TOWN OF ESSEX
OUTSIDE THE VILLAGE OF ESSEX JUNCTION
OFFICIAL ZONING REGULATIONS

Effective February 7, 1972
As Amended On:
February 12, 1973
April 15, 1974
November 14, 1977
December 27, 1977
April 21, 1980
January 5, 1981
February 9, 1987
May 18, 1987
October 16, 1989
February 15, 1993
May 22, 1995
October 27, 1997
December 29, 1998
April 9, 2001
August 25, 2003
December 20, 2004
April 18, 2005
March 24, 2008
December 24, 2008
March 15, 2010
May 23, 2011
November 3, 2014

Town of Essex Zoning Regulations
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ARTICLE I: AUTHORITY AND PURPOSE

1.0 **Enactment:** In accordance with the Vermont Planning and Development Act [24 V.S.A. Chapter 117], hereinafter referred to as "the Act," these zoning regulations are established for the Town of Essex, Vermont, excluding the Village of Essex Junction. These Regulations shall be known and may be cited as the "**Official Zoning Regulations of the Town of Essex outside the Village of Essex Junction**."

1.1 **Purpose:** These Regulations have been adopted to promote the health, safety and general welfare of the inhabitants of the Town of Essex, to conform to and implement the Essex Town Plan as most recently amended, and for purposes set forth in the Act (§ 4302).

1.2 **Application and Interpretation:** These Regulations are subject to all requirements of the Act as most recently amended, and shall apply to all land development within the Town of Essex, outside of the incorporated Village of Essex Junction**.** Accordingly:

> **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 of 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.

(A) No land development shall be undertaken in the Town of Essex except in conformance with these Regulations, with the exception of the following:

(1) Land development within the incorporated Village of Essex Junction, as it exists on the effective date of these Regulations.

(2) The subdivision of land as regulated under the Town of Essex Subdivision Regulations.

(3) Land development that, in accordance with the Act (§ 4446), has been determined by the Town to have little or no impact on the surrounding area and the overall pattern of development, as listed in Table 1.1.

(4) Land development that, in accordance with the Act (§ 4413), is excluded from municipal regulation, as listed in Table 1.1.

(A) All development within the Special Flood Hazard Area, as defined by the National Flood Insurance Program, shall require a permit (see Section 5.8).

(B) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified.

(C) All lots, structures and uses legally in existence as of the effective date of these regulations are allowed to continue indefinitely. Changes, alterations or expansions to pre-existing lots, structures and uses, however, shall be subject to all applicable requirements of these Regulations, including requirements for nonconforming lots, structures and uses (see Section 3.8).

(1) Nothing in these Regulations shall require any change in plans, construction or designated use of a building or structure that has been issued a Zoning Permit, if construction has been diligently started within one (1) year of the date of issuance, and the entire building will be completed according to approved plans.

(2) The Planning Commission or Board of Adjustment, upon review of the facts, may find that any planned development, apartment complex, or commercial or business use approved prior to these Regulations was delayed by requirements of the state or other regulatory agencies and, after so finding, may allow such projects to proceed according to original design though not in compliance with these Regulations.

(a) Reasonable time in preparation of plans, surveys, titles and testing necessary for such approvals, shall be considered compliance with the requirements of such agencies. The developer shall bear the burden of proving dates of contract and application submission.

(D) These Regulations are not intended to repeal, annul or in any way impair any permit or approval previously issued. Where these Regulations impose a greater restriction on the use of land or a structure that is required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the requirements of these regulations shall control.

(E) These Regulations shall not prohibit the conveyance of property, but shall control the use of such property subsequent to conveyance for zoning purposes to prevent the same property from being used for two or more uses at the same time, provided that the conveyance of property does not result in the subdivision of land, change of use, or additional uses without approval of the Town.

1.3 **Effective Date:** In accordance with the Act [§ 4442], these Regulations shall take effect twenty-one (21) days from the date of adoption by a majority of the members of the Essex Selectboard, or immediately upon adoption as the result of a petitioned or warned town meeting vote. All zoning regulations and interim zoning regulations previously in effect for the Town of Essex are repealed as of the effective date of these Regulations.

1.4 **Amendments**: Preparation and adoption of amendments to these Regulations shall be in accordance with the procedures established in the Act [§§ 4441, 4442].

(A) The Planning Commission may, at any time, consider proposed amendments to these Regulations which it develops or which may be suggested or requested by any other person (requests for rezoning constitute requests to amend these Regulations). The Planning Commission may or may not decide to proceed with such potential amendments by warning and conducting a public hearing, and following the other procedures established in the Act.

(B) If, however, a request for an amendment to these Regulations is supported by a petition signed by not less than five percent (5%) of the voters of the Town, the

Planning Commission shall correct any technical deficiencies, prepare a written report regarding conformance with the town plan and, without changing the amendment, promptly proceed in accordance with the Act [§ 4441] as if it had been prepared by the Planning Commission.

(C) Upon receipt of a proposed amendment to these Regulations, the Selectboard shall hold at least one public hearing on it and shall vote on its adoption in accordance with the provisions of the Act [§ 4442].

1.5 **Severability:** The provisions of these regulations are severable. In the event that any part of these Regulations, or their application, is determined by a court of jurisdiction to be invalid, this determination shall not affect the validity of any other part of these Regulations, nor their application by the Town of Essex.

Table 1.1 Exemptions from these Regulations

(A) Municipal. Pursuant to the Act (§4446), the following uses and structures have been determined by the Town of Essex to impose minimal or no impact on the surrounding area and overall pattern of land development in the Town, and are therefore exempted from the requirements of these Regulations:

(1) The normal maintenance and repair of legally established structures, utilities and infrastructure which does not result in any change to the location, footprint or height of a structure or use, nor result in a change in the type or intensity of use.

(2) Structures or other development projects that cost less than $1,000, including labor and materials, and meet all setback and lot coverage requirements.

(3) Additions or alterations to existing structures that are less than seventy-five square feet (75 SF) in floor area and meet all setback and lot coverage requirements.

(4) The construction of accessory structures that are less than one-hundred square feet (100 SF) in floor area, and meet all setback and lot coverage requirements.

(5) Fences and walls as exempted under Section 3.4.

(6) Signs as exempted under Section 3.10.

(7) Landscaping projects, gardens, paths and unimproved trails associated with single- or two family residential uses.

(8) Residential entry stairs (excluding decks and porches), handicapped ramps and walkways, which do not obstruct public rights-of-way nor interfere with corner visibility or sight distances for vehicular traffic.

(9) A home office or studio within a dwelling, for use only by residents of the dwelling, which involves no signs, general public access, or outdoor storage or displays.

(B) Statutory. The following uses are specifically exempted from local regulation in accordance with the Act (§4413):

(1) Accepted agricultural practices (AAPs), including farm structures (except for dwellings), as defined by the Vermont Secretary of Agriculture, Food and Markets. However, written notification, including a sketch plan showing structure setback distances from public rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, in accordance with the AAPs. Structures shall meet all required setback distances under these Regulations unless waived by the Secretary.

(2) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Vermont Commissioner of Forests, Parks and Recreation.

(3) Public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board under 30 VSA, §248, including solar panels and wind generators that are connected to the power grid.

(4) Antennae that are part of a telecommunications facility for which jurisdiction has been assumed by the Vermont Public Service Board (under 30 V.S.A. §248a).

(5) Hunting, fishing or trapping on public or private land as specified under 24 VSA §2295.

ARTICLE II: ZONING DISTRICTS

2.0 **Zoning District Designations:** For the purposes of these Regulations, the Town of Essex is hereby divided into the following zoning districts, as shown on the Official Zoning Map and described in the Appendix to these Regulations:

Agricultural Residential District	"AR"
Low Density Residential District	"R1"
Medium Density Residential District	"R2"
High Density Residential District	"R3"
Residential Business District	"RB"
Center District	"CTR"
Retail Business District	"B1"
Industrial District	"I1"
Mixed Use Development District	"MXD"
Mixed Use Development-Commercial District	"MXD-C"
Mixed Use Development-Planned Unit Development District	"MXD-PUD"
Resource Preservation District-Industrial	"RPD-I"
Historic Preservation-Design Control District	"HP-DC"
Business-Design Control Overlay District	"B-DC"
Open Recreation District	"O1"
Conservation District	"C1"
Floodplain Overlay District	"C2"

2.1 **Official Zoning Map:** The location of each zoning district is shown on the Official Zoning Map, which is hereby incorporated by reference and declared to be part of these Regulations. The Official Zoning Map shall be identified by the signatures of the Selectboard of the Town of Essex, as attested by the Town Clerk, under the following words: "This is to certify that this is the Official Zoning Map of the Town of Essex, Vermont," together with the date of adoption of these Regulations or any subsequent map amendments. The Official Zoning Map shall be the final authority regarding the current zoning status of land in the town outside the Village of Essex Junction.

(A) Areas of special flood hazard, under the Floodplain Overlay (C2) district, shall be identified from the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are also hereby incorporated by reference and declared to be part of these Regulations.

(B) The Official Zoning Map shall be kept on file, available for examination, at the office of the Town Clerk, and copies shall be available at the offices of the Community Development Department.

(C) Changes may be made to the Official Zoning Map only in accordance with the bylaw amendment process specified in the Act [§§ 4441, 4442] and Section 1.4 of these Regulations.

2.2 Interpretation of District Boundaries:

(A) Where uncertainty exists as to the boundaries of zoning districts shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of streets, roads, highways, or alleys shall be construed to follow such centerlines.

(2) Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following Town limits shall be construed as following Town limits.

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks, or to follow the centerline of the right-of-way if no track exists or if more than one track exists.

(5) Boundaries indicated as following shorelines of lakes or ponds shall be construed to follow the mean water mark of such shore lines, even in the event of changes in the shore line; boundaries indicated as approximately following the center lines of streams, rivers or canals shall be construed to follow such center lines.

(6) Boundaries indicated as following existing contour lines shall be construed to follow the lines of the specified elevation, as determined on the ground.

(7) Boundaries indicated as parallel to or extensions of features indicated in Subsections (A)(1) through (A)(6) above shall be construed as indicated.

(8) For areas of special flood hazard within the Floodplain Overlay (C2) District, where available (i.e., in Zones A1-A30, AE and AH), base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP), in the Flood Insurance Study for the Town of Essex and accompanying maps, available at the Town Office, shall be used to administer and enforce these Regulations. Where base flood elevations and floodway limits are not provided (i.e., Zone A), base flood elevations and floodway data provided by FEMA or available from state or federal agencies or other sources, shall be obtained and used to administer and enforce these regulations.

(9) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map and the written descriptions appended to these Regulations.

(10) The abandonment or relocation of a right-of-way or the change in a line or feature that references a district boundary after the effective date of these Regulations shall not affect the location of the district boundary, except as specified for streams, rivers and shorelines under Subsection (A)(5).

(11) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or any conflict exists within any of the provisions hereof, or in other circumstances not covered by Subsections (A)(1) through (A)(10) above, the Zoning Administrator shall interpret the boundaries.

(B) Any district boundary determination by the Zoning Administrator under this Section may be appealed to the Board of Adjustment under Section 7.4 (Appeals). The Board shall interpret the location of the district boundary with reference to the written descriptions appended to these Regulations, the scale of the Official Zoning Map and the purposes set forth in all relevant provisions of these Regulations.

(C) Any areas shown on the Official Zoning Map as park, playground, school, cemetery, water, streets, or right-of-way shall be subject to the zoning regulations of the district in which they are located.

(D) Where a district boundary line divides a lot which was in single ownership at the time of passage of these Regulations, the Board of Adjustment may permit, as a conditional use, the extension of either district for either portion of the lot not to exceed one hundred feet (100') beyond the existing district line into the remaining portion of the lot.

(E) When a zoning district boundary established by these regulations divides a lot, the dimensional requirements for the more restrictive zone may be applied to the lot. Criteria such as site conditions, location of sewage disposal and water systems, and house siting may be factored into the decision by the Planning Commission.

2.3 **Application of District Standards**: Tables 2.3 through 2.19 set forth the stated purposes, allowed uses, and specified dimensional and development standards for each zoning district. Allowed uses and district dimensional standards are summarized in Tables 2.1 (Uses) and 2.2 (Dimensional Standards).

(A) All lots, uses and structures, unless specifically exempted from these regulations under Table 1.1 (Exemptions), must conform to applicable standards for the district(s) in which they are located. The standards for each district shall apply uniformly to each class of use or structure, unless otherwise specified for a particular use. Nonconforming lots, uses and structures must meet the requirements of Section 3.8 (Nonconformities).

(B) Overlay district standards shall be applied concurrently with the standards for the underlying zoning district(s). Where district standards conflict, the more restrictive standard shall apply.

(C) Uses allowed in each district are classified as either **"permitted uses"** subject to administrative review by the Zoning Administrator under Section 7.2 and, where required, site plan review by the Planning Commission, prior to the issuance of a zoning permit (see Section 5.6); or as **"conditional uses"** subject to both site plan review by the Planning Commission (Section 5.6) and conditional use review by the Board of Adjustment (Section 5.7) prior to the issuance of a zoning permit.

(1) Permitted and conditional uses must meet all applicable zoning district requirements, general standards (Article III) and specific use standards (Article IV) under these Regulations.

(2) Site plan review under Section 5.6 is required for all permitted and conditional uses except for: single-and two-family dwellings and associated accessory dwellings, structures, and uses as specified in these Regulations; below ground essential services, and agriculture, forestry, and other uses specifically exempted from these Regulations (see Table 1.1).

(3) Unspecified Use: In the event that a particular use is not set forth in the Use Chart of defined in Section 8.1, but is, in the opinion of the Board of Adjustment, consistent with the philosophy as set forth in these Regulations for the district in which it is proposed and of similar impact in terms of the potential for intrusion on abutting properties, the Board of Adjustment may allow the use as a conditional use after public hearing, duly noticed. In such an event, notice shall be sent to the Planning Commission of such hearing, and the Planning Commission may submit its written or oral recommendations to the Board of Adjustment relative to the proposed use. A use which is philosophically not consistent with the purpose of the district, or which is judged to have a more significant impact on abutting propertied than uses normally allowed in the district, as set forth in these Regulations, shall not be allowed under this Section.

(D) Any Zoning Administrator determination regarding an allowed use under this section may be appealed to the Board of Adjustment under Section 7.4 (Appeals).

(1) If, in the opinion of the Board, the proposed use is consistent with the stated district purpose and similar to other uses listed for the district in which it is proposed, the Board may consider the use as a conditional use subject to review under Section 5.7. A copy of the hearing notice shall be sent to the Planning Commission. The Commission may submit its written or oral recommendations to the Board of Adjustment relative to the proposed use.

(2) A use which is found not to be consistent with the purpose of the district, or which is judged to have a more significant impact on abutting properties and community facilities than other uses allowed in the district, as set forth in these Regulations, shall not be allowed under this provision.

TABLE 2.1 SUMMARY USE CHART

	ZONING DISTRICTS															
USES	AR	R1	R2	R3	RB	CTR	B1	I1	MXD	MXD-C	MXD-PUD	RPD-I 40%	HP-DC	O1	C1	C2
ACCESSORY STRUCTURE/USE	P	P	P	P	P	P	P	P	P	P	P(4)	P	P	P	P	(1)
AGRICULTURE	P(1, 2)	P(1, 2)	P(1, 2)	P(1, 2)	P(1, 2)	P(1, 2)	P(1, 2)	P(1, 2)	P(1, 2)	P(1, 2)		P(1)(2)	P(1, 2)	P(1, 2)	P(1, 2)	P(1, 2)
AUTOMOBILE SERVICE STATION (EXISTING)	C(1)		C(1)													
AUTOMOBILE SERVICE STATION							C		C							
AUTOMOTIVE REPAIR SHOP							C(1)	P	C		C(4)					
BANK						P	P		P	P(1)	P(4)					
BANK (Drive-through/>10,000 SF)										C(1)						
BARN STORAGE	C(1)	C(1)												C(1)	C(1)	C(1)
BED & BREAKFAST	C	C	C	C	C	C			C	P					C	
CAMP	C														P	
CAR WASH							C		C							
CARETAKER APARTMENT							P(1)	P(1)		P(1)						
CEMETERY	C	C	P												P	
CHURCH		C(1)	C(1)			C(1)	C(1)		C(1)	C(1)						
CONGREGATE HOUSING	C(1)		C(1)	C(1)	C(1)	C(1)	P(1)		C(1)	C(1)	C(3)		C(1)			
CONTRACTOR'S YARD								P								
CONVENIENCE STORE (EXISTING)			C(1)					C								
CONVENIENCE STORE						C	P		P	C						
CULTURAL FACILITIES	P	P			P	P			P	C			P	P	P	P(1)
DAY CARE FACILITY	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	P(1)	C(4)	P	C(1)			
DAY CARE HOME	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)							P(1)		P(1)	P(1)
DWELLING/ACCESSORY	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)					P(3)		P(1)		P(1)	C(1)
DWELLING/SINGLE-FAMILY	P	P	P	P	P	P					P(3)		P		P	
DWELLING/TWO-FAMILY	P	P	P	P	P	P			C	P	P(3)		P			
DWELLING/TWO-FAMILY (PUD ONLY)									P							
DWELLING/MULTI-FAMILY		C	C	P	C	C(1)	P(1)		C	P	C(3)		P			
DWELLING/MULTI-FAMILY (PUD ONLY)	P	P	P						P		P(3)				P	
EQUIPMENT SALES, RENTAL AND SALES							C(1)	P	P		C(4)	P				
ESSENTIAL SERVICES	P	P	P	P	P	P	P	P	P	P	P(4)		P	P	P	P
EXTRACTION OF EARTH RESOURCES	C(1)	C(1)						C(1)								
FARM PRODUCE STAND	P(1)	P(1)	P(1)						P(1)					P(1)	P(1)	
FARM PRODUCE MARKET	C(1)															P(1)
FIREWOOD PROCESSING AND SALES	C	C						C							C	
FORESTRY	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(1)(2)	P(2)	P(2)	P(2)	P(2)
FUNERAL HOME (EXISTING)			C													
FUNERAL HOME						C	P		P	P	P(4)					
GARDEN CENTER	P				P	P	P		P	P	P(4)					
GROUP HOME	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)					P(3)				P(1)	P(1)
HOME BUSINESS	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)			C(1)						C(1)	
HOME OCCUPATION	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)			P(1)	P(1)			P(1)		P(1)	P(1)
HOTEL, MOTEL							C		C		C(4)					
JUNKYARD								C(1)								
KENNEL	C														C	
LIGHT MANUFACTURING							C(1)	P(1)			C(4)	P				

(1) Allowed with Specific Restrictions. See Individual District Tables.
(2) See Table 1.1
(3) Residential Development Conforms to R2 District Standards. See Table 2.5
(4) Comercial Development Conforms to B1 District Standards. See Table 2.9.

TABLE 2.1 SUMMARY USE CHART, continued

	ZONING DISTRICTS															
USES	AR	R1	R2	R3	RB	CTR	B1	I1	MXD	MXD-C	MXD-PUD	RPD-I 40%	HP-DC	O1	C1	C2
LUMBER PROCESSING	C(1)													C(1)	C(1)	
MACHINERY REPAIR SHOP (MAJOR)							C(1)	P			C(4)					
MACHINERY REPAIR SHOP (MINOR)							C	P			C(4)					
MEDICAL CLINIC							C		C	C	C(4)		C			
MOBILE HOME PARK		P(1)	P(1)													
MUNICIPAL SERVICES AND FACILITIES	C(1)	C(1)	C(1)	C(1)	C(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(4)	P(1)	P(1)	C(1)	C(1)	C(1)
NEIGHBORHOOD SHOPPING CENTER						C(1)	P	P	P	P	P(4)					
OFFICE							P	P	P		P(4)	P				
OFFICE (Max: 2,000 SF)					P(1)	P(1)										
OFFICE/MAJOR (Min: 15,000 SF gross leasable area)							P	P	P		P(4)	P				
OFFICE (Max: 10,000 SF)										P(1)						
OFFICE (Over 2,000 SF)					C(1)											
OFFICE (Over 10,000 SF)										C(1)						
PARKING FACILITY						C	P	P	C	C	P(4)		C			C
PERSONAL SERVICES							P		P		P(4)	P				
PERSONAL SERVICES (Max 2,000 SF)					P(1)	P(1)										
PERSONAL SERVICES (Over 2,000 SF)					C(1)											
PERSONAL SERVICES (Max 10,000 SF)										P(1)						
PERSONAL SERVICES (Over 10,000 SF)										C(1)						
PRIVATE CLUB						C	C		C	C	C(4)		C			
PUBLIC FACILITIES	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	C(1)	C(4)		C(1)	C(1)	C(1)	C(1)
RECREATION/INDOOR							P	C	P	C	P(4)	P				
RECREATION/PRIVATE OUTDOOR	C						C				C(4)	P	C		C	C(1)
RECREATION/PUBLIC OUTDOOR	P	P	P	P	P	P	P	P	P	P		P	C	P		P(1)
RECYCLING ESTABLISHMENT								P								
RESEARCH AND TESTING LABORATORY							C	P	C	C	C(4)	P				
RESTAURANT						C	P		P		P(4)					
RESTAURANT (Max: 8,000 SF)										P						
RESTAURANT (Over 8,000 SF)										C(1)						
RETAIL							P		P		P(4)	P				
RETAIL STORE (Max: 2,000 SF)					P(1)	P(1)										
RETAIL STORE (Over 2,000 SF)					C(1)											
RETAIL STORE (Max: 10,000 SF)										P						
RETAIL STORE (Over 10,000 SF)										C(1)						
SCHOOL, CERTIFIED	C(1)	P(1)	P(1)			C(1)	C(1)		P(1)	P(1)			P(1)			
SCHOOL, NON-CERTIFIED						C	C		C	C						
SCHOOL/TECHNICAL, VOCATIONAL							P(1)	P(1)	C(1)			P				
SELF SERVICE MACHINE					P	P	P		P	P	P(4)		P			
SMALL PRODUCTION AND SALES					C	P(1)	P	P	P	P(1)	P(4)	P	P			
STORAGE, WAREHOUSE AND DISTRIBUTION							C(1)	P			C(4)	P				
TRUCKING TERMINAL							C(1)	P			C(4)					
VETERINARY CLINIC	C				C	C	C		C	C	C(4)					
WASTE DISPOSAL FACILITY	C(1)															
WHOLESALE ESTABLISHMENT							C(1)	P			C(4)	P				

(1) Allowed with Specific Restrictions. See Individual District Tables.
(2) See Table 1.1
(3) Residential Development Conforms To R2 District Standards. See Table 2.5.
(4) Comercial Development Conforms to B1 District Standards. See Table 2.9

