person under the Act [§4465(b)] includes the following:

- (1) a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- (2) the Town of Clarendon or any adjoining municipality;
- (3) a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, 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;
- (4) any ten (10) voters or property owners within the municipality who, by signed petition to the **Board of**

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Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and

- (5) any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Notice of Appeal (To Board of Adjustment)

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act [§4466]:

- (1) the name and address of the appellant,
- (2) a brief description of the property with respect to which the appeal is taken,
- (3) a reference to applicable provisions of these regulations,
- (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
- (5) the alleged grounds why such relief is believed proper under the circumstances.

Appeals to Environmental Court

In accordance with the Act [§4471], an **interested person** who has participated in a regulatory proceeding of the **BZA** may appeal a decision rendered by the **BZA** under Section §4471 within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

- (1) "Participation" in a **BZA** proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Municipal Clerk, and the Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant),

to the appellant within five (5) 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. 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.

VARIANCES

Variance Criteria

The **Board of Adjustment** shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under §§4465 or 4471. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a variance and render a decision in favor of the appellant only if *all* of the following facts are found, and the findings are specified in its written decision:

- (1) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;
- (2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) The unnecessary hardship has not been created by the appellant;
- (4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and

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- (5) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

Renewable Energy Structures. Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act [§4469(b)], the Board may grant such variance only if *all* of the following facts are found in the affirmative and specified in its written decision:

- (1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;
- (2) The hardship was not created by the appellant;
- (3) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
- (4) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

Variations within the Flood Hazard Area. In addition to requirements under §4424 (E), variations for development within the Flood Hazard Overlay District shall be granted by the Board only:

- (1) in accordance with the Act and the criteria for granting variations found in CFR Section 60.6 of the National Flood Insurance Program;
- (2) upon determination that during the base flood discharge the variance will not result in increased flood levels; and
- (3) upon determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect.

VIOLATIONS & ENFORCEMENT**Violations**

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of the Town of **Clarendon**, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

Notice of Violation

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality under Section 4454. The notice shall state that a violation exists; that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

Limitations on Enforcement

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Section 4454.

PUBLIC HEARINGS**Public Notice**

In accordance with the Act §4464, a warned public hearing shall be required for appeals of decisions of the Zoning Administrator, conditional use review, and variances. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- (1) publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- (2) posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
- (3) written notification to the applicant and to owners of all properties adjoining the property subject to development (All property owners re above shall be listed on notice of appeal application), without regard to public rights-of-way, which includes a description of the proposed project, 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.

Public notice of all other types of Clarendon Planning Commission hearings, including site plan review, shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:

- (1) posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
- (2) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, 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. Applicant shall notify adjoining land owners.

The applicant may be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal

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grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the **CPC and/or BZA** where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Board of Adjustment/Planning Commission or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

Hearings

In accordance with the Act [§4461], all meetings and hearings of the **CPC and/or BZA**, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the **CPC and/or BZA**. The **CPC and/or BZA**, in conjunction with any hearing under this bylaw, may:

- (1) examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
- (2) require the attendance of any person having knowledge in the premises;
- (3) take testimony and require proof material for its information; and
- (4) administer oaths or take acknowledgement in respect of those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under §4461b are met. The **CPC and/or BZA** shall keep a record of the name, address, and participation of each of these persons.

In accordance with the Act [§§4464(b), 4468], the **CPC and/or BZA** may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

Decisions

Any action or decision of the **CPC and/or BZA** shall be taken by the concurrence of a majority of the members of the **CPC and/or BZA**. In accordance with the Act [§4464(b)], the **CPC and/or BZA** shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:

- (1) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under §4465. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
- (2) In rendering a decision in favor of the applicant, the **CPC and/or BZA** may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:
 - (a) the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Clarendon SelectBoard, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
 - (b) a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.
- (3) All decisions of the **CPC and/or BZA** shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality and of the appropriate panel.

RECORDING REQUIREMENTS

Within 30 days of the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the land records of the municipality generally as provided in 24 V.S.A. §1154(c), and file a copy in the Municipal Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.

For development within the Flood Hazard Area Overlay District, the Zoning Administrator shall also maintain a record of:

- (1) all permits issued for development in areas of special flood hazard;
- (2) elevation certificates that show the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- (3) the elevation, in relation to mean sea level, to which buildings have been flood proofed; all flood proofing certifications required under this regulation; and
- (4) all variance actions, including the justification for their issuance.