Table 2.2 SUMMARY DIMENSIONAL CHART

	ZONING DISTRICTS								
DIMENSIONAL REQUIREMENTS	AR	R-1	R2	R3	RB	CTR	B1		I1
MINIMUM LOT AREA							EXIST DU	NON-RES	
Off-Site Water and Sewer	3 Acres	1 Acre	20,000 sq ft	10,000 sq ft	10,000 sq ft	10,000 sq ft	20,000 sq ft	30,000 sq ft	40,000 sq ft
Off-Site Water or Sewer	3 Acres	1 Acre	30,000 sq ft	10,000 sq ft	10,000 sq ft	10,000 sq ft	30,000 sq ft	40,000 sq ft	60,000 sq ft
On-Site Water and Sewer	3 Acres	1 Acre	40,000 sq ft	10,000 sq ft	10,000 sq ft	10,000 sq ft	40,000 sq ft	40,000 sq ft	100,000 sq ft
MINIMUM LOT FRONTAGE									
Off-Site Water and Sewer	200 Ft	150 ft	100 ft	100 ft	100 ft	75 ft	150 ft	150 ft	200 ft
Off-Site Water or Sewer	200 ft	150 ft	100 ft	100 ft	100 ft	75 ft	150 ft	150 ft	200 ft
On-Site Water and Sewer	200 ft	150 ft	200 ft	100 ft	100 ft	75 ft	150 ft	150 ft	200 ft
MINIMUM SETBACK/FRONT									
Off-Site Water and Sewer	50 ft	45 ft	40 ft	25 ft	25 ft	30 ft	50 ft	50 ft	50 ft
Off-Site Water or Sewer	50 ft	45 ft	40 ft	25 ft	25 ft	30 ft	50 ft	50 ft	50 ft
On-Site Water and Sewer	50 ft	45 ft	40 ft	25 ft	25 ft	30 ft	50 ft	50 ft	50 ft
MAXIMUM SETBACK/FRONT	NA	NA	NA	35 ft	35 ft	40 ft	NA	NA	NA
MINIMUM SETBACK/SIDE									
Off-Site Water and Sewer	20 ft	20 ft	15 ft	10 ft	10 ft	10 ft	None	None	25 ft
Off-Site Water or Sewer	20 ft	20 ft	15 ft	10 ft	10 ft	10 ft	None	None	25 ft
On-Site Water and Sewer	20 ft	20 ft	15 ft	10 ft	10 ft	10 ft	None	None	25 ft
MINIMUM SETBACK/REAR									
Off-Site Water and Sewer	25 ft	25 ft	20 ft	15 ft	15 ft	15 ft	None	None	25 ft
Off-Site Water or Sewer	25ft	25 ft	25 ft	15 ft	15 ft	15 ft	None	None	25 ft
On-Site Water and Sewer	25 ft	25 ft	25 ft	15 ft	15 ft	15 ft	None	None	25 ft
MINIMUM BUFFER/ADJACENT RESIDENTIAL DISTRICTS	NA	NA	NA	NA	30 ft	NA	30 ft	30 ft	50 ft
MINIMUM BUFFER/SURFACE WATERS	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)
MINIMUM BUFFERS/ADJACENT STREETS	None	None	None	None	None	None	None	None	None
MAXIMUM LOT COVERAGE-NON RESIDENTIAL	70%	70%	70%	70%	70%	70%	70%	70%	70%
MAXIMUM LOT COVERAGE-RESIDENTIAL-MULTI FAMIL	NA	40%	40%	40%	40%	40%	70%	70%	70%
MAXIMUM HEIGHT	40 ft (b)	40 ft (b)	40 ft (b)	40 ft (b)	40 ft (b)	40 ft (b)	40 ft (b)	40 ft (b)	45 ft (b)
PUD REQUIREMENTS									
AVERAGE LOT AREA PER DWELLING UNIT -PUD-R									
Off-Site Water and Sewer	1 Acre	0.5 Acres	10,000 sq ft	10,000 sq ft	NA	NA	NA	NA	NA
Off-Site Water or Sewer	1 Acre	0.5 Acres	15,000 sq ft	10,000 sq ft	NA	NA	NA	NA	NA
On-Site Water and Sewer	1 Acre	0.5 Acres	15,000 sq ft	10,000 sq ft	NA	NA	NA	NA	NA
AVERAGE LOT AREA-C	NA	NA	NA	NA	NA	NA	NA	(f)	30,000 sq ft
AVERAGE LOT AREA -MU	NA	NA	NA	NA	NA	NA	NA	NA	NA
AVERAGE LOT AREA-I	NA	NA	NA	NA	NA	NA	NA	NA	NA
MINIMUM LOT FRONTAGE	100 ft	100 ft	75 ft	75 ft	NA	NA	NA	(f)	200 ft
MINIMUM FRONT SETBACK	20 ft (c)	20 ft (c)	20 ft (c)	20 ft (c)	NA	NA	NA	(f)	25 ft
MINIMUM SIDE SETBACK/SINGLE-FAMILY	10 ft	20 ft	10 ft (d)	10 ft (d)	NA	NA	NA	(f)	NA
MINIMUM SIDE SETBACK/MULIT-FAMILY	30 ft	30 ft	30 ft	30 ft	NA	NA	NA	(f)	NA
MINIMUM SIDE SETBACK/NON-RESIDENTIAL	NA	NA	NA	NA	NA	NA	NA	(f)	25 ft (g)
MINIMUM REAR SETBACK	25 ft	25 ft	15 ft	15 ft	NA	NA	NA	(f)	25 ft (g)
MAXIMUM LOT COVERAGE	(e)	(e)	(e)	(e)	NA	NA	NA	(e)	(e)

(a) See Section 3.11
(b) See Section 3.6
(c) With Creative Design - See Article VI
(d) For single family dwelling may be reduced to zero feet on one side
(e) See Section 6.0
(f) PUD-Cs may be allowed in B-1 district in accordance with Section 6.6.
PUDs must meet buffer requirements of Table 2.7 and Section 3.2.

(g) Specific Restrictions Apply. See Specific District Tables
(h) See Table 2.10(D) for greater detail building Area/Floor
(I) Includes Buffer Areas
(j) 100 feet along Allen Martin Drive, 50 feet along all other interior streets. See Table 2.12(4) for more detail
(k) PUD-MU allowed. See Section 6.7.
(l) 75 ft Setback along RT 15 - See Section 3.7(b)(2)
(m) 75 ft from Rt 15, 42 ft from "Main" street, 36 from all other streets

Table 2.2 SUMMARY DIMENSIONAL CHART, continued

	ZONING DISTRICTS									
DIMENSIONAL REQUIREMENTS	MXD		MXD-C (h)	MXD-PUD (g)			RPD-I 40%	HP-DC	O1	C1
MINIMUM LOT AREA	RES	NON- RES		R2	B1	MXD				
Off-Site Water and Sewer	20,000 sq ft	30,000 sq ft	7,000 sq ft	20,000 sq ft	30,000 sq ft	(g)	40,000	20,000 sq ft	10 Acres	10 Acres
Off-Site Water or Sewer	30,000 sq ft	40,000 sq ft	7,000 sq ft	30,000 sq ft	40,000 sq ft	(g)	NA	30,000 sq ft	10 Acres	10 Acres
On-Site Water and Sewer	40,000 sq ft	40,000 sq ft	7,000 sq ft	40,000 sq ft	40,000 sq ft	(g)	NA	40,000 sq ft	10 Acres	10 Acres
MINIMUM LOT FRONTAGE										
Off-Site Water and Sewer	100 ft	150 ft	50 ft	100 ft	150 ft	(g)	200 ft	None	200 ft	200 ft
Off-Site Water or Sewer	100 ft	150 ft	50 ft	100 ft	150 ft	(g)	NA	None	200 ft	200 ft
On-Site Water and Sewer	200 ft	150 ft	50 ft	200 ft	150 ft	(g)	NA	None	200 ft	200 ft
MINIMUM SETBACK/FRONT										
Off-Site Water and Sewer	40 ft	50 ft	(m)	40 ft (l)	50 ft (l)	(g)	50 ft	None	50 ft	50 ft
Off-Site Water or Sewer	40 ft	50 ft	(m)	40 ft (l)	50 ft (l)	(g)	NA	None	50 ft	50 ft
On-Site Water and Sewer	40 ft	50 ft	(m)	40 ft (l)	50 ft (l)	(g)	NA	None	50 ft	50 ft
MAXIMUM SETBACK/FRONT	NA	NA	(m)	NA	NA	NA	NA	NA	NA	NA
MINIMUM SETBACK/SIDE										
Off-Site Water and Sewer	15 ft	None	None	15 ft	None	(g)	25 ft	None	25 ft	25 ft
Off-Site Water or Sewer	15 ft	None	None	15 ft	None	(g)	NA	None	25 ft	25 ft
On-Site Water and Sewer	15 ft	None	None	15 ft	None	(g)	NA	None	25 ft	25 ft
MINIMUM SETBACK/REAR										
Off-Site Water and Sewer	20 ft	None	None	20 ft	None	(g)	25 ft	None	25 ft	25 ft
Off-Site Water or Sewer	25 ft	None	None	25 ft	None	(g)	NA	None	25 ft	25 ft
On-Site Water and Sewer	25 ft	None	None	25 ft	None	(g)	NA	None	25 ft	25 ft
MINIMUM BUFFER/ADJACENT RESIDENTIAL DISTRICTS	NA	30 ft	NA	NA	30 ft		200 ft	NA	NA	NA
MINIMUM BUFFER/SURFACE WATERS	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)	Varies (a)
MINIMUM BUFFERS/ADJACENT STREETS	None	None	None	NA	NA	NA	(j)	NA	NA	NA
MAXIMUM LOT COVERAGE-NON RESIDENTIAL	70%	70%	70%	70%	70%	70%	60% (i)	70%	70%	70%
MAXIMUM LOT COVERAGE-RESIDENTIAL-MULTI FAMIL	70%	70%	70%	NA	70%	(g)	NA	40%	NA	NA
MAXIMUM HEIGHT	40 ft (b)	40 ft (b)	40 ft (b, g)	40 ft (b)	40 ft (b)	40ft (b)	45 ft (b)	40 ft (b)	40 ft (b)	40 ft (b, g)
PUD REQUIREMENTS										
AVERAGE LOT AREA PER DWELLING UNIT -PUD-R										
Off-Site Water and Sewer	10,000 sq ft	NA	NA	10,000 sq ft	NA	NA	NA	(e, g)	NA	1 Acre
Off-Site Water or Sewer	15,000 sq ft	NA	NA	15,000 sq ft	NA	NA	NA	(e, g)	NA	1 Acre
On-Site Water and Sewer	15,000 sq ft	NA	NA	15,000 sq ft	NA	NA	NA	(e, g)	NA	1 Acre
AVERAGE LOT AREA-C	NA	NA	NA	NA	(f)	NA	NA	NA	NA	NA
AVERAGE LOT AREA -MU	NA	(k)	(k)	NA	NA	(g)	NA	NA	NA	NA
AVERAGE LOT AREA-I	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
MINIMUM LOT FRONTAGE	75 ft	(k)	(k)	75	(f)	(g)	NA	(e, g)	NA	NA
MINIMUM FRONT SETBACK	20 ft (c)	(k)	(k)	20 ft (c)	(f)	(g)	NA	(e, g)	NA	NA
MINIMUM SIDE SETBACK/SINGLE-FAMILY	10 ft (d)	(k)	(k)	10 ft (d)	(f)	NA	NA	(e, g)	NA	10 ft
MINIMUM SIDE SETBACK/MULIT-FAMILY	30 ft	(k)	(k)	30 ft	(f)	(g)	NA	(e, g)	NA	30 ft
MINIMUM SIDE SETBACK/NON-RESIDENTIAL	NA	(k)	(k)	NA	NA	(g)	NA	NA	NA	NA
MINIMUM REAR SETBACK	15 ft	(k)	(k)	15 ft	(f)	(g)	NA	(e, g)	NA	25 ft
MAXIMUM LOT COVERAGE	(e)	(e)	(e)	(e)	(e)	(g)	NA	(e, g)	NA	(e)

(a) See Section 3.11
(b) See Section 3.6
(c) With Creative Design - See Article VI
(d) For single family dwelling may be reduced to zero feet on one side
(e) See Section 6.0
(f) PUD-Cs may be allowed in B-1 district in accordance with Section
PUDs must meet buffer requirements of table 2.7 and Section 3.2.

(g) Specific Restrictions Apply. See Specific District Tables
(h) See Table 2.10(D) for greater detail building Area/Floor
(i) Includes Buffer Areas
(j) 100 feet along Allen Martin Drive, 50 feet along all other interior streets. See Table 2.12(4) for more detail
(k) PUD-MU allowed. See Section 6.7.
(l) 75 ft Setback along RT 15 - See Section 3.7(B)2
(m) 75 ft from RT 15, 42 ft from "Main" street, 36 ft from other streets

Table 2.3 AGRICULTURAL RESIDENTIAL DISTRICT (AR)

(A) **Purpose**: The purpose of this district is to protect lands with an economic capability for agriculture and which are now essentially undeveloped except for uses associated with agriculture or forestry. In this district, planned residential developments which do not remove the potential of the land for agricultural production such as open space, conservation and certain forms of outdoor recreation, are encouraged. Further road development and the extension of public water supply and sewage disposal systems are not planned for this district. Therefore only low density residential and recreation development which uses existing facilities, which can adequately dispose of its sewage, and is compatible with the district's purpose and guidelines should be allowed.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1,1; Section 4.2)
(3) Cultural Facility
(4) Day Care Home (Section 4.5)
(5) Dwelling/Accessory (Section 4.1)
(6) Dwelling/Single-Family
(7) Dwelling/Two-Family
(8) Dwelling/Multi-Family (only within a PUD-R)
(9) Essential Services
(10) Farm Produce Stand (Section 4.7)
(11) Forestry (Table 1.1)
(12) Garden Center
(13) Group Home (Section 4.8)
(14) Home Occupation (Section 4.9)
(15) Recreation/Public Outdoor

(C) **Conditional Uses** (see definitions, use standards):

(1) Automobile Service Station/ Existing (Section 3.8)
(2) Barn Storage (Section 4.3)
(3) Bed and Breakfast
(4) Camp
(5) Cemetery
(6) Congregate Housing (Section 4.4)
(7) Day Care Facility (Section 4.5)
(8) Extraction of Earth Resources (Section 4.6)
(9) Farm Produce Market (Section 4.7)
(10) Firewood Processing and Sales
(11) Home Business (Section 4.9)
(12) Kennel
(13) Lumber Processing (Section 4.11)
(14) Municipal Facilities (Section 4.14)
(15) Public Facilities (Section 4.14)
(16) Recreation/Private Outdoor
(17) School, Certified (Section 4.14)
(18) Veterinary Clinic
(19) Waste Disposal Facility (Section 4.1

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Standard
Minimum Lot Area	3 acres
Minimum Lot Area per Dwelling Unit	3 acres
Minimum Lot Frontage	200 feet
Minimum Front Setback (from ROW)	50 feet
Minimum Side Setback	20 feet
Minimum Rear Setback	25 feet
Minimum Buffer/ Surface Waters (see Section 3.11)	Varies
Maximum Lot Coverage/ Nonresidential	70%
Maximum Height (see Section 3.6)	40 feet

(E) **PUD Requirements**: Planned residential developments (PUD-Rs) may be allowed in this district in accordance with the provisions of Section 6.8 of these Regulations and the following dimensional standards, which may supersede the above district dimensional standards to allow for more creative design:

Dimension	PUD-R Standard
Average Lot Area per Dwelling Unit	1 acre
Minimum Lot Frontage	100 feet
Minimum Setback/Front	20 feet[(a)]
Minimum Setback/Side − Single Family	10 feet
Minimum Setback/Side − Multifamily	30 feet
Minimum Rear Setback	25 feet
Maximum Lot Coverage	PUD Requirements Apply

(a) With creative design.

(F) **District Development Standards:** None

Table 2.4 LOW DENSITY RESIDENTIAL DISTRICT (R1)

(A) **Purpose**: The purpose of the Low Density Residential District is to facilitate residential development in areas adjacent to but outside of the "Sewered Core Area" as defined in the most recently adopted Town of Essex Sewer Allocation Policy. Densities are kept low and lots are large enough to accommodate on-site sewage disposal systems. Connection to municipal water service may be required.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Cultural Facility
(4) Day Care Home (Section 4.5)
(5) Dwelling/Accessory (Section 4.1)
(6) Dwelling/Single-Family
(7) Dwelling/Two-Family
(8) Dwelling/Multi-Family (only within a PUD-R)
(9) Essential Services
(10) Farm Produce Stand (Section 4.7)
(11) Forestry (Table 1.1)
(12) Group Home (Section 4.8)
(13) Home Occupation (Section 4.9)
(14) Mobile Home Park (only PUD-R; Section 4.12)
(15) Recreation/Public Outdoor
(16) School/Certified (Section 4.14)

(C) **Conditional Uses** (see definitions, use standards):

(1) Barn Storage (Section 4.3)
(2) Bed and Breakfast
(3) Cemetery
(4) Church (Section 4.14)
(5) Day Care Facility (Section 4.5)
(6) Dwelling/Multi-Family
(7) Extraction of Earth Resources (Section 4.6)
(8) Firewood Processing and Sales
(9) Home Business (Section 4.9)
(10) Municipal Facilities (Section 4.14)
(11) Public Facilities (Section 4.14)

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Standard
Minimum Lot Area	1 acre
Minimum Lot Area per Dwelling Unit	1 acre
Minimum Lot Frontage	150 feet
Minimum Front Setback (from ROW)	45 feet
Minimum Side Setback	20 feet
Minimum Rear Setback	25 feet
Minimum Buffer/ Surface Waters (see Section 3.11)	Varies
Maximum Lot Coverage − Nonresidential	70%
Maximum Lot Coverage − Multifamily	40%
Maximum Height (see Section 3.6)	40 feet

(E) **PUD Requirements**: Planned residential developments (PUD-Rs) may be allowed in this district in accordance with the provisions of Section 6.8 of these Regulations and the following dimensional standards, which may supersede the above district dimensional standards to allow for more creative design:

Dimension	PUD-R Standard
Average Lot Area per Dwelling Unit	0.5 acres
Minimum Lot Frontage	100 feet
Minimum Setback/ Front	20 feet[(a)]
Minimum Setback/Side − Single Family	10 feet
Minimum Setback/Side − Multifamily	30 feet
Minimum Setback/Rear	25 feet
Maximum Lot Coverage	PUD Requirements Apply

(a) With creative design.

(F) **District Development Standards:** None

Table 2.5 MEDIUM DENSITY RESIDENTIAL DISTRICT (R2)

(A) **Purpose**: The purpose of the Medium Density Residential District is to facilitate residential development in areas inside the "Sewered Core Area" as defined in the most recently adopted Town of Essex Sewer Allocation Policy. Connection to municipal water service shall be required Connection to municipal sewer service shall be required where installation of these facilities is feasible or deemed necessary. Densities and lot sizes are based either on the provision of off-site services or the ability to accommodate on-site services.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Cemetery
(4) Day Care Home (Section 4.5)
(5) Dwelling/Accessory (Section 4.1)
(6) Dwelling/Single-Family
(7) Dwelling/Two-Family
(8) Dwelling/Multi-Family (only within a PUD-R)
(9) Essential Services
(10) Farm Produce Stand (Section 4.7)
(11) Forestry (Table 1.1)
(12) Group Home (Section 4.8)
(13) Home Occupation (Section 4.9)
(14) Mobile Home Park (only PUD-R; Section 4.12)
(15) Recreation/Public Outdoor
(16) School/Certified (Section 4.14)

(C) **Conditional Uses** (see definitions, use standards):

(1) Automobile Service Station/Existing (Section 3.8)
(2) Bed and Breakfast
(3) Church (Section 4.14)
(4) Congregate Housing (Section 4.4)
(5) Convenience Store/Existing (Section 3.8)
(6) Day Care Facility (Section 4.5)
(7) Dwelling/Multi-Family
(8) Funeral Home/ Existing
(9) Home Business (Section 4.9)
(10) Municipal Facilities (Section 4.14)
(11) Public Facilities (Section 4.14)
(12) Residential Care Facility (Section 4.8)

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Off-site Water and Sewer	Off-site Water or Sewer	On-site Water and Sewer
Minimum Lot Area	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum Lot Area per Dwelling Unit	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum Lot Frontage	100 feet	100 feet	200 feet
Minimum Front Setback (from ROW)	40 feet(a)	40 feet(a)	40 feet(a)
Minimum Side Setback	15 feet	15 feet	15 feet
Minimum Rear Setback	20 feet	25 feet	25 feet
Minimum Buffer/ Surface Waters (see Section 3.11)	Varies	Varies	Varies
Maximum Lot Coverage − Nonresidential	70%	70%	70%
Maximum Lot Coverage − Multifamily	40%	40%	40%
Maximum Height (see Section 3.6)	40 feet	40 feet	40 feet

(a)Front setback in R2 portion of MXD-PUD District is 75 feet along VT Route 15. See Section 3.7(B)(2).

(E) **PUD Requirements**: Planned residential developments (PUD-Rs) may be allowed in this district in accordance with the provisions of Section 6.8 of these Regulations and the following dimensional standards, which may supersede the above district dimensional standards to allow for more creative design:

Dimension	Off-site Water and Sewer	Off-site Water or Sewer	On-site Water and Sewer
Average Lot Area per Dwelling **Unit**	10,000 sq. ft.	15,000 sq. ft.	15,000 sq. ft.
Minimum Lot Frontage	75 feet	75 feet	75 feet
Minimum Front Setback	20 feet[(a)]	20 feet[(a)]	20 feet[(a)]
Minimum Side Setback/Single Family	10 feet[(b)]	10 feet[(b)]	10 feet[(b)]
Minimum Side Setback/Multi-family	30 feet	30 feet	30 feet
Minimum Rear Setback	15 feet	15 feet	15 feet
Maximum Lot Coverage	PUD Requirements Apply		

(a) With creative design. (b) For single family dwellings may be reduced to zero feet (0') on one side.

(F) **District Development Standards:** None

Table 2.6 HIGH DENSITY RESIDENTIAL DISTRICT (R3)

(A) **Purpose**: The purpose of the High Density Residential District is to encourage a wide range of housing opportunities in an area served by municipal services and facilities and public transportation. Home occupations, accessory dwellings and provisions for multifamily units on small lots are encouraged in this district to enable some expansion of uses while avoiding strip commercial development

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Day Care Home (Section 4.5)
(4) Dwelling/Accessory (Section 4.1)
(5) Dwelling/Single Family
(6) Dwelling/Two-Family
(7) Dwelling/Multi-Family
(8) Essential Services
(9) Forestry (Table 1.1)
(10) Group Home (Section 4.8)
(11) Home Occupation (Section 4.9)
(12) Recreation/Public Outdoor

(C) **Conditional Uses** (see definitions, use standards):

(1) Bed and Breakfast
(2) Congregate Housing (Section 4.4)
(3) Day Care Facility (Section 4.5)
(4) Home Business (Section 4.9)
(5) Municipal Facilities (Section 4.14)
(6) Public Facilities (Section 4.14)
(7) Residential Care Facility (Section 4.8)

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Standard
Minimum Lot Area	10,000 sq. ft.
Minimum Lot Area per Dwelling Unit	10,000 sq. ft.
Minimum Lot Frontage	100 feet
Minimum Front Setback (from ROW)	25 feet
Maximum Front Setback (from ROW)	35 feet
Minimum Side Setback	10 feet
Minimum Rear Setback	15 feet
Minimum Buffer/ Surface Waters (see Section 3.11)	Varies
Maximum Lot Coverage − Nonresidential	70%
Maximum Lot Coverage − Multifamily	40%
Maximum Height (see Section 3.6)	40 feet

(E) **PUD Requirements**: Planned residential developments (PUD-Rs) may be allowed in this district in accordance with the provisions of Section 6.8 of these Regulations and the following dimensional standards, which may supersede the above district dimensional standards to allow for more creative design:

Dimension	PUD-R Standard
Average Lot Area per Dwelling Unit	10,000 sq. ft.
Minimum Lot Frontage	75 feet
Minimum Front Setback	20 feet[(a)]
Minimum Side Setback/Single Family	10 feet[(b)]
Minimum Side Setback/Multifamily	30 feet
Minimum Rear Setback	15 feet
Maximum Lot Coverage	PUD Requirements Apply
(a) With creative design. (b) For single family dwellings may be reduced to zero feet (0') on one side.	

(F) **District Development Standards:**

(1) Ingress and egress onto Center Road shall be kept to a minimum. To achieve this, the Planning Commission may require new public streets and/or frontage roads and curb cuts shared by adjacent lots.

Table 2.7 RESIDENTIAL-BUSINESS DISTRICT (RB)

(A) **Purpose**: The purpose of the Residential-Business District is to provide for residential and limited commercial uses within a greenway setting along the VT Route 15 corridor. This area includes properties, which are predominantly residential in nature located on the south side of VT Route 15 in Essex Center. Home occupations, accessory dwellings and limited office development are encouraged in this district to enable some expansion of uses, preserve the predominantly residential character of the area, minimize traffic and congestion and avoid strip development. The RB district was established to protect existing residential uses while allowing for limited commercial uses that are low traffic generators and are compatible with neighboring residences.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Cultural Facility
(4) Day Care Home (Section 4.5)
(5) Dwelling/Accessory (Section 4.1)
(6) Dwelling/Single-Family
(7) Dwelling/Two-Family
(8) Essential Services
(9) Forestry (Table 1.1)
(10) Garden Center
(11) Group Home (Section 4.8)
(12) Home Occupation (Section 4.9)
(13) Office (Max: 2,000 sq ft, see (E)(2) below)
(14) Personal Services (Max: 2,000 sq ft, see (E)(2) below)
(15) Recreation/Public Outdoor
(16) Retail Store (Max: 2,000 sq ft, see (E)(2) below)
(17) Self Service Machine

(C) **Conditional Uses** (see definitions, use standards):

(1) Bed and Breakfast
(2) Congregate Housing (Section 4.4)
(3) Day Care Facility (Section 4.5)
(4) Dwelling/Multi-Family
(5) Home Business (Section 4.9)
(6) Municipal Facilities (Section 4.14)
(7) Office (>2,000 sq ft, See (E)(2) below)
(8) Personal Services (>2,000 sq ft, see (E)(2) below)
(9) Public Facilities (Section 4.14)
(10) Residential Care Facility (Section 4.8)
(11) Retail Store (>2,000 sq ft; see (E)(2) below)
(12) Small Production and Sales
(13) Veterinary Clinic

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Standard
Minimum Lot Area	10,000 sq. ft.
Minimum Lot Area per Dwelling Unit	10,000 sq. ft.
Minimum Lot Frontage	100 feet
Minimum Front Setback (from ROW)	25 feet
Maximum Front Setback (from ROW)	35 feet
Minimum Side Setback (also see (E)(3) below)	10 feet
Minimum Rear Setback (also see (E)(3) below)	15 feet
Minimum Buffer/Residential Districts (see (E)(3) below)	30 feet
Minimum Buffer/ Surface Waters (see Section 3.11)	Varies
Maximum Lot Coverage − Nonresidential	70%
Maximum Lot Coverage − Multifamily	40%
Maximum Height (See Section 3.6)	40 feet

(E) **District Development Standards:**

(1) Ingress and egress onto Center Road shall be kept to a minimum. To achieve this, the Planning Commission may require new public streets and/or frontage roads and curb cuts shared by adjacent lots.

(2) Retail stores, personal services establishments and business, financial, or professional offices allowed as permitted uses shall be located in a structure or accessory building on a property and shall not occupy more than 2,000 square feet of floor area. Such uses which are proposed to occupy more than 2,000 square feet of floor area in a structure existing as of May 22, 1995 shall be considered conditional uses in this district.

(3) **Buffers**. Notwithstanding district side and rear setback requirements under Subsection (D) above, where new nonresidential structures or uses are on lots adjoining residential zoning districts, buffer areas at least 30 feet in width shall define side and rear yard setback areas along district boundaries unless waived or modified by the Planning Commission in accordance with the provisions of Section 3.2 (Buffers).

Table 2.8 CENTER DISTRICT (CTR)

(A) **Purpose**: The purpose of the Center District is to support the historic role of Essex Center as the focus of many social and economic activities in the community. The types of uses allowed include residential, civic, cultural, neighborhood commercial, home occupations, and other compatible uses that will serve the needs of the community. Such development should occur in a pattern and scale that will maintain the traditional social and physical character of the Essex Center and preserve its historic and scenic resources. Facilities and services are planned for this area to accommodate moderate to high-density development. Development should be reviewed in accordance with the *Town Center Master Plan* (April 1991).

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Bank
(4) Cultural Facility
(5) Day Care Home (Section 4.5)
(6) Dwelling/Accessory (Section 4.1)
(7) Dwelling/Single-Family
(8) Dwelling/Two-Family
(9) Essential Services
(10) Forestry (Table 1.1)
(11) Garden Center
(12) Group Home (Section 4.8)
(13) Home Occupation (Section 4.9)
(14) Municipal Facilities (Section 4.14)
(15) Office (Max: 2,000 sq ft; see (E)(1) below)
(16) Personal Services (Max: 2,000 sq ft; see (E)(1) below)
(17) Recreation/Public Outdoor
(18) Retail (Max: 2,000 sq ft; see (E)(1) below)
(19) Self Service Machine
(20) Small Production and Sales (Max: 1,000 sq ft; see (E)(2) below)

(C) **Conditional Uses** (see definitions, use standards):

(1) Bed and Breakfast
(2) Church (Section 4.14)
(3) Congregate Housing (Section 4.4)
(4) Convenience Store
(5) Day Care Facility (Section 4.5)
(6) Dwelling/Multi-Family (see (E)(4) below)
(7) Funeral Home
(8) Home Business (Section 4.9)
(9) Neighborhood Shopping Center (see (E)(3) below)
(10) Parking Facility
(11) Private Club
(12) Public Facilities (Section 4.14)
(13) Residential Care Facility (Section 4.8)
(14) Restaurant
(15) School/Certified (Section 4.14)
(16) School/Non-certified
(17) Veterinary Clinic

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Standard
Minimum Lot Area	10,000 sq. ft.
Minimum Lot Area per Dwelling Unit	10,000 sq. ft.
Minimum Lot Frontage	75 feet
Minimum Front Setback (from ROW)	30 feet
Maximum Front Setback (from ROW)	40 feet
Minimum Side Setback	10 feet
Minimum Rear Setback	15 feet
Minimum Buffer/ Surface Waters (see Section 3.11)	Varies
Maximum Lot Coverage − Nonresidential	70%
Maximum Lot Coverage − Multifamily	40%
Maximum Height (see Section 3.6)	40 feet

(E) **District Development Standards:**

(1) Retail stores, personal services establishments and business, financial, or professional offices shall not contain more than 2,000 square feet of floor area.
(2) Small production and sales establishments shall not contain more than 1,000 square feet of floor area.
(3) Existing neighborhood shopping centers shall contain no more than 90,000 square feet of floor area.
(4) Multifamily dwellings of up to four (4) units may only be created in existing historic structures having at least 1,500 square feet of ground floor area.
(5) Ingress and egress onto VT Route 15 shall be kept to a minimum. To achieve this, the Planning Commission may require new public streets and/or frontage roads and curb cuts shared by adjacent lots.

Table 2.9 RETAIL BUSINESS DISTRICT (B1)

(A) **Purpose**: This area consists of existing commercial areas and adjacent lands which are becoming predominantly commercial in nature. Due to the location of these areas on major thoroughfares, they are well suited for providing the retail, business and personal service needs of this community and other nearby towns. However, strip development along these thoroughfares must be discouraged in favor of consolidated access points in order to minimize traffic hazards and maintain smooth traffic flows. Also, since these areas are the focal point of activity for the Town, the review of commercial development within this district must ensure attractiveness for site design and signage. Furthermore, new commercial development should be compatible with adjacent commercial and residential structures.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Bank
(4) Caretaker Apartment (see (F)(1) below)
(5) Congregate Housing (Section 4.4; see (F)(2) below)
(6) Convenience Store
(7) Dwelling/Multi-Family (1-2 bedroom only; see (F)(2) below)
(8) Essential Services
(9) Forestry (Table 1.1)
(10) Funeral Home
(11) Garden Center
(12) Municipal Facilities (Section 4.14)
(13) Neighborhood Shopping Center
(14) Office
(15) Office/Major (Min: 15,000 sq ft gross leasable area)
(16) Parking Facility
(17) Personal Services
(18) Recreation/Indoor
(19) Recreation/Public Outdoor
(20) Restaurant
(21) Retail
(22) School/Technical, Vocational (Section 4.14)
(23) Self Service Machine
(24) Small Production and Sales

(C) **Conditional Uses** (see definitions, use standards):

(1) Automobile Service Station
(2) Automotive Repair Shop (see (F)(3) below)
(3) Car Wash
(4) Church (Section 4.14)
(5) Day Care Facility (Section 4.5)
(6) Equipment Sale, Rental and Repair (see (F)(3) below)
(7) Hotel/Motel
(8) Light Manufacturing (see (F)(3),(4) below)
(9) Machinery Repair/Major (see (F)(3) below)
(10) Machinery Repair/Minor
(11) Medical Clinic
(12) Private Club
(13) Public Facilities (Section 4.14)
(14) Recreation/Private Outdoor
(15) Research and Testing Laboratory
(16) School/Certified (Section 4.14)
(17) School/Non-certified
(18) Storage, Warehouse and Distribution (see (F)(3) below)
(19) Trucking Terminal see (F)(3) below)
(20) Veterinary Clinic
(21) Wholesale Establishment see (F)(3) below)

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Off-site Water and Sewer	Off-site Water or Sewer	On-site Water and Sewer
Minimum Lot Area − Existing Dwellings	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum Lot Area − Nonresidential	30,000 sq. ft	40,000 sq. ft.	40,000 sq. ft.
Minimum Lot Frontage	150 feet	150 feet	150 feet
Minimum Front Setback (from ROW)	50 feet(a)	50 feet(a)	50 feet(a)
Minimum Side Setback (see (F)(5) below)	None	None	None
Minimum Rear Setback (see (F)(5) below)	None	None	None
Minimum Buffer/Residential Districts (see (F)(5) below)	30 feet	30 feet	30 feet
Minimum Buffer/ Surface Waters (see Section 3.11)	Varies	Varies	Varies
Maximum Lot Coverage − All	70%	70%	70%
Maximum Height (see Section 3.6)	40 feet	40 feet	40 feet

(a)Front setback in B1 portion of MXD-PUD District is 75 feet along VT Route 15. See Section 3.7(B)(2).

(E) **PUD Requirements**: Commercial Planned Unit Developments (PUD-Cs) may be allowed in this district in accordance with the provisions of Section 6.6 of these Regulations. PUDs in this district must also meet applicable buffer requirements under and (F)(5) below and Section 3.2 (Buffers).

Table 2.9 RETAIL BUSINESS DISTRICT (B1), continued

(F) **District Development Standards:**

(1) **Caretaker Apartment**. On any individual lot developed for uses allowed in this district, one (1) attached apartment for occupancy by a caretaker and family may be provided, if the dwelling meets all relevant dimensional requirements for the district and meets the parking requirements specified in Section 3.9 of these Regulations.

(2) **Residential Density**. The maximum residential density for congregate housing and one- and two-bedroom multiple family dwelling units in this district shall not exceed 25 units per acre.

(3) **Access Restrictions**. Automotive repair shops, equipment sales, rental and repair, light manufacturing, machinery repair shops (major), storage, warehouse and distribution establishments, trucking terminals and wholesale establishments must be located no less than two hundred feet (200') south and west of the right-of-way of Susie Wilson Road and Kellogg Road, and shall not have direct access onto these roads.

(4) **Mixed Production and Sales Areas**. In any manufacturing use allowed in this district, an area inside the structure not exceeding one thousand square feet (1,000 sq ft) may be set aside for the purpose of retail sales of the products manufactured by the resident company, provided that all relevant dimensional requirements for the district are met and that all parking requirements specified in Section 3.9 of these Regulations are met.

(5) **Buffers**. Notwithstanding other applicable district dimensional requirements under Subsection (D), where new nonresidential structures or uses are on lots adjoining residential zoning districts, buffer areas at least 30 feet in width shall define side and rear yard setback areas along district boundaries unless waived or modified by the Planning Commission in accordance with the provisions of Section 3.2 (Buffers).

Table 2.10 INDUSTRIAL DISTRICT (I1)

(A) **Purpose**: This area provides for employment opportunities in manufacturing, warehousing, research and development and commercial uses which specifically serve the industries or their employees in areas serviced by good transportation facilities and public utilities. Other uses incompatible with industrial uses, such as residential uses, shall not be permitted for the health, safety and welfare of the community.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Automotive Repair Shop
(4) Caretaker Apartment (see (F)(1) below)
(5) Contractor's Yard
(6) Equipment Sale, Rental and Repair
(7) Essential Services
(8) Forestry (Table 1.1)
(9) Light Manufacturing (see (F)(2) below)
(10) Machinery Repair/Major
(11) Machinery Repair/Minor
(12) Municipal Facilities (Section 4.14)
(13) Neighborhood Shopping Center
(14) Office
(15) Office/Major (Min: 15,000 sq ft gross leasable area)
(16) Parking Facility
(17) Recreation/Public Outdoor
(18) Recycling Establishment
(19) Research and Testing Laboratory
(20) School/Technical, Vocational (Section 4.14)
(21) Small Production and Sales
(22) Storage, Warehouse and Distribution
(23) Trucking Terminal
(24) Wholesale Establishment

(C) **Conditional Uses** (see definitions, use standards):

(1) Convenience Store/ Existing
(2) Day Care Facility (Section 4.5)
(3) Extraction of Earth Resources (Section 4.6)
(4) Firewood Processing and Sales
(5) Junkyard (Section 4.10)
(6) Public Facilities (Section 4.14)
(7) Recreation/Indoor

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use)

Dimension	Off-site Water and Sewer	Off-site Water or Sewer	On-site Water and Sewer
Minimum Lot Area − Nonresidential	40,000 sq. ft	60,000 sq. ft.	100,000 sq. ft.
Minimum Lot Frontage	200 feet	200 feet	200 feet
Minimum Front Setback (from ROW)	50 feet	50 feet	50 feet
Minimum Side Setback (also see (F)(3) below)	25 feet	25 feet	25 feet
Minimum Rear Setback (also see (F)(3) below)	25 feet	25 feet	25 feet
Minimum Buffer/Residential Districts (see (F)(3) below)	50 feet	50 feet	50 feet
Minimum Buffer/Surface Waters (see Section 3.11)	Varies	Varies	Varies
Maximum Lot Coverage − All	70%	70%	70%
Maximum Height (see Section 3.6)	45 feet	45 feet	45 feet

(E) **PUD Requirements**: Planned Industrial Developments (PUD-Is) may be allowed in this district in accordance with the provisions of Section 6.5 of these Regulations and the following dimensional standards, which may supersede the above district dimensional standards to allow for more creative design:

Dimension	Off-site Water and Sewer	Off-site Water or Sewer	Off-site Water and Sewer
Average Lot Area	30,000 sq. ft.	30,000 sq. ft.	30,000 sq. ft.
Minimum Lot Frontage	200 feet	200 feet	200 feet
Minimum Front Setback	25 feet	25 feet	25 feet
Minimum Side Setback (also see (F)(3) below)	25 feet	25 feet	25 feet
Minimum Rear Setback (also see (F)(3) below)	25 feet	25 feet	25 feet
Maximum Lot Coverage	PUD Requirements Apply		

Table 2.10 INDUSTRIAL DISTRICT (I1), continued

(F) **<u>District Development Standards</u>:**

(1) **Caretaker Apartment**. On any individual lot developed for uses allowed in this district, one (1) attached apartment for occupancy by a caretaker, provided that the dwelling meets all relevant dimensional requirements for the district and meets the parking requirements specified in Section 3.9 of these Regulations.

(2) **Mixed Production and Sales Areas**. In any manufacturing use allowed in this district an area inside the structure not exceeding one thousand square feet (1,000 sq ft) may be set aside for the purpose of retail sales of the products manufactured by the resident company, provided that all relevant dimensional requirements for the district are met and that all parking requirements specified in Section 3.9 of these Regulations are met.

(3) **Buffers**. Notwithstanding district side and rear setback requirements under Subsection (D), where new nonresidential structures or uses are on lots adjoining residential zoning districts, buffer areas at least 50 feet in width shall define side and rear yard setback areas along district boundaries unless waived or modified by the Planning Commission in accordance with the provisions of Section 3.2 (Buffers).

Table 2.11 MIXED USE DEVELOPMENT DISTRICT (MXD)

(A) **Purpose**: The areas designated as the MXD District are conveniently located relative to major arterial roads in the area and proximate to a variety of different uses and activities. The purpose of this district is to allow a mix of residential and commercial uses in keeping with the existing character of the area. The areas designated as the MXD District shall include commercial uses as allowed in the B1 and residential uses as allowed in the R2 District, except for single-family dwellings.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Bank
(4) Convenience Store
(5) Cultural Facility
(6) Dwelling/Two-Family (only in a PUD-R)
(7) Dwelling/Multi-Family (only in a PUD-R)
(8) Equipment Sales, Rental and Repair
(9) Essential Services
(10) Farm Produce Stand (Section 4.7)
(11) Forestry (Table 1.1)
(12) Funeral Home
(13) Garden Center
(14) Home Occupation (Section 4.9)
(15) Municipal Facilities (Section 4.14)
(16) Neighborhood Shopping Center
(17) Office
(18) Office/Major (Min: 15,000 sq ft gross leasable area)
(19) Personal Services
(20) Recreation/Indoor
(21) Recreation/Public Outdoor
(22) Restaurant
(23) Retail
(24) School/Certified (Section 4.14)
(25) Self Service Machine
(26) Small Production and Sales

(C) **Conditional Uses** (see definitions, use standards):

(1) Automobile Service Station
(2) Automotive Repair Shop
(3) Bed and Breakfast
(4) Car Wash
(5) Church (Section 4.14)
(6) Congregate Housing (Section 4.4)
(7) Day Care Facility (Section 4.5)
(8) Dwelling/Two-Family
(9) Dwelling/Multi-Family
(10) Home Business (Section 4.9)
(11) Hotel/Motel
(12) Medical Clinic
(13) Parking Facility
(14) Private Club
(15) Public Facilities (Section 4.14)
(16) Research and Testing Laboratory
(17) Residential Care Facility (Section 4.8)
(18) School/Non-certified
(19) School/Technical, Vocational (Section 4.14)
(20) Veterinary Clinic

(D) **District Dimensional Requirements**:

(1) Dimensional requirements for nonresidential uses shall be those specified for the **B1** District (Table 2.9).

(2) Dimensional requirements for residential uses shall be those specified for the **R2** District (Table 2.5), except that minimum lot area per congregate housing dwelling unit, with Planning Commission approval, may be 10,000 square feet.

(B) **PUD Requirements**: Planned Residential Developments (PUD-Rs) and Planned Mixed Use Developments (PUD-MUs) may be allowed in this district in accordance with the provisions of Section 6.7 of these Regulations. Other types of planned unit development shall not be permitted in this district.

(C) **District Development Standards:**

(1) **Buffers**. Notwithstanding other applicable district (R2, B1) side and year setback requirements, in this district, where new nonresidential structures or uses are on lots adjoining residential zoning districts, buffer areas at least 30 feet in width shall define side and rear yard setback areas along district boundaries unless waived or modified by the Planning Commission in accordance with the provisions of Section 3.2 (Buffers).

Table 2.12 MIXED USE DEVELOPMENT-COMMERCIAL DISTRICT (MXD-C)

(A) **Purpose**: The purpose of the Mixed Use Development-Commercial District is to facilitate the development of a mixed use center which incorporates higher density residential development along with a broad range of retail and personal service shops, professional offices and commercial uses, all in a compact, pedestrian friendly area. The intent of this district is to provide an area in the Town in which a broad range of retail and personal service shops, professional and governmental offices, and supportive, compatible commercial uses is allowed. Residential uses, which add interest and vitality to the area and accommodate those who desire high-density housing are encouraged. All uses should be properly located and designed to enhance the existing structures in the area. Development should be reviewed in accordance with the *Town Center Master Plan* (April 1991).

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Bank (Max: 10,000 sq ft; see (F)(2) below)
(4) Bed and Breakfast
(5) Caretaker Apartment
(6) Day Care Facility (Section 4.5)
(7) Dwelling/Two-Family
(8) Dwelling/Multi-Family
(9) Essential Services
(10) Forestry (Table 1.1)
(11) Funeral Home
(12) Garden Center
(13) Home Occupation (Section 4.9)
(14) Municipal Facilities (Section 4.14)
(15) Neighborhood Shopping Center
(16) Office (Max: 10,000 sq ft; see (F)(2) below)
(17) Personal Services (Max: 10,000 sq ft; see (F)(2) below)
(18) Recreation/Public Outdoor
(19) Restaurant (Max: 8,000 sq ft; see (F)(3) below)
(20) Retail (Max: 10,000 sq ft; see (F)(2) below)
(21) School/Certified (Section 4.14)
(22) Self Service Machine
(23) Small Production and Sales(see (F)(4) below)

(C) **Conditional Uses** (see definitions, use standards):

(1) Bank (drive-through/ >10,000 sq ft; see (F)(2) below)
(2) Church (Section 4.14)
(3) Congregate Housing (Section 4.4)
(4) Convenience Store
(5) Cultural Facility
(6) Medical Clinic
(7) Office: (>10,000 sq ft; see (F)(2) below)
(8) Parking Facility
(9) Personal Services (>10,000 sq ft; see (F)(2) below)
(10) Private Club
(11) Public Facilities (Section 4.14)
(12) Recreation/Indoor
(13) Residential Care Facility (Section 4.8)
(14) Research and Testing Laboratory
(15) Restaurant (>8,000 sq ft; see (F)(3) below)
(16) Retail (>10,000 sq ft; see (F)(2) below)
(17) School/Non-certified
(18) Veterinary Clinic

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Standard
Minimum Lot Area	7,000 sq. ft.
Minimum Lot Area per Dwelling Unit	7,000 sq. ft.
Minimum Lot Frontage	50 feet
Minimum Front Setback (from ROW) − VT Route 15	75 feet
Minimum Front Setback (from Travel Way − Other Streets	36 feet
Maximum Front Setback (from Travel Way) − "Main Street"	42 feet
Minimum Side Setback	None
Minimum Rear Setback	None
Minimum Buffer/Surface Waters (see Section 3.11)	Varies
Maximum Building Area/Floor − Commercial	10,000 sq. ft.
Maximum Building Area/Floor − Mixed Use	10,000 sq. ft.
Maximum Building Area/Floor − Residential	8,000 sq. ft.
Maximum Lot Coverage	70%
Maximum Height (see (F)(6) below; Section 3.6)	40 feet

(E) **PUD Requirements**: Mixed Use Planned Unit Developments (PUD-MUs) may be allowed in this district in accordance with the provisions of Section 6.7. PUDs in this district must also meet applicable district requirements under Subsection (F) below.

Table 2.12 MIXED USE DEVELOPMENT−COMMERCIAL DISTRICT (MXD-C), continued

(F) **District Development Standards:**

(1) Development in this district, including those in planned residential developments, shall reflect the general guidelines set forth in the *Town Center Master Plan* (1991) and the town plan of record pursuant to the Act [§ 4385]. In addition, the following requirements shall apply:

(a) The purpose of any development in this district shall be to create a compact, multi-use center for the Town, including a Common, community focal points and a greenway along VT Route 15. Such features shall be incorporated into the Planned Unit Development (PUD) plan.

(b) The design should facilitate easy pedestrian and other non-automobile traffic, as well as automobile circulation. Facilities and easements should be incorporated into the design for pedestrian and bicycle use.

(c) The design shall represent a compact pattern of development of a small scale which does not include large lots or large landscaped buffer areas.

(d) Common or shared parking shall be encouraged, and shared parking lots may overlap side and rear yard setbacks.

(e) For the total development, the total gross floor area of nonresidential development shall be related to the total number of dwellings as follows:

(i) No less than 600 square feet of non-residential floor area per dwelling unit.
(ii) No more than 1,500 square feet of non-residential floor area per dwelling unit.

(2) Retail stores, personal service establishments, business, financial and professional offices and banks without drive-through windows not exceeding 10,000 square feet in gross floor area shall be considered as permitted uses. Banks with drive-through windows, and all such uses exceeding 10,000 square feet in area, shall be treated as conditional uses.

(3) Restaurants not exceeding 8,000 square feet gross floor area shall be considered as permitted uses. Restaurants exceeding 8,000 square feet in area shall be treated as conditional uses.

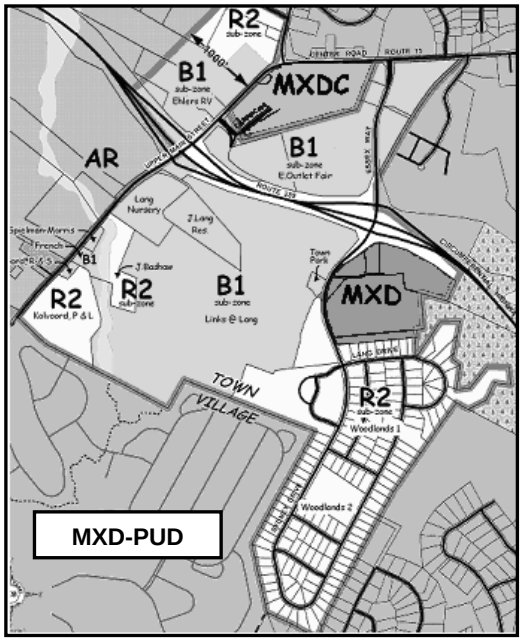
(4) Small production and sales establishments such as woodworking and craft shops, print shops, etc., not exceeding 1,000 square feet in a structure shall be considered as permitted uses.

(5) In this district, the maximum percentage of a parcel in improved open space (excluding the 75-foot setback area along VT Route 15) shall not exceed 10 percent.

(6) **Height**. The height of a structure in this district may be limited to two stories or twenty-five feet (25') where it is determined by the Planning Commission or Board of Adjustment that doing so is necessary to preserve views toward the Green Mountains from other lots in the district.

(7) **Caretaker Apartment**. On any individual lot developed for uses allowed in this district, one (1) attached apartment for occupancy by a caretaker and family may be provided, if the dwelling meets all relevant dimensional requirements for the district and meets the parking requirements specified in Section 3.9 of these Regulations.

Table 2.13 MIXED USE DEVELOPMENT−PLANNED UNIT DEVELOPMENT DISTRICT (MXD-PUD)



(A) **Purpose**: This district has a combination of residential, commercial and mixed use development on a large tract of land where a comprehensive planning effort has been undertaken. Because of its proximity to major roadways and the availability of municipal water and sewer, this district is uniquely qualified to provide a combination of residential, commercial and industrial development as approved by the Planning Commission or as specified in the Essex Town Plan.

(B) **Area Designations:** The boundary and "subzones" of the MXD-PUD are generally illustrated in the accompanying figure, and more specifically depicted on the Official Zoning Map.

(C) **District Development Standards**:

(1) **Residential Development**. In addition to requiring subdivision approval in accordance with the Town of Essex Subdivision Regulations, residential development in this district shall comply with the use and dimensional requirements for the **Medium Density Residential (R2) District** (Table 2.5). Allowable uses shall include those residential uses listed in Table 2.5, except for mobile home parks which are not allowed in the MXD-PUD district. Planned Residential Developments (PUD-Rs) may be permitted upon approval of the Planning Commission in accordance with Section 6.8 of these Regulations. Where applicable, conditional use approval shall also be obtained pursuant to Section 5.7 of these Regulations.

(2) **Commercial Development**. Commercial development planned for this district shall conform to the use and dimensional requirements of the **Retail Business (B1) District** (Table 2.9). Allowable uses shall include those nonresidential uses listed in Table 2.9, except that automobile service stations, car washes and convenience stores shall not be allowed in the MXD-PUD District. If applicable, subdivision approval in accordance with the Town of Essex Subdivision Regulations is required. Planned Unit Developments may be permitted upon approval of the Planning Commission in accordance with Subsection (4). In addition, site plan approval in accordance with Section 5.6 is required. Where applicable, conditional use approval shall also be obtained pursuant to Section 5.7 of these Regulations.

(3) **Mixed Use Development.** Mixed used development planned for this district shall conform to the requirements of the Mixed Use Development (MXD) district (Table 2.19).

(4) **PUD Requirements**: Planned Unit Developments may be allowed in subzones of this district as allowed in those zoning districts, in accordance with the provisions of Article VI of these Regulations and related district requirements.

(5) **Buffer requirements.** The requirements of Section 3.2 (Buffers) shall apply between the areas of the MXD-PUD that are designated residential and commercial as if they, in fact, were zoned R2, B1, and MXD.

Table 2.14 RESOURCE PRESERVATION-INDUSTRIAL DISTRICT (RPD-I)

(A) **Purpose:** The RPD-I District is established for land that is comprised of forests, bodies of water, high elevations, scenic overlooks, or similar natural settings. The RPD-I District acreage in combination with the 90-acre parcel zoned O1 (presently owned by the Essex Junction School District) totals 751.7 acres. The objective of the RPD-I and the related O1 District parcel is to protect such natural attributes for public enjoyment, and to carry out development activities in harmony with the natural surroundings. Of the 751.7 acres in this district, 60 percent has been formally designated for recreation/conservation use (including all of the related O1 District acreage) and the remaining 40 percent for permitted uses as set forth in (B) below that satisfy all other district requirements. Residential uses are not allowed in this district.

(B) **Permitted Uses** *(see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Day Care Facility (Section 4.5)
(4) Equipment Sale, Rental and Repair
(5) Essential Services
(6) Firewood Processing and Sales
(7) Forestry (Table 1.1)
(8) Light Manufacturing (see (D)(6) below)
(9) Municipal Facilities (Section 4.14)
(10) Office
(11) Office/Major (Min: 15,000 s. f. gross leasable area)
(12) Personal Services
(13) Recreation/Indoor
(14) Recreation/Public Outdoor
(15) Research and Testing Laboratory
(16) School/Technical, Vocational (Section 4.14)
(17) Small Production and Sales
(18) Storage, Warehouse and Distribution
(19) Wholesale Establishment

*Permitted uses are identified for the designated 40 percent developable area only. The designated 60 percent is reserved for passive recreation/ conservation (no development) and uses identified in Table 1.1. The 40 and 60 percent are identified on the Official Forestdale Technology Park 60/25/15 (60/40) Map (effective November 8, 2001).

(C) District Dimensional Requirements (unless otherwise specified for a particular use)

Dimension	Off-site Water and Sewer
Minimum Lot Area − Nonresidential	40,000 sq. ft
Minimum Lot Frontage	200 feet
Minimum Front Setback (from ROW)	50 feet
Minimum Side Setback (also see (F)(3) below)	25 feet
Minimum Rear Setback (also see (F)(3) below)	25 feet
Minimum Buffer/Residential Districts (see (F)(3) below)	200 feet
Minimum Buffer/Surface Waters (see Section 3.11)	Varies
Maximum Lot Coverage − All	60%
Maximum Height (see Section 3.6)	45 feet

(D) District Development Standards:

(1) **Use Allocations**. As indicated on the November 8, 2001 Official Forestdale Technology Park 60/20/15 (60/40) Map, at least sixty percent (60%) of the RPD-I district shall be retained for recreation/conservation use, including the related O1 acreage presently owned by the Essex Junction School District. Permitted uses which satisfy all other requirements of this Section shall be permitted in the remaining forty percent (40%) of the land shown on this map.

(2) **Height:** No structure within this district shall be allowed to exceed 45 feet (45') in height, in accordance with Section 3.6 (Height).

(3) **Lot Coverage.** The maximum lot coverage for all development in this district is 60 percent of the total lot area. Required buffer areas shall be considered part of the total lot area for calculating lot coverage.

(4) Except as specifically noted herein, all proposals for subdivision and development in the RPD-I District shall be reviewed only under the provisions for this District. Applicants may not rely upon, nor seek remedy under any other provisions of these Regulations, except as may be provided by state law. Any subdivision of lots shall meet the minimum requirements of the RPD-I District and all applicable subdivision regulations that do not conflict with RPD-I District standards.

(5) Site plan approval by the Planning Commission, in accordance with Section 5.6 of these Regulations, shall be required prior to the development of individual parcels or sites within the RPD-I District, incorporating the purpose of this district.

(6) **Mixed Production and Sales Areas**. In any manufacturing use allowed in this district an area inside the structure not exceeding one thousand square feet (1,000 sq ft) may be set aside for the purpose of retail sales of the products manufactured by the resident company, provided that all relevant dimensional requirements for the district are met and that all parking requirements specified in Section 3.9 of these Regulations are met.

(7) **Buffers**. Buffer areas shall be maintained in the RPD-I district, as required below and under Section 3.2 (Buffers), in order to provide visual screening between industrial development and adjacent streets and residential areas, as well as to maintain trails and the natural environment to the greatest extent possible.

(a) A 200-foot buffer shall be maintained along adjacent residential areas and streets, including VT Route 15, Sand Hill Road and Saxon Hill Road. It shall also apply to areas where development abuts a residential property not located in a residential district. The 200-foot buffer shall be maintained in an undisturbed, vegetated state. No tree clearing or removal of vegetation shall be allowed with the exception of such activities authorized pursuant to a Forest Management Plan (FMP) approved by the Planning Commission. Parking areas, access drives and components of stormwater management systems may not be located within the 200-foot buffer, although underground utility easement crossings are permitted. The Planning Commission, upon recommendation of the Town Engineer, may approve overhead utility line crossings if ledge, underground water or other conditions make underground installation infeasible. Areas cleared for utility crossings shall be re-vegetated in accordance with a landscape plan approved by the Planning Commission. The Planning Commission may not waive buffer requirements in the 200-foot buffer.

(b) A 100-foot buffer shall be maintained along Allen Martin Drive. The 100-foot buffer shall be maintained to establish a continuous mixed age stand that will enhance the rejuvenative capacity of the understory. No tree clearing or removal of vegetation shall be allowed with the exception of such activities authorized pursuant to a FMP approved by the Planning Commission. Parking areas and components of stormwater management systems may not be located within the 100-foot buffer, although underground utility easement crossings are permitted. The Planning Commission, upon recommendation of the Town Engineer, may approve overhead utility line crossings if ledge, underground water or other conditions make underground installation infeasible. Areas cleared for utility crossings shall be re-vegetated in accordance with a landscape plan approved by the Planning Commission. The Planning Commission may not waive buffer requirements in the 100-foot buffer.

(c) A 50-foot buffer shall be maintained along all interior streets other than Allen Martin Drive, unless waived by the Planning Commission. Applicants seeking a waiver of buffer requirements in the 50-foot buffer shall make such a request from the Planning Commission during the site plan review process. Any such waiver request shall include an explanation of why a waiver is necessary, a description of the extent of disruption in the 50-foot buffer, and a proposal for mitigation through additional landscaping and/or re-vegetation. If a waiver is granted, the Planning Commission shall state this determination in its approval, along with any conditions for mitigation, including a landscaping plan.

(8) Any development in this district shall not have an undo adverse effect on the scenic or natural beauty of the area, aesthetics or rare and irreplaceable natural areas.

Table 2.15 HISTORIC PRESERVATION−DESIGN CONTROL DISTRICT (HP-DC)

(A) **Purpose**: This district, which is shown on the Official Zoning Map of the Town of Essex, contains that portion of Fort Ethan Allen located within the Town. The purpose of this district is to enhance the rich cultural heritage of the Fort and to minimize the threat of demolition or substantial character alterations of the many historic structures contained within the area. A report entitled "Historic Preservation and Design Control Standards for Essex Center and Fort Ethan Allen" (1986) contains standards and guidelines to be used in the review of development proposals in this area.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Cultural Facility
(4) Day Care Home (Section 4.5)
(5) Dwelling/Accessory (Section 4.1)
(6) Dwelling/Single-Family
(7) Dwelling/Two-Family
(8) Dwelling/Multi-Family
(9) Essential Services
(10) Forestry (Table 1.1)
(11) Home Occupation (Section 4.9)
(12) Municipal Facilities (Section 4.14)
(13) School/ Certified (Section 4.14)
(14) Self Service Machine
(15) Small Production and Sales

(C) **Conditional Uses** (see definitions, use standards):

(1) Congregate Housing (Section 4.4)
(2) Day Care Facility (Section 4.5)
(3) Medical Clinic
(4) Parking Facility
(5) Private Club
(6) Public Facilities (Section 4.14)
(7) Recreation/Private Outdoor
(8) Recreation/Public Outdoor
(9) Residential Care Facility (Section 4.8)

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Off-site Water and Sewer	Off-site Water or Sewer	On-site Water and Sewer
Minimum Lot Area	20,000 sq. ft	30,000 sq. ft.	40,000 sq. ft.
Minimum Lot Area per Dwelling Unit	20,000 sq. ft	30,000 sq. ft.	40,000 sq. ft.
Minimum Lot Frontage	None	None	None
Minimum Front Setback (from ROW)	None	None	None
Minimum Side Setback	None	None	None
Minimum Rear Setback	None	None	None
Minimum Buffer/Surface Waters (see Section 3.11)	Varies	Varies	Varies
Maximum Lot Coverage − Nonresidential	70%	70%	70%
Maximum Lot Coverage − Multifamily	40%	40%	40%
Maximum Height (see Section 3.6)	40 feet	40 feet	40 feet

(E) **PUD Requirements**: Planned Residential Developments (PUD-Rs) may be allowed in this District in this district in accordance with the provisions of Section 6.8. PUD-Rs in this district must also meet applicable district requirements under Subsection (F) below.

(F) **District Development Standards:**

(1) **Parade Grounds.** The Parade Grounds for Fort Ethan Allen are identified as an integral element of the entire Fort in the Town Plan and in the Master Plan for Fort Ethan Allen prepared by the Colchester Community Development Corporation in l988. The Town of Essex chose to zone the Parade Grounds as "Open Recreation" (O1) to assure the preservation and protection of same. In consideration of the large amount of acreage (13.94 acres in the Town of Essex) which has been reserved as open space by this designation, this acreage may be used for density purposes for the remaining acreage, now or formerly owned by the University of Vermont in the Town of Essex provided all of the following conditions are met:

(a) Any development proposal for the existing residential structures fronting Dalton Drive and Ethan Allen Avenue in the HP-DC district submitted to the Planning Commission shall be reviewed as a Planned Residential Development (PUD-R) subject to the provisions of Section 6.8 of this Regulation and the Town of Essex Subdivision Regulations.

(b) The transfer of density from the Parade Grounds shall allow the renovation of the existing structures into multiple family residences at an overall density not to exceed 2.178 dwelling units per acre.

(c) At least 50 percent of the dwelling units shall be set aside as units which shall be sold or rented at a price that is affordable for a household with an annual income that is 100 percent of median income for the Chittenden County area as determined by the U.S. Department of Housing and Urban Development.

(d) Provisions to ensure continued affordability of the units so designated shall be included in legally binding agreements and/or deed restrictions as reviewed and approved by the Town of Essex.

(e) The development proposal assures the improvement, preservation and maintenance of the Parade Grounds for passive open space uses or such other recreational uses as the Planning Commission may specifically approve on a case-by-case basis.

(f) Adequate provisions have been made for parking, outside storage, active recreation facilities and any necessary infrastructure or road network improvements.

(g) The development proposal meets the requirements of this section, all other applicable town regulations, and ordinances, and policies and recommendations for this area included in the Essex Town Plan.

(2) **District Design Review.** The Planning Commission may deny approval of a proposed development or modification of a structure if it determines that the intent of this Section and the report entitled, "Historic Preservation and Design Control Standards for Essex Center and Fort Ethan Allen" (1986) within the Town Plan has not been met. Accordingly:

(a) Within this district, no structure may be demolished, reconstructed, moved, erected, or changed in use, nor may the exterior be altered or restored without design approval from the Planning Commission, issued in conjunction with subdivision or site plan approval. In the event that subdivision or site plan review is not otherwise required, design review shall be conducted in accordance with site plan review procedures under Section 5.3.

(b) Nothing in these design control criteria shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the district which does not involve a change in the design, material, color or the outward appearance of the feature.

(c) The review of plans under this Section by the Planning Commission requires the submission of information listed in Section 5.2 (Applications), along with building elevations, a description of materials to be used on the exterior of any structure, plans including cut sheets and locations for all proposed exterior lighting, signs, drainage and snow removal, and photographs of existing structures and adjacent buildings if applicable. The Planning Commission may require additional information and documentation as it deems necessary.

(d) The Planning Commission shall require a lighting plan for exterior lighting, including a photometric plan and cut sheets for all proposed fixtures. The photometric plan shall depict the location, light source and type, and level of illumination of all proposed lights on the property, and any existing lights on the adjacent right-of-way or on adjacent properties that contribute to light levels on the site. The plan shall

describe the level of illumination, hours of illumination and need for illumination in relation to the effects of the lighting on adjacent streets, and properties.

(e) Should the Planning Commission deem it necessary to employ an architect or other qualified individual to review any development proposal, the cost of employing such an individual shall be borne by the applicant.

(3) **District Design Requirements.** The Planning Commission shall render a decision as to the acceptability of the plan based on the criteria established in the "Historic Preservation and Design Control Standards for Essex Center and Fort Ethan Allen" (1986), as referenced in the Essex Town Plan, including findings that:

(a) The relationship of building mass and architectural detail to open space and to the relative size of a person shall be compatible with such established relationships in the district.

(b) The predominant direction of structural shape, of placement of openings and architectural details at the front facade shall be consistent with such established conditions in the district

(c) The proposed height of structures in the plan shall be within ten percent (10%) of the average height of existing adjacent buildings.

(d) The following architectural elements or features shall be compatible with existing buildings and significant, predominant or established patterns in the district:

(i) The relationship between the width to height on the front elevation of the building,
(ii) The relationship of width to height of windows and doors,
(iii) The rhythmic relationship of openings to solid areas in front façades,
(iv) The spaces between the proposed structure or structural alteration,
(v) The relationship of entranceways to buildings and porches,
(vi) The materials, textures, and colors, including primary and accent or trim colors,
(vii) Proposed architectural details (such as lintels, arches, chimneys),
(viii) Proposed roof shapes and lines, and.
(ix) Proposed enclosures, including fences, brick walls, stone walls, evergreen hedgerows and building facades, which are also continuous and cohesive with existing walls in the district.

(e) Proposed landscaping shall be compatible with existing quality and quantity of landscaping in the vicinity, with consideration given to existing landscape mass and continuity.

(i) The proposed ground cover shall be compatible with the predominant ground cover in the district.

(f) Storage areas, service areas, trash receptacles, accessory structures and parking areas shall be screened from view from the street and adjoining properties.

Table 2.16 BUSINESS−DESIGN CONTROL OVERLAY DISTRICT (B−DC)

(A) **Purpose**: The purpose of this district is to assist in focusing on design principles which can result in creative solutions that will develop a satisfactory visual appearance within the Essex Center area. A report entitled "Historic Preservation and Design Control Standards for Essex Center and Fort Ethan Allen" (1986), included by reference in the Essex Town Plan, describes the particular planning and design problems in this district and sets forth a design plan for the Essex Center area. Building and site design for all commercial development proposals in this district shall be evaluated under criteria established in the report entitled "Essex Center Business-Design Control District" and in accordance with the criteria established herein. The criteria established in this Section do not apply to single-unit or two-unit dwellings (and their accessory uses), accessory dwelling, or to agricultural buildings and uses.

B-DC District Goals and Objectives

(1) **Maintain and Improve Economic Vitality:**
- (a) To promote the design of buildings and spaces in a manner which strengthens the Center's economic base while enhancing its attractiveness as a place to work and live.
- (b) To stabilize or strengthen property values.

(2) **Preserve and Enhance Visual Qualities:**
- (a) To achieve visual compatibility with the existing character of the Center.
- (b) To maintain important open spaces and views which reinforce the visual quality of the Center.

(3) **Protect Historical, Architectural and Cultural Heritage:**
- (a) To assure that the renovation and alteration of existing structures as well as the construction of new buildings for commercial uses are done in a manner to maintain and enhance the character of the Center.
- (b) To maintain those qualities in the Center which bring value to the community including a sense of place and an identifiable focal point of the Town.
- (c) To promote community self-awareness and cohesion.
- (d) To avoid changes to structures that are inconsistent with the existing character of the Center.

(4) **Encourage Pedestrian Friendly Environment:**
- (a) To incorporate the construction of non-motorized, multi-use transportation infrastructure and facilities.

(5) **Encourage Coordination and Harmony:**
- (a) To assure the provision of small-scale projects designed to serve the community.
- (b) To emphasize the retention of existing buildings.
- (c) To encourage coordinated building design and site development which takes into account adjacent development and the surrounding area.

(B) **General Provisions.**

(1) The Business-Design Control Overlay District is an overlay district whose boundaries include some properties in the AR District, R2 and R3 Districts, CTR District, the RB District, the MXD-PUD District and all the MXD-C District. Subsection (D) establishes general criteria for the review of all commercial structures within the CTR, RB, MXD-PUD, and MXD-C Districts. Subsections (E) and (F) establish specific criteria for the CTR and MXD-C Districts, respectively.

(2) The requirements of this overlay district shall be in addition to any requirements specified for the underlying districts, including allowed uses and dimensional standards, in which proposed development is located.

(C) **District Design Review Process.** The Planning Commission may deny approval for proposed development or modification of a structure or site in this district if it determines that the intent of this Section and/or the report entitled "Historic Preservation and Design Control Standards for Essex Center and Fort Ethan Allen" (1986) included by reference in the Town Plan have not been met. Accordingly:

(1) Within the Business-Design Control Overlay District, no structure may be reconstructed, moved, erected, nor the exterior altered or restored without design approval from the Planning Commission, issued in conjunction with site plan approval. In the event that site plan review is not otherwise required, design review shall be conducted in accordance with site plan review procedures under Section 5.3. In addition:

(a) No building may be demolished without prior approval of the Planning Commission that is in excess of 800 square feet. Structures less than 800 square feet that are not of historic significance as defined by the Vermont Division of Historic Preservation may be demolished without prior approval.

(b) The painting of a building and related structures to that building shall not be subject to Planning Commission approval.

(2) Nothing in this Section shall be construed to prevent the routine maintenance or repair of any exterior architectural feature in the district which does not involve a change in design or the outward appearance of the feature.

(3) The review of plans for development in this District by the Planning Commission requires submission of information listed under Section 5.2 (Applications), along with building elevations, a description of materials to be used on the exterior of any structure, plans for exterior lighting, signs, drainage and snow removal, and photographs of existing structures and adjacent buildings if applicable. The Planning Commission may require additional information and documentation as it deems necessary.

(4) Should the Planning Commission deem it necessary to employ an architect or other qualified individual to review any development proposal, the cost of employing such an individual shall be borne by the applicant.

(5) The Planning Commission shall render a decision as to the acceptability of the plan based on the criteria established in the "Historic Preservation and Design Control Standards for Essex Center and Fort Ethan Allen" (1986) as referenced in the Essex Town Plan, and general and specific criteria as set forth herein.

(D) **Design Requirements (CTR, RB, MXD-C, MXD-PUD, AR, R2 and R3 Districts):**

(1) **Relationship of Buildings and Site to Adjacent Areas.**

(a) The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate parking, landscaping and safe pedestrian and vehicular movement.

(b) Project features that may have negative impacts on adjacent properties shall be screened from the adjacent properties.

(c) The scale, height and mass of the proposed project shall be compatible with its site and existing adjacent buildings and property and any Town endorsed plan incorporating desired design or architectural guidance.

(2) **Landscaping and Site Treatment.**

(a) Parking areas and access roads shall be enhanced with landscaped spaces containing trees or tree groupings.

(b) Storage areas, service areas, trash receptacles, accessory structures and parking areas shall be screened from view from the street and adjacent properties.

(c) In areas where general planting will not thrive, other materials such as fences, walls, earth berms, and planters shall be used.

(d) Newly installed utility services shall be underground.

(e) Exterior lighting shall enhance the building design and the adjacent landscape and shall be designed and sited in a manner that does not create or exacerbate light trespass onto adjacent properties, as determined by the photometric plan. Freestanding and building mounted light fixtures shall be of a design and size compatible with the building design and adjacent areas, and shall be full cutoff (downcasting and shielded) fixtures.

(3) **Building Design.**

(a) Architectural style is not restricted. However, evaluation of the appearance of a project shall be based on the quality of design and relationship to surroundings.

(b) Buildings shall have good scale and be in harmonious conformance with neighboring development.

(c) Materials shall have good architectural character and shall be selected for harmony of the building with adjacent buildings.

(d) Mechanical equipment or other utility hardware on roof, ground, or building shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public right-of-way or adjacent property.

(4) **Access and Parking.**

(a) A landscape plan that preserves and/or promotes the visual quality for all parking is required. When appropriate, parking should be located at the rear of the commercial establishments.

(b) Ingress/egress for commercial uses onto collector roads will be kept to a minimum. To achieve this, the Planning Commission may require commonly shared curb-cuts between commercial lots.

(5) **Signs.**

(a) Every sign shall be scaled and proportioned in its design and in its visual relationship to buildings and surroundings. Each sign shall be compatible with signs on adjacent premises and shall not compete for attention.

(b) Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.

(c) The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates. No sign may have any flashing, intermittent, or moving lights, moving parts, or fluorescent paint.

(d) The sign's message shall be composed in proportion to the area of the sign face. The message may state only the name of the establishment, and/or the trademark of the establishment, and/or the business or activity conducted on the premises upon which the sign is located. A sign shall not be for the purpose of making advertising claims with respect to products sold on the premises (e.g., "Coca-Cola," "Vermont Lottery Tickets Sold Here," “Budweiser").

(e) Indirect lighting may be used to illuminate any sign provided that the source of light shall concentrate the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property. No light fixture shall be placed closer than five feet (5’) to any property line.

(f) All string lighting, except for non-permanent seasonal, shall be subject to a permit issued by the Zoning Administrator.

(g) Reverse channeling (also called Halo lighting) is allowed when the sign has individual cutoff letters and/or symbols and the light is located behind them. The light shall not shine through the letters and/or symbols and the light sources shall not be visible.

(h) Exposed neon lighting shall not be permitted.

(i) No sign may have any neon, flashing, intermittent, or moving lights, moving parts, internal illumination, or fluorescent paint.

(j) Except as provided in (g) above, fixtures shall not include bare bulbs, and fixtures shall not make bare bulbs or other direct light sources visible to persons viewing the sign.

(k) Each sign shall be approved by the Planning Commission and shall meet all provisions of this Section and Section 3.10 (Signs).

(E) **Specific Design Requirements in the CTR District.**

(1) The height of the proposed structure in the plan shall be compatible with the height of existing adjacent buildings.

(2) The roof shape of the proposed structure shall be compatible with the predominant roof shapes in the district.

(3) The predominant direction of structural shape, of placement of openings and architectural details at the front facade shall be consistent with such established conditions in the district.

(4) The spaces between proposed structures shall be compatible with the current pattern of spacing between buildings in the district.

(5) The exterior building materials to be used shall be compatible with the predominant materials used in the district.

(6) Parking shall be prohibited along VT Route 15.

(7) The front yard setback for structures in this district shall be the average of the front yard setback of the principal buildings located on either side of the proposed structure, but in no event is a setback of less than twenty-five feet (25') permitted.

(8) No newly established use or lot shall use an access or curb cut directly onto Towers Road or VT Route 15. All new uses and lots shall access onto a secondary road which connects to Towers Road or VT Route 15. In the event the Planning Commission determines that meeting this requirement is impracticable, the Planning Commission may allow one curb cut or access per lot onto Towers Road or VT Route 15.

(F) **Specific Design Requirements in the MXD-C District.** In the portion of the B-DC District which overlays the MXD-C District, the general purposes of that district shall apply. In addition, the general concepts and specific policies and recommendations for this area set forth in the "Town Center Master Plan" (1991) and the Essex Town Plan shall guide all future development.

(G) **Specific Design Requirements in the MXD-PUD District.** No use established or lot created after the effective date of this amendment shall use an access or curb cut directly onto Old Stage Road, Lost Nation Road or VT Route 15. All new uses or lots shall access onto a secondary road which connects to Old Stage Road, Lost Nation Road, or VT Route 15. In the event that the Planning Commission determines that meeting this requirement is impractical, the Planning Commission may allow one curb cut or access per lot onto Lost Nation Road or Old Stage Road.

Table 2.17 OPEN RECREATION DISTRICT (O1)

(A) **Purpose**: The purpose of this district is to protect the natural resource value of lands which are essentially undeveloped, lack direct access to public roads, are important for wildlife and wildlife habitat, have high potential for commercial forestry use, are unsuitable for land development, or include irreplaceable, limited or significant natural, recreational or scenic resources. No public sewer and water facilities are planned for these areas. Due to the limited facilities and services proposed for the district and the critical resources located within it, limited outdoor recreation uses, conservation uses and forestry which are compatible with the district purposes and do not require additional facilities and services beyond what is planned for will be encouraged.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Cultural Facility
(4) Essential Services
(5) Farm Produce Stand (Section 4.7)
(6) Forestry (Table 1.1)
(7) Recreation/Public Outdoor

(C) **Conditional Uses** (see definitions, use standards):

(1) Barn Storage (Section 4.3)
(2) Lumber Processing (Section 4.11)
(3) Municipal Facilities (Section 4.14)
(4) Public Facilities (Section 4.14)

(D) **District Dimensional Requirements** (unless otherwise specified for a particular use):

Dimension	Standard
Minimum Lot Area	10 acres
Minimum Lot Area per Dwelling Unit	10 acres
Minimum Lot Frontage per Dwelling Unit	200 feet
Minimum Front Setback (from ROW)	50 feet
Minimum Side Setback	25 feet
Minimum Rear Setback	25 feet
Minimum Buffer/Surface Waters (see Section 3.11)	Varies
Maximum Lot Coverage − Nonresidential	70%
Maximum Height (Section 3.6)	40 feet

(E) **District Development Standards:** None.

Table 2.18 CONSERVATION DISTRICT (C1)

(A) **Purpose**: The purpose of the Conservation District is to protect the sensitive natural resources and steep slopes which make these areas inappropriate for intensive development. These areas are remote from municipal services and facilities and lack accessibility. Low density residential and related uses are permitted in this district only if applied to a land unit of ten acres or more.

(B) **Permitted Uses** (see definitions, use standards):

(1) Accessory Structure/Use
(2) Agriculture (Table 1.1; Section 4.2)
(3) Camp
(4) Cemetery
(5) Cultural Facility
(6) Day Care Home (Section 4.5)
(7) Dwelling/ Accessory (Section 4.1)
(8) Dwelling/ Single-Family
(9) Dwelling/Multi-Family (only in a PUD-R)
(10) Essential Services
(11) Farm Produce Stand (Section 4.7)
(12) Forestry (Table 1.1)
(13) Group Home (Section 4.8)
(14) Home Occupation (Section 4.9)

(C) **Conditional Uses** (see definitions, use standards):

(1) Barn Storage (Section 4.3)
(2) Bed and Breakfast
(3) Firewood Processing and Sales
(4) Home Business (Section 4.9)
(5) Kennel
(6) Lumber Processing (Section 4.11)
(7) Municipal Facilities (Section 4.14)
(8) Public Facilities (Section 4.14)
(9) Recreation/Private Outdoor

(D) **District Dimensional Requirements**: (unless otherwise specified for a particular use):

Dimension	Standard
Minimum Lot Area	10 acres
Minimum Lot Area per Dwelling Unit	10 acres
Minimum Lot Frontage	200 feet
Minimum Front Setback (from ROW)	50 feet
Minimum Side Setback	25 feet
Minimum Rear Setback	25 feet
Minimum Buffer/Surface Waters (see Section 3.11)	Varies
Maximum Lot Coverage − Nonresidential	70%
Maximum Height (see (F)(1) below and Section 3.6)	40 feet

(E) **PUD Requirements:** Planned residential developments (PUD-Rs) may be allowed in this district in accordance with the provisions of Section 6.8 of these Regulations and the following dimensional standards, which may supersede the above district dimensional standards to allow for more creative design:

Dimension	PUD-R Standards
Average Lot Area per Dwelling Unit	1 acre
Minimum Lot Frontage	NA
Minimum Front Setback	NA
Minimum Side Setback/Single Family	10 feet
Minimum Side Setback/Multifamily	30 feet
Minimum Rear Setback	25 feet
Maximum Lot Coverage	PUD Requirements Apply

(F) **District Development Standards:**

(1) **Height**. The Planning Commission or Board of Adjustment may limit the height of a structure in this district to two stories or twenty-five feet (25') in consideration of visual impacts.

Table 2.19 FLOODPLAIN OVERLAY DISTRICT (C2)

(A) **Purpose**: The purposes of the Flood Plain Overlay District are to: (1) minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; (2) ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; (3) manage all flood hazard areas designated by the state (pursuant to 10 V.S.A. § 753; and (4) make the town and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available. The Flood Plain Overlay District includes all areas identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources. In these areas, building, excavation, fill, disruption of vegetative cover, or other encroachment is restricted.

(B) **Permitted Uses** (see definitions, use standards)

(1) Accessory Use – No Structures
(2) Agriculture (Table 1.1; Section 4.2)
(3) Cultural Facility − No Structures
(4) Day Care Home (Section 4.5)*
(5) Essential Services
(6) Farm Produce Stand (Section 4.7)
(7) Forestry (Table 1.1)
(8) Group Home (Section 4.8)**
(9) Home Occupation (Section 4.9)**
(10) Recreation/Public Outdoor – No Structures

***Only in association with an existing single family dwelling*.**

(C) **Conditional Uses** (see definitions, use standards):

(1) Accessory structure, addition, and/or substantial improvement to an existing structure
(2) Barn Storage (Section 4.3)
(3) Dwelling/Accessory* (Section 4.1)
(4) Municipal Facilities (Section 4.14)
(5) Parking Lot
(6) Public Facilities (Section 4.14)
(7) Recreation/Private Outdoor − No Structure

(D) **District Dimensional Requirements**: As required for the underlying zoning district.

(E) **District Development Standards:**

(1) Where the standards of this overlay district differ from underlying district standards, the more restrictive shall apply.

(2) Uses permitted within the Flood Plain Overlay District include agriculture and forestry, undeveloped open space, lawns, gardens and play areas, and golf courses, tennis courts, and other outdoor recreational uses that do not include new buildings or structures; and those uses generally allowed within or in association with single family dwellings in existence of the effective date of these Regulations which do not require structural alterations.

(3) Within this district, no building shall be constructed, erected, moved, replaced, altered or enlarged; no mining, excavation, filling or storage of materials shall commence or expand; and no watercourse be altered or relocated, except with the approval of the Board of Adjustment. No new structures shall be allowed within this district, except for accessory structures, additions and substantial improvements to structures legally in existence as of the effective date of these Regulations, and facilities that, because of their purpose or function, must be located within floodplain areas. These uses are subject to conditional use review under Section 5.7, flood hazard area review under Section 5.8 and underlying district requirements.

(4) Junkyards, the storage of hazardous, toxic or floatable materials and the construction, major expansion or relocation of any building, or any fill or other encroachment in designated floodways which would result in an increased flood height during the occurrence of the 100-year flood are specifically prohibited in this District.

Table 2.19 FLOODPLAIN OVERLAY DISTRICT (C2), continued

(5) Mandatory state [§ 4424] and federal [44CFR 60.3, 60.6] requirements for continued municipal participation in the National Flood Insurance Program including, but not limited to, associated structural and flood proofing standards, administrative and variance requirements, are hereby adopted by reference and shall be applied to all development within federal or state designated areas of special flood hazard. Accordingly:

(a) Applications for development within designated flood hazard areas must include information required under Section 5.8, and are subject to state agency referral requirements.

(b) Development within designated flood hazard areas shall be reviewed under applicable flood hazard area development standards under Section 5.8.

(c) Requests for variances within designated flood hazard areas must meet the requirements of Section 7.5(C) in addition to variance requirements under Section 7.5(A).

(d) Permits, certifications and variance actions for development within designated flood hazard areas shall be recorded by the Zoning Administrator in accordance with Section 5.8.

End of Article II
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ARTICLE III: GENERAL STANDARDS

3.0 **Applicability:** The following general standards apply to all land development in the Town of Essex subject to review by the Zoning Administrator, Community Development Director, Planning Commission, or Board of Adjustment. These standards are to be applied by the designated official or municipal panel in association with the review of applications for permits and approvals, as specified under these Regulations.

3.1 **Access and Frontage Requirements:**

(A) **Required Frontage on, or Access to, Public Roads or Public Waters.** No land development may be permitted on lots which do not have either frontage on a public road or public waters or, with approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way at least twenty-five feet (25') in width.

(B) **Frontage.** The creation of new lots without the required frontage on a public road is prohibited, except as provided below under Subsection (C).

(1) Lots which front on more than one street shall provide the required frontage along each street

(2) A property line shared with the public right-of-way of a limited access highway is not permitted to be used as frontage if access to the limited access highway is not permitted within the length of the shared property line.

(C) **Reduced Frontage Requirements:** The Planning Commission, under subdivision review, may approve new lots with less frontage than specified in Article II in the following circumstances:

(1) Lots fronting on the outside of the curved portions of a cul-de-sac or on the outside corner of a street may be approved with frontage (as measured by their chord distance) reduced to seventy-five percent (75%) of that normally required; and

(2) Lots fronting on the outside of the curved portions of a cul-de-sac or on the outside corner of a street may be approved with less than the seventy-five percent (75%) of normal frontage requirement if, in the judgment of the Planning Commission, such an arrangement would physically or aesthetically improve the quality of the lot layout, and adequate separation can be maintained between curb cuts and adjacent lots.

(3) Frontage requirements also may be waived or modified by the Planning Commission in association with approval of a planned unit development under Article VI.

(D) **Nonconforming Lots.** The Planning Commission may grant access to pre-existing nonconforming lots recorded in the Town Land Records which do not meet applicable

access or frontage requirements, including landlocked parcels (i.e., without any frontage on a public road or public waters), or a pre-existing parcel that has less than the required frontage or is currently served by a right-of-way less than twenty-five feet (25') in width in accordance with the following:

(1) If subdivision or site plan approval is required, the approval of an access under this section shall be coincidental to subdivision or site plan review and approval, and the subdivision or site plan application shall note that approval is also required for use of an easement or right-of-way for access. Application requirements shall be the same as for subdivision or site plan review, plus documentation of the date of creation of any existing easements or rights-of-way of less than twenty-five feet (25') in width.

(2) If subdivision or site plan approval is not required, application for access approval shall be made to the Planning Commission on forms provided by the Community Development Office, and shall include at least the following:

(a) A site plan containing at a minimum, the name and address of the owner of record, location of site if different from above and names of adjoining land owners, scale of the map, north point, date and site location map.
(b) Survey of property with natural features of the site indicated and locations of all proposed improvements and structures shown.
(c) General plan drawn to scale showing boundaries of all properties crossed by and to be served by the proposed right-of-way, dimensions and grades of the right-of-way and point of access onto a public road.
(d) Documentation of the date of creation of any existing easements or rights-of-way of less than twenty-five feet (25') in width.
(e) Letter of intent from any property owners who are intending to grant any easements.
(f) Other information as specified in the current Town of Essex application checklists.
(g) A list including the names and mailing addresses of each abutting property owner as stated in the Town land records.

(3) All applications for access approval by the Planning Commission under this section shall be referred to the Public Works Department to ensure that a proposed access meets the Town's Public Works Specifications.

(4) The Planning Commission must determine that the existing or proposed access meets all applicable requirements under Subsection (G).

(5) Applications for access approval shall be noticed for public hearing in accordance with Section 7.7(C)(2). Decisions shall be issued within 45 days of the date of hearing adjournment, in accordance with Section 7.7(E), and recorded in the land records of the Town as required under section 7.7(F).

(E) Highway Access (Curb Cut) Permits. Access to public highways is also subject to the approval of the Essex Public Works Department and, for state highways, the Vermont

Agency of Transportation. As a condition of town or state highway access approval, compliance with these Regulations is required, in accordance with state law [19 V.S.A. § 1111]. In the event that subdivision or site plan approval is also required, highway access approval shall be obtained following the issuance of such approvals. Town or state highway access approval must be obtained prior to the issuance of a certificate of occupancy.

(F) **Rights-of-way.** Access by right-of-way for lots having frontage on a public highway or shared driveways may be approved by the Planning Commission and shall be required to meet the criteria of Subsection (G) and all other applicable Town of Essex regulations including those outlined in the Town of Essex Public Works Specifications.

(G) **Access Standards.**

(1) The access provided by the right-of-way shall be sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the lot in its intended use.

(2) Sight distances where the right-of-way or curb cut intersects with a public road shall be clear and unencumbered and meet accepted traffic standards. Vehicles should be able to enter and exit the lot(s) served by the right-of-way without posing any substantial danger to themselves, other vehicles in abutting roads, or pedestrians.

(3) Interference with the free flow of traffic on abutting roads shall be minimized. Rights-of-way shall be designed to minimize curb cuts on public roads.

(4) The right-of-way shall meet the following specific standards:

(a) The maximum grade in any fifty-foot (50') length shall not exceed ten percent (10%).
(b) Curb cuts where the right-of-way meets a public road shall conform to the *Town of Essex Public Works Specifications* regarding grade, culverts and drainage.
(c) The traveled portion of a right-of-way serving only one lot shall be maintained no less than ten feet (10') in width.
(d) Such right-of-way shall be established in a permanent easement recorded in the Town Land Records and shall be at least twenty-five feet (25') in width.

(5) No more than two dwellings or lots shall be served by the same private right-of-way (driveway). When more than two dwellings or lots will be served, access must be provided by a road that meets the Town's Public Works Specifications and Subdivision Regulation standards.

(6) No right-of-way (driveway) shall be located less than six feet (6') from an adjoining property line unless it is a driveway shared by both properties, and

shall be no less than thirty feet (30') from the nearest driveway per requirements of the Town's *Public Works Specifications.*

(7) Easements establishing rights-of-way shall be filed with the Town Land Records and shall include (in total or by reference) the covenants establishing the manner in which the costs of road maintenance, snow plowing and repair will be shared. Said covenants shall be submitted to the Community Development Department for approval prior to the issuance of a zoning permit.

(8) The Town shall not grant approval if the proposed development will result in unsafe or unhealthy conditions, or if the development is inappropriate because of neighboring uses.

3.2 Buffer Areas and Screening: Where new nonresidential structures or uses (including areas devoted to parking, loading, storage, waste containment, etc.) are on lots adjoining residential zoning districts, buffer areas shall be required along district boundaries in accordance with this section. Where a commercial, industrial, or public use is adjacent to a residential district parking areas shall be screened to prevent glare from motor vehicles and parking area lighting.

(A) **District Requirements.** Buffer areas shall be of widths as specified in the following table (Table 3.1), and shall be included as part of required side and rear yards:

(1) Buffer areas shall not be required in the Mixed Use District-Commercial (MXD-C) or in the Center (CTR) District.

Table 3.1 District Buffer Requirements

District	Buffer Area Width
Business Districts (B1, MXD, R-B)	30 Feet
Industrial District (I1)	50 Feet
Resource Preservation District-Industrial (RPD-I)	200 Feet along adjacent residential areas and streets including Route 15, Sand Hill Road and Saxon Hill Road; 100 Feet along Allen Martin Drive, and 50 Feet along all interior streets other than Allen Martin Drive.

(2) On existing small lots in the Business Districts, the Planning Commission may reduce or waive the buffer area requirements if it determines that doing so is necessary to allow effective use of the lot and that adequate screening of adjacent residential districts will still be achieved.

(3) RPD-1 District.

(a) The 200-foot buffer requirement shall apply where development abuts a residential property that is not located in a residential district.
(b) Parking areas, access drives and components of stormwater management systems may not be located within 100- or 200-foot buffers in this district, but may be allowed within fifty-foot (50') buffers.

(c) All existing trees and other vegetation shall be preserved except in an area of not more than twenty feet (20') on each site of required driveways, which must be maintained in grass or other groundcover that does not obstruct driveway sight distances. Buffer areas shall remain fully vegetated with the exception of tree clearing pursuant to a forest management plan (FMP) approved by the Planning Commission.

(d) The Planning Commission may not waive buffer requirements in 100- or 200-foot buffers, but may waive buffer requirements in the fifty-foot (50') buffer area. If waived, the Planning Commission shall explicitly state in its approval that a waiver has been granted, the basis for the waiver, and any conditions it deems necessary to mitigate the loss of vegetation with additional landscaping.

(B) **General Requirements.**

(1) Parking areas and access drives, except as specified above for the RPD-1 District, may be located within the side and rear yards, but may not be located within required buffer areas.

(2) Buffer areas may be crossed by utility easements. Where this occurs, the buffer area shall be planted with bushes, shrubs or trees, if allowed by the utility. Otherwise, the portion of the buffer area crossed by the utility shall be grassed and removable fencing shall be used as a screening device as may be determined to be necessary by the Planning Commission.

(3) The Planning Commission may waive specific buffer area requirements, except as specified above within the RPD-1 District, if it determines that the purposes of this section are met by alternative measures.

(4) Where the proposed development abuts a residential property which is not in a residential district, separation between the proposed development and the adjacent residential property shall be provided by either a twenty-foot (20') buffer area and fence or a fifty-foot (50') buffer area. The Planning Commission may modify this requirement, except as specified above in the RPD-1 District, if it determines that adequate protection is provided by other means or if it determines that the protection is not necessary.

(5) The buffer area shall be provided with dense plantings, decorative fencing and/or land forms which will provide a year round visual screen between the non-residential use and the residential districts. New external light fixtures shall not be permitted within the buffer area.

(6) If a combination of land forms and plantings or decorative fencing is used such that the height of the screening at the time of planting is at least five feet (5') above the elevation at the nearest point on the property line, the width of the required buffer area may be reduced to twenty feet (20') in the Business Districts and to thirty five feet (35') in the Industrial District. This provision shall not apply in the RPD-I District.

(7) If decorative fence is used as a part of the screening on the buffer area, said fence shall not be more than five feet (5') in height, shall not be more than ten feet (10') from the affected property line, may not be completely opaque, and shall not be continuous along the entire stretch of affected property line unless the Planning Commission determines that a continuous fence is necessary to achieve the purposes of this Section.

(8) Where new nonresidential uses are located adjacent to existing residential buildings in adjacent residential districts, the buffer area and plantings shall be designed, to the extent practicable, to screen all outdoor lighting from the view of the ground floor of the adjacent residential buildings. New external light fixtures shall not be permitted within the buffer area.

(9) Any forest management that needs to occur in the buffer area shall be conducted in consultation with the Town Tree Warden and subject to approval from the Planning Commission and as based upon any applicable forest management plan or agreement then in effect.

(10) Mechanical equipment or other utility hardware on a lot shall be screened from public view with materials harmonious with the structure or the equipment/hardware shall be located as not to be visible from any public right-of-way or adjacent property. This does not apply to agricultural machinery and equipment.

3.3 Dwelling Area Requirements:

(A) Every single-family dwelling except mobile homes and accessory dwellings shall contain not less than 750 square feet of usable floor area, exclusive of basements, porches, garages and other spaces not customarily used for living purposes.

(B) Each dwelling unit in a two-family residence, a multifamily residence, or a mobile home shall contain not less than 350 square feet of usable floor area, exclusive of basements, porches, garages and other spaces not customarily used for living purposes.

3.4 Fences and Walls: Fences and walls, unless exempted from the requirements of these Regulations (see Table 1.1), shall meet the following requirements:

(A) No wall, fence or shrubbery shall be erected, maintained or planted on any lot which obstructs or interferes with traffic visibility on a tangent section or on a curve or any corner lot within the triangular area formed by the lot lines along the streets and a line connecting them at points thirty-feet (30') from the intersection.

(B) All fences or walls shall conform to the provisions of 24 V.S.A. § 3817 which state that a person shall not erect or maintain an unnecessary fence or other structure for the purpose of annoying the owners of adjoining property by obstructing their view or depriving them of light or air.

(C) Fences may be erected on the property line and do not require a zoning permit if the erection and maintenance of same can be accomplished from the property of the person erecting the fence or if the applicant obtains written approval of the adjacent property owner and files it with the Zoning Administrator. Electric fences are prohibited in the R2, HP-DC, B1, CTR, I1, MXD-C, MXD, and RPD-I Zoning Districts.

(D) Commercial and industrial properties may install fences without review by the Planning Commission or Board of Adjustment unless a Commission or Board approval specifically states that a fence is not allowed, or fence lighting is proposed.

3.5 Hazardous Materials. Any proposed construction, use or use change which, by its design or nature, is intended for the manufacture, processing, reprocessing, packaging, storage (primarily for future wholesale and/or retail sales) or transportation of hazardous materials, shall be a conditional use subject to review and approval by the Board of Adjustment under Section 5.7 and the following:

(A) The Board of Adjustment in hearing an application under this Section may consider the types of hazardous materials to be present, the quantities of those materials, and the combination of materials in determining the degree of exposure as pertains to the site, to adjoining sites, and to the surrounding area within and without the Town of Essex, and may require that expert testimony and documentation be provided by independent sources, paid for by the applicant.

(B) Upon hearing the application, following public notice, the Board of Adjustment may:

(1) Deny the application based on a finding that transport, handling, storage or management of hazard materials will have an undue adverse effect on public safety, neighboring properties or community infrastructure.

(2) Limit the scope of the activity as regards size and type of structures, quantities and types of materials, place of storage of materials, handling of materials, routes of travel, hours of operation.

(3) Require that special safeguards, warning systems, fire control systems, and other safety regulations be implemented.

(4) Require continuing monitoring, reporting and regulation.

3.6 Height Restrictions: The height of all structures, except for those structures listed under Subsection (C), shall be governed by the following restrictions:

(A) No structure shall exceed forty-feet (40') above average ground level, except as may be provided below and under Subsection (B):

(1) In the Resource Preservation District-Industrial (RPD-I) and in the Industrial (I1) District,

Height: The vertical dimension measured from the average elevation of the finished lot grade at the base of the structure to the highest point of the structure.

structures shall be allowed to extend to but not exceed forty-five feet (45') in height.

(2) In the Mixed Use District-Commercial (MXD-C), the Planning Commission or Board of Adjustment may limit heights to the lesser of two stories or twenty-five feet (25') where it determines that doing so is necessary to preserve views toward the Green Mountains from other lots in the district.

(3) In the Conservation District (C1), the Planning Commission or Board of Adjustment may limit heights to the lesser of two (2) stories or twenty-five feet (25') in consideration of visual impacts.

(B) **Waivers.** The Planning Commission, under site plan review, or the Board of Adjustment on appeal, may waive height restrictions in any district for a particular structure if all of the following conditions are satisfied:

(1) The Commission or Board finds that the proposed design of the structure is consistent with the purposes and goals of the district in which the project is located.

(2) The proposed structure does not constitute a hazard to an established airport.

(3) The proposed structure is any one of the following:

(a) Television or radio tower (see subsection (C) below),
(b) Church spire, belfry, ornamental tower or spire,
(c) Monument or flagpole,
(d) Storage tank, water or fire tower,
(e) Stage tower or scenery loft,
(f) Rooftop solar collector less than ten feet (10') high,
(g) Smokestack, chimney, conveyor, or cooling tower,
(h) Licensed amateur radio station operator antenna,
(i) Wind, turbines subject to regulation by the Town,
(j) Playfield light structure,
(k) A portion of a specific structure which must exceed the normal height restrictions in order to accommodate a specific industrial operation, or
(l) A proposed building found necessary and integral to carrying out the Town's growth center vision.

(4) In granting a waiver of the height restrictions under this subsection, the Commission or Board may attach such conditions as it deems appropriate to ensure that the purposes and intentions of these Regulations are met. Such conditions may include additional setbacks, additional landscaping, issues of public safety, and/or specification of the color, design or shape of the proposed structure.

(5) Any waiver granted for a licensed amateur radio station operator antenna shall be only for the period the operator is licensed by the Federal Communications

Commission. For whatever reason, should that operator lose his/her licensure or move to another location then the antenna structure shall be removed promptly at the operator's expense.

(C) **Exemptions.** The following are exempted from district height restrictions, in accordance with the Act [§ 4412]:

(1) Farm structures, including silos.

(2) Antennae used to transmit and/or receive communications signals on a property owner's premises if the aggregate area of the largest face of the antennae is not more than eight square feet (8 SF), and if the antennae and any mast support does not extend more than twelve feet (12') above the roof of that portion of the building to which the mast is attached.

(3) Antennae that are part of a telecommunications facility that is under the jurisdiction of the Vermont Public Service Board.

3.7 Lot, Yard and Setback Requirements:

(A) **Lots and Yards:**

(1) No yard or lot existing at the time of passage of these Regulations shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of these Regulations shall meet at least the minimum requirements established by these Regulations.

(2) Lots which abut on more than one street shall provide the required front yard depth along each street and the required frontage along each street.

(3) Corner lots shall be deemed to have two front yards (one on each street), two side yards, and no rear yards.

(4) Parking areas and access drives may be located within the side and rear yards (except in RPD-I District buffers) but may not be located within buffer areas (see Section 3.2).

(5) All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side, or rear yard setback area. Chimneys, steps, ramps for handicapped persons and normal roof overhangs shall be excluded from this provision.

(a) Pump Island Canopies. The Planning Commission may waive this requirement for canopies over gasoline pump islands if it determines that the canopy cannot reasonably be constructed within the required yard restrictions, and that waiving the yard restrictions will not negate the purposes of these Regulations.

(6) No part of a yard or other open space required about or in connection with any building or use for the purpose of complying with these Regulations shall be included as part of a yard or open space similarly required for any other building or use.

(B) **Setbacks from State Highways.**

(1) Setbacks from VT 289. The setback depth of any yard bordering VT 289 shall be one hundred and fifty feet (150') from the right-of-way and fifty feet (50') from the right-of-way of the exit and entrance ramps of VT 289. No more than fifty percent (50%) of this setback area may be devoted to parking areas, including maneuvering aisles and drives. No parking area or access drives shall be allowed within fifty feet (50') of the VT 289 right-of-way or twenty-five feet (25') of the right-of-way of the exit or entrance ramps. Outside display and storage shall not be allowed within this setback unless specifically authorized by the Planning Commission. The Planning Commission may require additional landscaping, berming, and/or screening to provide for a buffer between VT 289 and adjacent development at its discretion.

(2) Setbacks from VT 15**.** A 75-foot (75') front yard setback from VT Route 15 shall apply in the MXD-PUD and MXD-C districts. No structures may be located within this setback. Landscaping within this setback area and the adjacent unpaved right-of-way shall be the responsibility of the property owner and follow plans included in a report written for the Town entitled "VT Route 15 Street Tree Master Plan" that was developed to implement the Town Center Master Plan available at the Town Community Development Department.

(3) Waivers. The Planning Commission under site plan review, or the Board of Adjustment on appeal, may reduce required setbacks under this section only in the event that:

(a) Land elevations and/or topographical features serve to provide an adequate visual buffer of land development from Route 289; or
(b) Because of the setback requirement, as applied to a pre-existing nonconforming lot, it is determined that there is no remaining developable area on the lot that would allow for functional use of the property, and
(c) The reduction is the minimum required to afford relief and meet the intent of the setback requirement. Additional mitigation measures may be required as a condition of approval.
(d) Requests to reduce or vary setback requirements from state highways are also subject to review by the Vermont Agency of Transportation. Written notification of the public hearing shall be sent to the Secretary of the Agency in accordance with Section 7.7(C).

3.8 **Nonconformities:** Any lot, building, structure, or land or use thereof that is legally in existence as of the effective date of these Regulations, which is made nonconforming by reason of the adoption of these Regulations or subsequent amendments, or as issued a

permit or approval in error, may be continued indefinitely, subject to the provisions of this section.

(A) **Nonconforming Lots.** In accordance with the Act [§ 4412(2)], any lot of record that is in individual, separate and nonaffiliated ownership from surrounding properties, and is legally in existence as of the effective date of these Regulations or subsequent amendments, but not currently in conformance with these regulations, may be developed for the purposes allowed in the district in which it is located, in accordance with the following:

(1) Pre-existing Small Lots. The lot must have an area of not less than one-eighth (1/8) of an acre or a minimum width or depth dimension of not less than forty feet (40'). If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed only if all of the following apply:

(a) The lots are conveyed in their preexisting, nonconforming configuration;
(b) On the effective date of these Regulations, each lot was developed with a water supply and wastewater disposal system;
(c) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
(d) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

(2) Access and Frontage. Access to, and the development of, nonconforming lots that do not meet access or district frontage requirements may be allowed, subject to review by the Planning Commission, under applicable provisions of Section 3.1.

(B) **Nonconforming Structures.** Any structure or portion thereof legally in existence as of the effective date of these Regulations or subsequent amendments, but not currently in conformance with these regulations, may be modified, reconstructed, enlarged or moved only in accordance with the following:

(1) Repairs. Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure, provided that such action does not increase the degree of nonconformance.

(2) Modifications. A nonconforming structure may be structurally enlarged, extended, modified, or moved provided that the improvement or relocation is in conformance with all provisions of these Regulations and does not increase the degree of nonconformance.

(3) Damaged Structures. If a nonconforming structure is damaged or destroyed by fire, explosion or act of God, the structure may be reconstructed without approval

from the Board of Adjustment, if the reconstruction does not increase the degree of nonconformance, except that:

(a) Approval of the Board of Adjustment, subject to conditional use review under Section 5.7, shall be required for the reconstruction of a nonconforming structure that has been destroyed or damaged by fire, explosion or Act of God in an amount equaling seventy-five percent (75%) or more of its market value, to determine whether the structure can be reconstructed in a manner that decreases the degree of nonconformance; and
(b) The structure as approved by the Board must be rebuilt within one (1) year of the date of the approval, unless the Board extends this period for one (1) additional year upon finding that physical hardships unforeseeable delays or other circumstances justify the extension.

(4) Existing Dwellings. The Board of Adjustment, subject to conditional use review under Section 5.7, may allow expansion of existing single and two-family dwelling units to accommodate an attached garage no closer than ten feet (10') to the side property line and no closer than twenty-five feet (25') from the front lot line on nonconforming lots in the R1 and R2 Districts if:

(a) The essential character of the area is maintained,
(b) The present facility is not suitable due to lot restrictions or size, or must be rebuilt because of structural problems,
(c) Satisfactory proof is provided that the dwelling existed prior to enactment of these Regulations,
(d) No additional issues are created or present ones increased by granting such approval, and
(e) All other requirements of these Regulations are met.

(5) Existing Convenience Stores. The Board may approve the expansion of an "Existing Convenience Store," as defined in Article VIII, subject to conditional use review under Section 5.7 and the following:

(a) Expansion shall be limited such that the total floor area of the expanded convenience store (including the proposed expansion) shall not exceed one hundred twenty-five percent (125%) of the building footprint of the existing convenience store on February 7, 1972. It shall be the applicant's responsibility to document the 1972 floor area.
(b) An existing convenience store may be expanded by removing the existing building and constructing a new building, provided that the new structure meets all other requirements of these Regulations, the total floor area does not exceed the limit established in Subsection (a) above and further provided that any such relocation on the lot results in the reduction or elimination of any nonconformance.

(6) Existing Automobile Service Stations. The Board may approve the expansion of an "Existing Automobile Service Station" as defined in Article VIII, subject to conditional use review under Section 5.7, and the following:

(a) Expansion shall be limited such that the total floor area of the expanded automobile service station (including the proposed expansion) shall not exceed 150 percent of the building footprint of the existing automobile service station on February 7, 1972. It shall be the applicant's responsibility to document the 1972 floor area.

(b) An existing automobile service station may be expanded by removing the existing building and constructing a new building, provided that the new structure meets all other requirements of these Regulations, the total floor area does not exceed the limit established in Subsection (a) above, and further provided that any such relocation on the lot results in the reduction or elimination of any nonconformance.

(c) An existing automobile service station may sell items such as allowed by a convenience store by converting part of the existing floor area to such use.

(C) **Nonconforming Uses.** Any nonconforming use legally in existence as of the effective date of these Regulations or subsequent amendments may be changed, extended, or reinstated only in accordance with the following:

(1) Discontinuance. A nonconforming use-which has been discontinued for a period of twelve (12) months shall not thereafter be resumed, regardless of intent.

(2) Change in Use. A use which is made nonconforming by reason of the adoption of these Regulations shall not be replaced by another nonconforming use which is, in the opinion of the Zoning Administrator, more nonconforming than the original use. When a nonconforming use has been replaced by a conforming use it may not then revert to a nonconforming use.

(3) Expansion. Except as provided below, a nonconforming use shall not be expanded or extended, nor shall a nonconforming use of a portion of a lot, building or structure be extended to other portions of a lot, building or structure unless those areas were manifestly arranged or designated for such use prior to the effective date of these Regulations or subsequent amendments.

(a) A building or structure housing a nonconforming use may be repaired, altered or improved, provided the number of square feet of floor area devoted to the nonconforming use is not increased by more than twenty-five percent (25%) of the existing floor area as of the effective date of these Regulations, as documented by the applicant.

(4) Damages. If a building or structure housing a nonconforming use is damaged or destroyed by fire, explosion or act of God, the nonconforming use may not be reinstated in the rebuilt structure unless:

(a) It is reinstated in the rebuilt structure within one year of the date of the damage, or within an extended construction period granted under Subsection (B) above; or

(b) It has been carried on without interruption in the undamaged part of the building.

3.9 Off-Street Parking and Loading Requirements: Off-street parking and loading space shall be provided in accordance with the specifications in this Section in any district whenever any new use is established or when the present use is enlarged. It is the intent of these Regulations to allow the minimal amount of parking needed to serve the proposed development.

(A) **Off-Street Parking Requirements.** All off-street parking shall satisfy the following:

(1) Dimensions. Parking spaces and maneuvering aisles shall have minimum dimensions as shown in Table 3.2.

Table 3.2 Parking Area Dimensions

Parking Angle	Stall Width	Stall Depth	Aisle Widths	
			One Way	Two Way
90°	9'	18'	24'	24'
60°	9'	18'	18'	24'
45°	9'	18'	15'	24'
Parallel	7'	22'	14'	24'

(B) **Required Amount of Parking.** The number of off-street parking spaces for each use shall be based upon the values presented in Table 3.3 of these Regulations. For properties containing multiple uses, parking needs for each use shall be determined and summed to determine the total amount of parking required. In computing parking needs, fractions of spaces shall be rounded upwards to the nearest whole space.

Table 3.3. Off-Street Parking Space Requirements

Use	Parking Spaces Required
Residential	2.3 per dwelling unit
Residential, 1-2 bedroom multiple family	1.67 per dwelling unit
Residential, accessory dwelling	1 per dwelling unit
Churches	1 per four seats plus one space per 200 gross SF of space not devoted to seating
Schools, elementary	2.5 spaces per classroom
Schools, secondary	5 spaces per classroom
Private club or lodge	1 space per 400 gross SF of floor area
Theater or auditorium	1 per 4 seats
Hospitals	2 spaces per bed, or 1 space for each 250 gross SF, whichever is greater
Congregate housing, nursing homes, convalescent homes	3 spaces per 5 beds
Professional offices except physicians, dentists or other health care professionals	1 space for every 250 gross SF of floor space

Table 3.3. Off-Street Parking Space Requirements	
Personal services and offices of physicians, dentists or other health care professionals	1 space for every 200 gross SF of floor space
Clinics	1 space for every 200 gross SF of floor space
Banks	1 space for every 200 gross SF of floor space plus 6 queuing spaces for every drive-in window
General retail stores, except convenience stores and supermarkets	1 space for each 250 gross SF of floor space
Supermarkets	1 space for each 150 gross SF of floor space
Convenience stores and existing convenience stores	1 space for every 150 gross SF of floor space plus space around gasoline pumps
Restaurants (without drive-in)	1 space for each 100 gross SF of floor space plus 1 space for each 4 outside seats
Restaurants (with drive-in)	1 space for each 100 gross SF of floor space plus 1 space for each 4 outside seats and 6 queuing spaces
Manufacturing, light manufacturing warehouse, storage and distribution facilities, wholesale establishments, machinery repair facilities	1 space for every 400 gross SF of floor space or 2 spaces for every 3 employees
Hotels, motels, tourist homes	1 space per sleeping room
Recreation facilities	1 space for every 200 gross SF of enclosed space plus 1 space for each 3 persons accommodated by outside facilities
Automobile service stations, existing automobile service stations, automotive repair shops, motor vehicle sales establishments	1 space for every 200 gross SF of floor space plus space around gasoline pumps
Equipment sales, rental and repair facilities	1 space for every 100 gross SF of floor space
Funeral home	1 space for every 100 gross SF of floor space
Veterinary hospital, kennel	1 space for every 200 gross SF of floor space
Home occupations, accessory uses (other than accessory apartments), day car establishments, greenhouses, and other uses not specified above	As determined by the Planning Commission or Board of Adjustment, based on commonly accepted standards (e.g., Institute of Transportation Engineers standards).

(C) **Shared Parking Demand.** The Planning Commission may reduce the total amount of parking required by a multiple use property or in a multiple use development, based on an analysis of the shared parking needs of the various uses using a technique equivalent to the shared parking analysis model developed by the Urban Land Institute

(*Shared Parking*, 2nd Edition, Washington, D.C., 2005). In no case shall the total parking requirement be reduced below the estimated peak hour parking need estimated by the shared parking model.

(D) **Shared or Common Parking Lots.** In the Business District (B1), the Center District (CTR), the Industrial District (I1) and the Mixed Use District-Commercial (MXD-C), shared or common parking areas are encouraged.

(1) Where two adjacent lots are to share a common parking lot, the shared parking lot may occupy the minimum side yards along the common property line, provided that this shall not occur in front of the front facade of the buildings.

(2) When the Planning Commission has approved a shared or common parking lot, the shared parking arrangement shall not be changed or terminated unless all involved property owners submit to the Planning Commission a plan showing how adequate off – street parking will continue to be provided for all uses.

(3) Where two or more properties share a parking lot, the number of required spaces may be reduced to reflect shared parking demands as specified in Subsection (C) above.

(E) **Off-Site Parking Lots.** In the Business District (B1), the Center District (CTR), and the Mixed Use District-Commercial (MXD-C), the Planning Commission may allow up to twenty percent (20%) of the required parking to be provided on locations off the site of the use or development making use of the parking, provided that the following conditions are met:

(1) The distance from the most remote parking space in the off-site parking area to the nearest building entrance in the proposed development should not exceed 700 feet.

(2) A well defined and paved pedestrian connection between the development (building) and the off-site parking area shall be provided and shall include any needed crosswalks, crossing signals, etc. In general, it should not be necessary to cross major or collector roadways to access the off-site parking areas.

(3) The Planning Commission shall be provided with an agreement, signed by the owner of the property to be using the off-site parking, which states that if the off-site parking should be removed from use by the proposed development, alternative parking will be provided. In the event that the number of parking spaces available to the proposed development should decrease, the owner agrees that occupancy of the development will be reduced accordingly.

(4) It has been demonstrated to the satisfaction of the Planning Commission that it is impossible or undesirable to provide all required parking on-site.

(F) **On-Street Parking.** In the Business District (B1) the Center District (CTR), and the Mixed Use District-Commercial (MXD-C), on-street parking spaces along the

frontage of a lot or parcel may be counted as part of the required off-street parking for development on the parcel, provided the following conditions are met:

(1) On-street parking is a part of an overall design concept for the area that has been previously approved by the Planning Commission.

(2) The roadway on which the on-street parking is located is designed to have adequate width to accommodate the on-street parking and is approved by the Public Works Director for this purpose. In general, the parking lanes shall be no less than seven feet (7') in width.

(3) The roadway on which the on-street parking is located shall have been constructed by the developer of the parcel seeking to use the on-street parking to meet its off-street parking requirements.

(4) The applicant may be required to set aside land for use as off-street parking in the event the Town determines that, for safety or other reasons, on-street parking on that particular street must be terminated.

(G) **Unique Parking Requirements.**

(1) Applicants preparing applications which include unique uses or uses not explicitly addressed in the parking table (Table 3.3) should meet with staff to discuss and agree upon parking requirements prior to submitting a formal application. Consideration shall be given to comparable uses, other sources of parking demand estimates, including Institute of Transportation Engineers (ITE) or other commonly accepted standards, and other relevant information. The application shall then incorporate the agreed upon minimum parking requirements for the proposed use(s).

(2) The Planning Commission, or Board of Adjustment on appeal, shall make the final determination regarding the amount of parking required for a particular use, based on agreed upon recommendations and other relevant information.

(H) **Additional Parking Provisions.**

(1) Accessible (ADA) Parking. Unless more stringent regulation is imposed by state law, parking areas, and the number of accessible parking spaces, shall meet applicable Americans with Disabilities Act (ADA) design guidelines.

(a) If parking spaces are provided for self-parking by employees or visitors or both, the number of accessible spaces shall be provided as required in Table 3.4 in the parking lot, or in another location having the equivalent or greater accessibility.

(b) Accessible parking spaces for cars must be marked and have at least a sixty inch (60"), five-foot (5'), marked access aisle located adjacent to the parking space. The access aisle must run the full length of the space.

(c) One of every eight (8) accessible spaces must be designed to be van-accessible, with a minimum width of ninety six inches (96") and a marked access aisle that also is at least ninety six inches (96") wide located adjacent to the parking space. Two van spaces may share an access aisle.

(d) If only one accessible parking space is provided it must be designed and marked as "van-accessible."

(e) Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance.

(f) A sign with the international symbol for accessibility must be located in front of an accessible parking space, and mounted high enough so that it is not hidden by a vehicle parked in the space.

(g) Additional ADA design standards also may apply.

Table 3.4 ADA Standards for Accessible Design

Total Number of Parking Spaces Provided (per lot)	(Column A) Total Minimum Number of Accessible Parking Spaces (60" and 96" aisles)	Van-Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A*	7/8 of Column A**
1001 and over	20 plus 1 for each 100 over 1000	1/8 of Column A*	7/8 of Column A**
* One out of every 8 accessible spaces ** 7 out of every 8 accessible parking spaces			

(2) Bicycle Parking. Business and public buildings may be required, at the discretion of the Planning Commission or the Board of Adjustment, to provide facilities for bicycle parking. Uses which may be required to provide bicycle parking include but are not limited to shopping centers, restaurants, grocery stores, recreation facilities, motels, government offices, schools, hospitals and clinics, and mass transit terminals.

(3) Landscaping. In all surface parking areas, continuous bays of parking shall not exceed twenty (20) spaces without being divided by an island containing at least one shade tree and appropriate shrubs, unless waived by the Planning

Commission to improve safety and circulation. In addition, no parking lot shall locate less than fifteen feet (15') from any adjoining side or rear lot line, unless the parking lot is shared by both properties.

(4) Phasing. Where a development is to be constructed in phases, the Planning Commission may authorize the construction of the parking areas in corresponding phases. If phasing is to occur, the phasing of the parking shall be illustrated on the site plan and a schedule shall be provided showing when each phase shall be completed. It is the intent that parking associated with each phase be installed prior to occupancy of any buildings in that development phase.

(I) **Parking Space Modifications.** The Planning Commission may, subject to site plan review under Section 5.6:

(1) Reduce the number or size of required parking spaces when the Commission is satisfied by the applicant's demonstration that the requirements are unreasonable or unnecessarily stringent, and that the proposed number of parking spaces will adequately serve the proposed development.

(a) The Planning Commission, as a condition of site plan approval, may require that designated areas be reserved and maintained as undeveloped green space, to accommodate overflow parking, or additional parking needed to serve existing or future development on the site.

(2) Require more or fewer parking spaces than indicated by the above provisions, based on site considerations, use, traffic patterns and other relevant concerns.

(J) **Off-Street Loading Requirements.** For every building hereafter erected, altered, extended or changed in use for the purpose of business, trade or industry, there shall be provided paved off-street loading space for loading and unloading vehicles as set forth below:

(1) Retail Businesses and Professional Services-one (1) space of at least 250 square feet for each 3,000 square feet of gross floor area.

(2) Wholesale, Manufacturing, Warehousing and Trucking uses-one (1) space of at least 1,000 square feet for each 10,000 square feet of gross floor area.

(3) Truck Terminals − spaces of sufficient size and quantity to accommodate the maximum number of vehicles to be stored and/or loading or unloading at any one time.

(4) Access-Access to off-street loading areas shall not necessitate backing across a major arterial or collector road.

(5) Passenger Zones – If passenger loading zones are provided, then at least one passenger loading zone shall meet ADA design standards.

3.10 Signs:

(A) **Purpose.** It is the purpose of this Section to establish sign regulations for commercial, industrial and home occupation uses to minimize distractions and obstructions which may contribute to traffic accidents, to protect property values, to create an attractive business climate, to enhance and protect the amenities and visual quality of the Town, and to provide an enjoyable and pleasing community.

(B) **Applicability.** All signs as defined in Article VIII of these Regulations require a zoning permit except the following which shall be exempt from these Regulations as long as they meet all other applicable provisions included within this section. When referred to throughout these Regulations, sign area dimensions shall be interpreted to describe one side (face) of the sign, unless as may be specifically controlled by another provision of these Regulations. In that case, the specific provision shall apply.

(1) Official street or highway signs, signs approved by the Selectboard that advertise the Town of Essex in general and service organizations, or signs erected in accordance with state law (10 VSA Chapter 21).

(2) Non-advertising signs placed for direction or safety purposes (e.g., "rest rooms", "telephone", "office", "exit", "falling ice", "fire extinguisher", "no trespassing", etc.); each not to exceed three square feet (3 SF) in size.

(3) Labeling which is placed on a product by the manufacturer (e.g., "ice" printed on an ice machine).

(4) A sign not exceeding three square feet (3 SF) in area which announces the name and address of the occupant of the premises on which said sign is located.

(5) A sign/bulletin board, not exceeding twenty-four square feet (24 SF) in connection with any church, school or similar publicly owned structure, providing it is affixed on the building or within ten feet (10') of the primary entrance of the building or is erected as a free standing sign which meets all applicable setback requirements.

(6) A temporary real estate development or construction sign, not exceeding twenty-four square feet (24 SF) in area nor ten feet (10') in height from ground level, on the property being the subject of the sign. Such signs shall be removed promptly when the development or construction is completed, or within 24 months of the date that construction commenced, whichever occurs first.

(7) A temporary sign not exceeding twenty-four square feet (24 SF) in area, nor ten feet (10') in height from ground level, is permitted for a roadside stand (as allowed under Section 4.7 of these Regulations). Said sign shall be removed during periods or seasons of the year when the stand is not open for business.

(8) Signs for dwellings advertised for sale, rent or lease shall not exceed six square feet (6 SF) in area, including the panel and frame. Such signs shall be removed promptly when the property has been sold, rented or leased.

(9) A sign for a temporary special, sale as provided for in Section 4.15 of these Regulations, shall be allowed on the property on which the sale is to occur. Such sign shall not exceed three square feet (3 SF) in area, nor ten feet (10') in height from ground level, and shall be removed promptly upon completion of the temporary sale.

(10) Signs to be maintained for not more than four (4) weeks erected by fairs or expositions or signs announcing an auction, or a campaign drive or event of a civic, political, philanthropic service, or religious organization.

(11) Signs on motor vehicles except where determined by the Zoning Administrator to be circumventing the purposes of this Section when the display of such a sign has become the primary purpose of the vehicle.

(12) Holiday decorations displayed for recognized federal or state holidays during the applicable holiday period.

(13) Temporary sign or banner announcing the grand opening of a new business or housing development on the property of the grand opening. Said sign shall not exceed twenty-four square feet (24 SF) and shall not be maintained for longer than two (2) weeks.

(14) Retail businesses shall be allowed to have one (1) on-premises portable sign, not to exceed six square feet (6 SF) in area per side and five feet (5') in height, to be used to advertise special sales events or items. Such signs shall be placed at least five feet (5') from the right-of-way and shall not interfere with motor vehicle circulation or site vision. A business within a shopping center or mall arrangement is allowed to place a sign only near the principal entryway of the business within the width dimensions of the business facade. The sign cannot be placed in the parking lot.

(C) **General Provisions.** Whether or not a zoning permit is required, all signs must comply with all other provisions of these Regulations, including those listed below.

(1) Signs shall be limited to advertising only the business or businesses on the premises.

(2) All signs shall be located at least five feet (5') from the right-of-way of any public or private road. No sign shall be located within the right-of-way of any public or private road.

(3) All signs, except temporary signs allowed under subsections (B)(6), (B)(7) and (B)(9) above must be permanently affixed to a structure or to the ground.

(4) The primary purpose of any sign shall be identification and such sign may state only the name of the establishment, trademark/logo of the establishment, and/or the business or activity conducted on the premises upon which the sign is

located. Signs shall be limited to the minimum number of words needed to identify the business. A sign shall not be for the purpose of making advertising claims with respect to products sold on the premises (e.g., "Coca-Cola", "Vermont Lottery Tickets Sold Here", "Budweiser"). Under extraordinary circumstances, the Board of Adjustment may permit a sign which states other than the aforementioned information.

(5) No sign shall be affixed to any vehicle in such a manner that the display of such a sign is a primary purpose of the vehicle.

(6) No sign shall be permitted which advertises a business which no longer exists or a service no longer provided.

(7) String lighting, pennants, or similar attention gathering media are prohibited.

(D) **Illumination.** All signs shall meet the following illumination requirements:

(1) Signs shall not be illuminated during hours when the premises are not open to business.

(2) No sign, or its illuminator, shall, by reason of its location, shape, color or size, interfere with vehicular or pedestrian traffic or be confused with or obstruct the view of any official traffic sign, signal or marking.

(3) Indirect lighting may be used to illuminate any sign, provided that the source of light shall concentrate the illumination upon the area of the sign so as to prevent any glare upon the street or adjacent property. No light fixture shall be placed closer than five feet (5') to any property line. Any light fixture directed upwards at a sign shall be shielded in such a manner as to concentrate all illumination on the face of the sign, with no light trespass beyond the principal sign face.

(4) Any lights used to illuminate a sign shall be directed solely at the sign, shall be shielded so that the light source is not visible and direct light does not enter public roadways or adjacent properties, shall be steady and stationary and shall not create any glare or driving hazard. Light sources for externally illuminated signs shall be limited as follows:

(a) Metal halide, high-pressure sodium, or light emitting diodes (LED) with a Kelvin Temperature of 4500K to 6500K.
(b) Fluorescent sources shall be completely shielded, but are not limited in wattage.
(c) Incandescent sources shall not exceed 150 watts.
(d) Reverse channeling (also known as Halo lighting) is allowed when the sign has individual cutoff letters and/or symbols and the light is located behind them. The light shall not shine through the letters and/or symbols and the light sources shall not be visible.

(5) All string lighting, except for non-permanent seasonal, shall be subject to a permit issued by the Zoning Administrator.

(6) Other than as provided in Subsection (D)(6) below, no sign may have any neon, flashing, intermittent, or moving lights, moving parts, internal illumination, or fluorescent paint.

(7) Window signs, two and one-half square feet (2.5 SF) in size or less, may use integrated neon lettering or internal illumination to convey only the message that the business is open or closed or that a place of lodging does or does not have a vacancy. Notwithstanding Subsection (F), I the MXD-PUD District only, with approval of the Zoning Board of Adjustment commercial window signs may be increased not to exceed fifteen square feet (15 SF) and to convey other forms of messages specifically related to the commercial operation occupying the facility where such sign is proposed. Said sign will use light emitting diodes (LED) or other alternative type of lighting sources that are approvable by the Board of Adjustment. If internal illumination, apart from neon letters, is used it shall meet the following standards:

(a) The lettering or symbols shall constitute no more than forty percent (40%) of the surface area of the sign,
(b) The luminous transmittance for the lettering or symbols shall not exceed thirty-five percent (35%),
(c) The luminous transmittance for the background portion of the sign shall not exceed fifteen percent (15%), and
(d) Light sources shall be florescent tubes, spaced at least twelve inches (12”) on center, mounted at least three and one-half inches (3.5”) from the translucent surface material.

(8) No advertising or displaying signs using neon or internal illumination shall be placed within a structure such that it is visible from any public roadway through a window of said structure, except as noted in Subsection (D)(6).

(E) **General Size, Height and Lettering Limitations Applicable To All Districts.**

(1) Automobile Service Stations shall be allowed not more than one free-standing sign for the purpose of advertising the brand of gasoline sold at such a station, provided such sign has a maximum area of forty square feet (40 SF) and a maximum height of not more than fifteen feet (15') to the top of such sign. Furthermore, automobile service stations shall be allowed to include in their freestanding signage price signs for their gasoline products, provided:

(a) The price signs shall be designed as an integral part of the freestanding sign, (i.e., consistent materials and color scheme).
(b) The price sign does not include advertising for other retail features such as deli marts.
(c) If a business selling gasoline products has an existing freestanding sign, a permit may be issued to attach price signs to the post if they are constructed

of the same type of materials and color scheme as the existing sign. The elevation must be approved by the Zoning Administrator.

(2) A freestanding sign indicating the name of a housing development or apartment complex may be permitted, provided that it shall not exceed forty square feet (40 SF) in size nor ten feet (10') in height from ground level.

(3) A sign is permitted which announces the name and address of the occupant of the premises on which said sign is located, however:

(a) Said sign shall not exceed three (3 SF) square feet in area.
(b) If in the judgment of the Zoning Administrator there are unique circumstances which make this size inadequate, the Board of Adjustment may approve a waiver of this provision and approve a sign of up to five square feet (5 SF) in area.
(c) If a home occupation is conducted on the premises, the sign may also announce said home occupation.

(4) A sign for an agricultural operation is permitted provided that it shall not exceed twenty-four square feet (24 SF) or ten feet (10') in height.

(5) Lettering on signs, where practicable, shall not be less than six inches (6”) in height.

(6) A sign advertising a civic organization shall be permitted provided that it does not exceed two and one-half square feet (2.5 SF) in size nor ten feet (10') in height. All such signs shall also meet the requirements of *Vermont Statutes Annotated*.

(F) **Signs in the B1, RB, CTR, B-DC, I1, MXD-C, MXD-PUD, MXD and RPD-I Districts.**

(1) Each business lot shall be allowed one (1) freestanding sign, as follows:

(a) The maximum sign area and maximum height of the freestanding sign shall not exceed the limits set forth in the following table:

Table 3.5 District Sign Dimensions

District	Sign Area	Height
B1	40 SF	15 FT
RB, B-DC and CTR	35 SF	8 FT
I1, MXD-C, MXD-PUD, MXD, and RPD-I	40 SF	8 FT

(b) Freestanding signs which exceed ten square feet (10 SF) in size shall have a planter or appropriately furnished base of a configuration approved by the Zoning Administrator unless it is proposed as part of a development requiring site plan review, in which case it shall be approved by the Planning

Commission. The planter shall be planted and maintained with appropriate shrubs and/or flowers.

(2) Each business building/unit shall be allowed to have one facade sign, as follows:

(a) The area of the facade sign shall not exceed five percent (5%) of the area of the facade to which it is attached or fifteen square feet (15 SF), whichever is greater.
(b) The facade sign shall not contain any characters exceeding four feet (4') in height.
(c) The highest point of the facade sign shall not extend above the height of the building to which it is attached.
(d) In determining the size of facade signs, outside dimensions of the business structure's facade (as defined in Article VIII of these Regulations) shall be used and open spaces included within those dimensions (e.g., windows, archways, etc.) shall be included in the computation of the facade areas.
(e) In the B1 District only, up to fifty percent (50%) of the allowable facade sign square footage may be located on the fascia of a gas station canopy. The total area of the facade sign and the canopy sign shall not exceed the total allowed for the facade sign.
(f) In the B1 District, up to twenty-five percent (25%) of the allowable facade sign square footage may be located on an awning affixed to the front facade of the structure. The total area of the facade sign and the awning sign shall not exceed the total allowed for the facade sign.
(g) In the B1 District, if both a canopy sign and an awning sign are used, the total area of the facade sign, the canopy sign and the awning sign shall not exceed the total allowed for the facade sign.

(3) In no event may additional signs be attached to or appended from signs as originally approved.

(4) Window advertising for external display shall be limited to a fixed area of twenty-four square feet (24 SF) in size and shall be neat in appearance. If the window space is not adequate to provide for this, or if the store owner prefers, a bulletin board type unit may be affixed flush with the exterior of the building.

(5) A bulletin board for posters announcing community affairs, political activities, etc., will be allowed inside the window of a building, visible from outside. If the window space is not adequate to provide for this, or if the store owner prefers, a bulletin board type unit may be affixed flush with the exterior of the building.

(6) When the location of a new business is not readily apparent, an off – premises directional sign, not to exceed six square feet (6 SF), will be allowed for a period not to exceed sixty (60) days after the new business has opened to the general public.

(7) Businesses with multiple facades. The Zoning Administrator may approve multiple façade signs for businesses located in areas where more than one façade can be defined according to Section 8.1 ("Façade").

(8) Signs for shopping centers:

(a) Notwithstanding the requirements of Subsection (F)(1)(a), a shopping center or plaza may erect one (1) freestanding sign, not to exceed eighty-five square feet (85 SF) in area and not to exceed twenty feet (20') in height from ground level. If the shopping center has two major entries separated by at least 1,000 feet, two such freestanding signs may be permitted. Said sign or signs shall have a planter or appropriately furnished base of a configuration approved by the Zoning Administrator unless it is proposed as part of a development requiring site plan review, in which case it shall be approved by the Planning Commission. The planter shall be planted and maintained with appropriate shrubs and/or flowers.

(b) A business located in a shopping center may have one facade sign not to exceed five percent (5%) of its portion of the area of the building facade to which it is attached or fifteen square feet (15 SF), whichever is greater. All facade signs shall be compatible with others in the same shopping center as determined by the Zoning Administrator.

(c) When all stores in a shopping center do not face a common parking lot, a shopping center or plaza may erect a directory of stores, or a series of small signs not to exceed two square feet (2 SF) each, in a suitable location to be read by pedestrians within the center. In the case of a large center with more than one entrance, additional directories may be allowed at the discretion of the Zoning Administrator.

(G) **Signs in the HP-DC and B-DC Districts.**

(1) All signs in these Districts must be approved by the Planning Commission, subject to applicable criteria under site plan review (Section 5.6) and the following:

(2) Signs shall meet the special provisions of Subsection (F) except that the maximum sign area shall be thirty-five square feet (35 SF) and the maximum sign height shall be fifteen feet (15').

(3) Signs shall be consistent with all other requirements of this Section (5.9).

(4) Signs shall be consistent with the purpose and requirements of the HP-DC or B-DC Districts as set forth in Article II.

(H) **Nonconforming Signs.**

(1) Signs in districts other than the B1, RB, CTR, B-DC, I1, MXD-C, MXD-PUD, MXD and RPD-I Districts, existing prior to the enactment of these Regulations may be allowed to remain, subject to the following:

(a) The sign meets the requirements of Subsections 5.9(C) (General Provisions) and 5.9(D) (Illumination) of these Regulations.
(b) The sign is structurally sound and presents no hazard to the public.

(2) Permanent signs existing and/or approved prior to the enactment of these Regulations which do not satisfy the provisions of this Section may be repaired and maintained but may not be expanded or replaced.

(I) **Signs for Nonconforming Uses.** All provisions of this section shall apply to signs for nonconforming uses, regardless of the district in which they are located.

(J) **Sign Permits and Administration.**

(1) Any person desiring to erect, install, replace, construct, alter or move a sign shall, prior to doing so, obtain a sign permit from the Zoning Administrator.

(a) Application for a sign permit shall be on forms provided by the Zoning Administrator and shall contain detailed plans of the sign, including exact size, wording, illumination, colors and location.
(b) Applications for facade sign permits shall also include information regarding the area of the facade on which the sign will be attached.

(2) In the event a particular situation is not set forth herein, which in the opinion of the Board of Adjustment is consistent with the philosophy set forth in this Section, the Board of Adjustment, on appeal, may approve the proposed sign, provided that all of the other provisions of this Section are satisfied.

3.11 Surface Waters and Wetlands Protection: These standards are established to provide for and protect buffer areas bordering streams, lakes, ponds and wetlands in the Town of Essex. Buffer requirements under this section are intended to retain, establish, maintain and protect heavily vegetated areas of native species that border surface waters and wetlands, in order to reduce impacts from flooding and stormwater runoff, to prevent soil erosion, to protect wildlife, fish habitat and ecological diversity, and to maintain water quality.

(A) **Applicability.** The requirements of this section shall apply to all development on existing or proposed lots within designated buffer areas after the effective date of these Regulations (April 14, 2008).

(1) Buffer requirements under this section apply to all streams, to reservoirs and naturally occurring lakes and ponds with a surface area greater than 21,780 square feet (1/2 acre), and to all naturally occurring Class I and II wetlands, as these features are defined in Section 8.1 (Definitions).
(2) For permitted uses the requirements of this section shall be administered by the Zoning Administrator. For all other development, the requirements of this section shall be administered by the Planning Commission or Board of Adjustment within their respective areas of jurisdiction under these Regulations, in consultation with the Conservation Committee and Public Works Department.

(3) Pre-existing nonconforming structures and uses within designated buffer areas may be enlarged or expanded only in accordance with the requirements of Section 3.8 (Nonconformities) and Subsection (F) below.

(B) **Application Requirements.** In addition to the application requirements for zoning permits (Section 7.2) or site plan or conditional use review (Section 5.2), applications for development subject to the provisions of this section shall meet the following requirements:

(1) The site plan accompanying the application shall show designated buffer areas, as identified and delineated in accordance with Subsection (C), and staked out on site. Information depicted on the site plan shall include:

(a) The location of existing and proposed structures, uses, utilities, lawn and parking areas in relation to delineated buffer areas, and
(b) Slopes, vegetation and soil types, and all existing and proposed improvements within designated buffer areas.

(2) Applications under this section shall be forwarded by staff, within 30 days of receipt, to the following. No zoning permit or approval shall be issued until a response has been received, or 30 days from the date of referral, whichever is sooner.

(a) The Essex Conservation Committee for review under Section 7.7 of these Regulations (Advisory Committees).
(b) The Essex Public Works Department for review under the Town's stormwater management ordinance. A stormwater permit application also may be required.
(c) The State Wetlands Coordinator, or Wetlands Biologist serving the Town of Essex, for applications involving wetlands.
(d) The State National Floodplain Insurance Coordinator at the at the Vermont Department of Environmental Conservation, River Management Section, for development also located within designated areas of special flood hazard (C2 District), in accordance with Section 5.8(E).
(e) Adjacent communities and the Stream Alteration Engineer at the Vermont Department of Environmental Conservation, River Management Section, for any proposed alteration or relocation of a water course within a designated buffer area, in accordance with Section 5.8(E).

(3) The Planning Commission or Board of Adjustment may require additional information from the applicant, including channel and shoreline profiles (cross-sections), hydrologic or slope stability analyses, or buffer or stormwater management plans as needed to determine project conformance with the requirements of this section.

(C) **Buffer Designations.**

(1) Identification. The location of surface waters, wetlands, and associated buffers may be identified initially from one or more of the following sources for subsequent delineation in the field:

(a) The Significant Features Reference Map as included in the Essex Town Plan.
(b) The Water Resources Map as included in the Essex Town Plan.
(c) Current Vermont Significant Wetland Inventory (VSWI) Maps.
(d) Current National Wetlands Inventory (NWI) Maps.
(e) Vermont Base Maps (orthophotos).
(f) Site investigation.

(2) Delineation. Buffer areas shall be delineated on the ground in accordance with the following requirements.

(a) Riparian Buffers. Riparian buffers along streams shall be at least fifty feet (50') in width, as measured horizontally from either the top of bank or top of slope, depending on the specific characteristics of a stream section. In the event that both top of bank and top of slope could be used to establish the buffer, the larger buffer distance shall control. Riparian buffer measurements shall be based on the following (see also Figure 3.1a):
(i) Where the bank slope adjacent to a channel represents the stage at which average high water accesses a relatively flat and wide floodplain or wetlands, the riparian buffer measurement shall be taken from the top of bank or upland edge of the contiguous wetland, whichever is greater (Fig. 3.1a).
(ii) Where the channel is contained in a narrow, V-shaped valley that has steep side slopes and little or no floodplain, the riparian buffer measurement shall be taken from top of slope (Fig. 3.1b).
(iii) Where the channel has an accessible floodplain on one side, and a steep slope or high terrace on the other, the top of slope shall control on the steep side of the channel and the top of bank shall control on the floodplain side of the channel (Fig. 3.1c).
(iv) Where the channel has recently abandoned a floodplain as a result of abandoning the streambed and is establishing a floodplain at a lower elevation, the riparian buffer shall be measure from the top slope of the recently abandoned floodplain (Fig. 3.1d).
(b) Shoreland Buffers. Shoreland buffers bordering reservoirs and naturally occurring lakes and ponds having a water surface area of greater than 21,780 square feet (1/2 acre) shall be at least 150 feet in width, as measured horizontally from the mean water level.
(c) Wetland Buffers. Buffers bordering wetland areas shall be at least 100 feet in width for Class I wetlands, and 50 feet in width for Class II wetlands, as measured horizontally from delineated wetland boundaries. Boundaries shall be delineated on site by a qualified wetlands or aquatic biologist, based on the presence of hydric soils, hydrophytic vegetation and site hydrology,

in accordance with the *1987 Corps of Engineers Wetlands Delineation Manual*, or other currently accepted state standard for wetlands delineation.

(3) Exceptions**.**

(a) Field delineation of buffers may be waived by the Zoning Administrator, Planning Commission or Board of Adjustment only if it is clearly established from maps and site investigation that the proposed development, and all areas of site disturbance, will occur well outside of any required buffer protection area.

(b) The Planning Commission or Board of Adjustment, as a condition of project approval, may require buffer distances greater than the minimum distances specified above, up to 100 feet and/or additional mitigation measures under Subsection (F) for:

(i) Streams that have a history of or potential for significant short-term lateral or vertical channel adjustment.

(ii) Streams within designated floodplains, where the fifty-foot (50') minimum buffer is entirely within the 100-year floodplain (below the base flood elevation).

(iii) Streambank and shoreland areas characterized by steep slopes (in excess of fifteen percent (15%)), highly erodable soils, or that lack sufficient vegetation to effectively limit stormwater runoff and erosion or the filtration of pollutants.

(iv) Buffer areas that incorporate significant wildlife corridors, or support identified riparian-dependent species or significant natural communities, which extend beyond the required minimum or are in close proximity to the project site.

(4) Marking. Designated buffer areas shall be clearly marked on the ground prior to the start of site work and construction, as necessary to avoid any encroachment or disturbance within these areas from site preparation, construction and landscaping activities. Stakes shall not be removed until all construction and landscaping activities are completed.

(D) **General Standards.** The following standards shall apply to all types of buffers under this Section:

(1) Except for allowed encroachments as provided for under Subsection (E) below, all lands within a buffer shall be left in an undisturbed, vegetated condition.

(2) Except as provided under Subsection (E) below, no new structures shall be allowed within designated buffers, unless it is determined by the Board of Adjustment under Section 7.5 (Variances) that the applicant has no developable property outside the buffer area and strict adherence to the requirements of this section would preclude all reasonable uses of the property under these Regulations.

(3) Any areas within a required buffer that are not vegetated, or that are disturbed by construction allowed within the buffer area, shall be seeded with a naturalized mix of grasses rather than standard lawn grass, and shall not be mowed.

(4) Removal of dead trees or trees of immediate threat to human safety, and limited pruning of existing trees for stand health and visual access, is allowed without municipal approval, unless otherwise required under a buffer management plan approved by the Planning Commission or Board of Adjustment.

(5) The creation of new lawn and parking areas within designated buffers is not allowed. Property owners already encroaching within buffer protection areas are encouraged to return mowed or paved areas to their naturally vegetated state, and to restore and enhance these areas with landscaping and supplemental plantings of native vegetation that restore and enhance buffer filtration and bank stabilization functions.

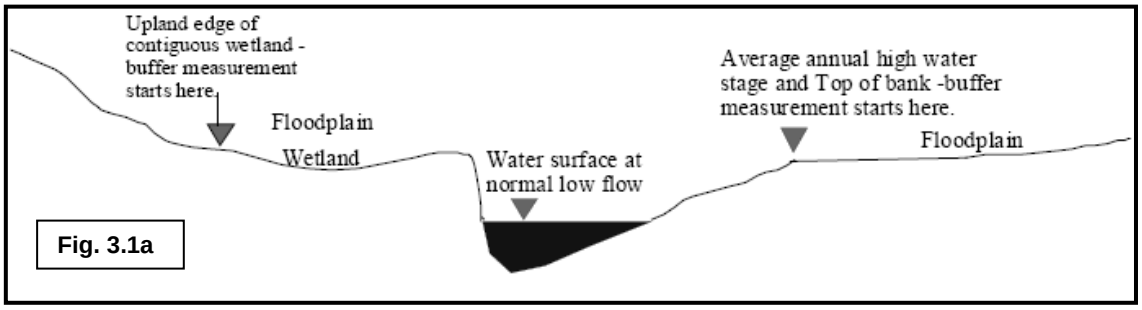
(E) **Stream Restoration and Bank Stabilization**. Within designated buffer areas:

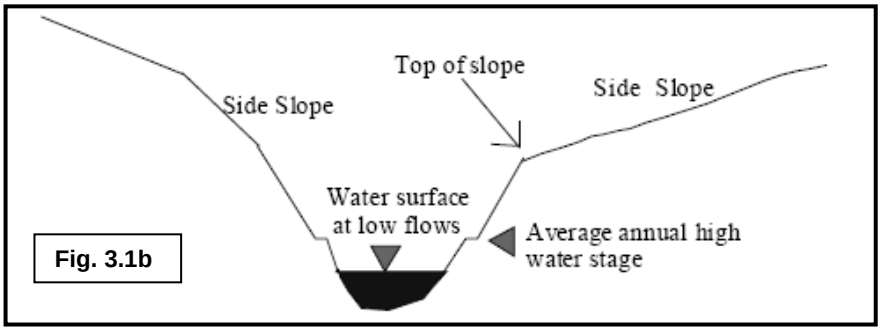
(1) No municipal permits or approvals are required for stream restoration projects that have been approved by the Vermont Agency of Natural Resources and do not involve dam removal.

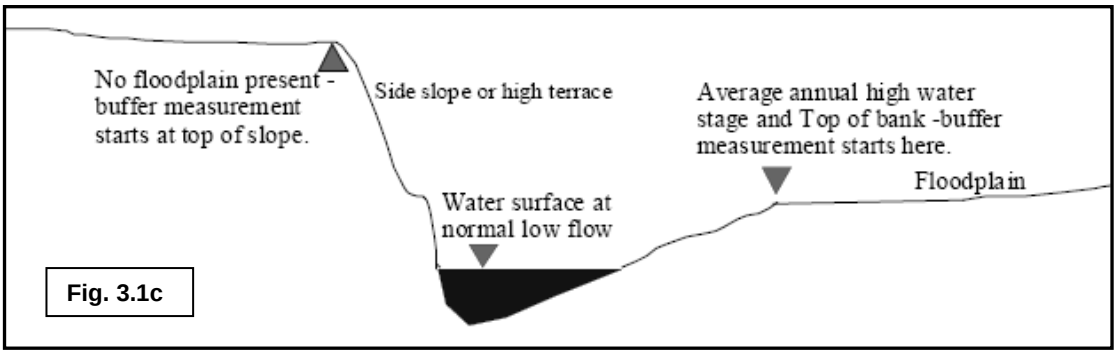
(2) No municipal permits or approvals are required for bank stabilization and buffer re-establishment activities that are limited to supplemental plantings, the removal of invasive species, or the use of "soft," nonstructural bank stabilization techniques such as the use of brush matting, plant staking and contour wattling.

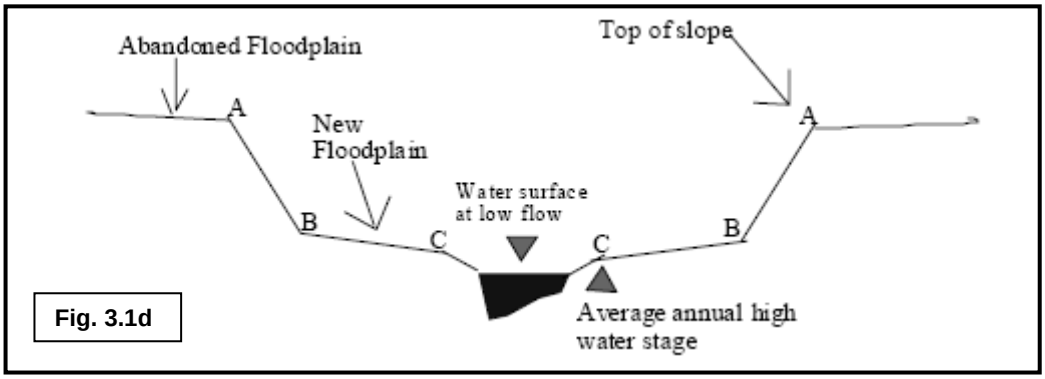
(3) Approval from the Town Engineer is required for use of structural or "hard" bank stabilization techniques that involve armoring, such as the use of rip rap revetments, cribbing or retaining walls.

Figure 3.1 Riparian Buffer Measurements









(F) **Encroachments.** Encroachments within designated buffer areas, except for stream restoration and bank stabilization techniques under Subsection (E), are allowed only in accordance with the following:

(1) No municipal permits or approvals are required for the following activities within designated buffer areas.

(a) Accepted agricultural practices (AAPs) as defined by the Secretary of Agriculture Food and Markets in accordance with the Act [§ 4413]; however, farm structures shall meet minimum buffer (setback) requirements under this section unless specifically waived by the Secretary. Required buffer (setback) distances shall be shown on sketch plan included with the written notification submitted to the town under the AAPs (see Table 1.1 Exemptions).

(b) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Commissioner of Forests, Parks and Recreation (see Table 1.1 Exemptions).

(c) Encroachments necessary to rectify a natural catastrophe for the protection of public health, safety and welfare.

(d) Buffer management activities as authorized in the conditions of project approval, or in a buffer or stormwater management plan approved by the town.

(e) Encroachments within a required wetland buffer for which Conditional Use Determinations (CUDs) have been issued by the Vermont Department of Environmental Conservation.

(2) The following encroachments may be allowed within designated buffer areas, subject to conditional use review and approval by the Board of Adjustment under Section 5.7, and the requirements of this section:

(a) The removal of vegetation, the placement of fill, or the excavation of top soil or earth materials only to the extent directly necessitated by the construction or operation of an approved development or use within the buffer area.

(b) The reconstruction, enlargement or substantial improvement of a pre-existing, nonconforming structure, or portion thereof, in legal existence as of the effective date of this section, which is located within designated buffer areas.

(i) In addition applicable provisions of Section 3.8 (Nonconformities), the Board shall not approve any construction which reduces the existing setback distance from the surface water or wetland, or which increases the extent of existing encroachment (footprint area) of the structure within the buffer area by more than fifty percent (50%) unless a variance is obtained under Section 7.5.

(ii) A variance shall also be required for the reconstruction of a structure within the buffer area that has been damaged or destroyed over seventy five percent (75%) of its market value by flooding or fluvial erosion.

(c) A new accessory structure that is appurtenant to a pre-existing structure, for which it is determined by the Board that there is no other feasible location outside of the designated buffer area. Such structures shall encroach no farther into the required buffer than the existing structure, nor increase the extent of the existing encroachment (footprint area) within the required buffer by more than fifty percent (50%).

(d) Unpaved footpaths for the purpose of public recreation to be located at least ten feet (10'), as measured horizontally, from the top of bank, top of slope, or mean water level as applicable under Subsection 3.11 (C).

(e) Paved footpaths for the purpose of public recreation to be located at least fifty feet (50'), as measured horizontally, from the top of bank, top of slope, or mean water level as applicable under Subsection 3.11(C).

(f) Outdoor recreation and education facilities provided that any structure, building, parking area or driveway associated with such use is located outside the designated buffer.

(g) Docks, and boat launches or ramps no wider than twenty feet (20') that provide public access to adjoining surface waters and are designed and constructed to minimize stormwater runoff and bank erosion.

(h) Stormwater treatment facilities that have not been previously authorized by the town as a condition of approval, or under a buffer or stormwater management plan approved by the town. The Board may require submission of evidence that the facility has been approved by the state, or by the town under the Town's stormwater management ordinance in effect at the time of application, prior to approving any associated encroachment within the buffer area.

(i) Roads or driveways for purposes of crossing riparian buffer areas to gain access to land on the opposite side of a stream, or for purposes of providing safe access to an approved use. Road and driveway crossings shall occur at right angles to the stream channel unless stream channel characteristics warrant other angles of alignment.

(j) Utility line crossings, including telephone, cable, sewer and water line crossings, only to the extent necessary, and where no alternative alignment exists to provide or extend services.

(k) Dam removals, in accordance with a plan approved by the Vermont Agency of Natural Resources.

(3) In order to ensure that the purposes of this section are addressed, the Board of Adjustment may approve encroachments into designated buffer areas only upon finding that:

(a) No feasible alternatives exist to site the proposed structure, facility or activity outside of the required buffer area.

(b) The amount of encroachment represents the minimum necessary to allow for reasonable use of the property based on the type of development, facility or activity proposed.

(c) The encroachment(s) shall not have an undue adverse effect on soils, vegetation, wildlife habitat or significant natural communities within the

required buffer area, or the quantity and quality of protected surface and ground waters.

(d) The encroachment(s) shall not adversely affect the ability of the property to adequately carry or store flood waters.

(e) The encroachment(s) shall not adversely affect the ability of an existing or proposed stormwater treatment system to control runoff and reduce sedimentation, in compliance with state and municipal standards.

(f) The encroachment(s) shall not adversely affect the buffer area's ecological diversity, wildlife habitat, or recreational or aesthetic values.

(g) The impact of the encroachment(s) on identified buffer values and functions is minimized and/or offset by one or more corresponding mitigation measures, as may be required under Subsection (G) below.

(G) **Mitigation Measures.** The Planning Commission or Board of Adjustment may require, for applications within their respective jurisdictions, one or more of the following mitigation measures intended to ensure that the purposes of this section are met, and to offset or mitigate the impacts of development on the Town's surface waters and wetlands, including but not limited to any one or more of the following:

(1) Increased buffer widths in accordance with Subsection (C)(3).

(2) Requirements that existing yard or parking areas within designated buffers be returned to their naturally vegetated state.

(3) Planting of additional, native vegetation within the designated buffer, including but not limited to trees, shrubs and groundcover, to increase filtration, reduce runoff and erosion, stabilize slopes and streambanks, and restore previously disturbed buffer areas.

(4) On-site diversion and/or treatment of runoff away from a designated buffer zone.

(5) Flood, stormwater management, slope or streambank stabilization measures recommended by the Conservation Committee, Public Works Department or Vermont Agency of Natural Resources.

(6) The submission, for Commission or Board review and approval, of a buffer management plan prepared by a qualified professional.

(7) Other methods of mitigation as may be acceptable to the town.

3.12 Utilization of Renewable Energy: No structure shall be constructed that eliminates or prevents the ability to utilize renewable energy on adjoining or adjacent property. If a variance is granted in accordance with Section 7.5 for a use or structure which infringes on the ability to utilize renewable energy, the variance must provide for compensation to the adjoining or adjacent property owner such that an alternative method of energy utilization at a cost reasonably near that of the deprived use is possible.

3.13 Water and Wastewater Systems: Potable water supply and wastewater disposal system that are adequate to serve all existing and proposed uses shall be provided in accordance with applicable state and municipal regulations. Accordingly:

(A) The applicant shall provide evidence that all required municipal and state permits and approvals have been obtained and filed in the land records of the Town prior to the issuance of a zoning permit under Section 7.2 including:

(1) A phasing allocation from the Planning Commission for the residential development of a subdivided lot under Article III of the Town of Essex Subdivision Regulations.

(2) A final wastewater capacity allocation permit from the Town Manager or Selectboard under the Town's Sewer Allocation Ordinance, for development within the Sewer Core.

(3) Municipal permits for connections to public water and sewer systems under the Town's Water and Sewer Use Ordinances, for development within the Sewer Core.

(4) A certificate of occupancy shall not be issued under Section 7.3 until evidence has been provided by the applicant that all systems have been installed as approved including, where applicable, certification of potable water supply and wastewater system design and installation as approved by the state.

(B) Also, under state and municipal regulations:

(1) The Town retains the right to require connections to public water and sewer systems under the Town's Water and Wastewater Use Ordinances within existing service areas, and at such time as public lines become available to properties served by private systems.

(2) Private water supply and wastewater systems shall be designed and installed in accordance with applicable state standards, including required isolation distances, under the Vermont Environmental Protection Rules as most recently amended.

(a) Private systems and well shields are not required to be located on the same lot served by such systems, however the Town may require the submission of legal documentation (e.g., easements or deed language) as necessary to ensure off-site system access and maintenance prior to the issuance of a permit or approval under these Regulations.

(3) State and municipal water and wastewater regulations do not limit the power of state or town officials to control existing or potential threats to human health or the environment, or limit the exercise of other authorities to regulate human health, safety and welfare except as specifically limited under state statutes or rule.

ARTICLE IV: USE STANDARDS

4.0 Applicability: The following general standards apply only to specified uses allowed in the Town of Essex that are subject to review by the Zoning Administrator, Planning Commission, and/or Board of Adjustment. These standards are to be applied by the appropriate official or municipal panel in association with the review of applications for zoning permits and approvals, as specified under these Regulations.

4.1 Accessory Dwellings:

> **Accessory Dwelling Unit**: 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 [24 V.S.A. § 4412(1)(E)].

(A) As provided in the Act [4412(1)(E)], an accessory dwelling unit as defined in Section 8.1 shall be allowed as a permitted use in any district in which a single family residences is allowed, subject to the following conditions:

(1) No more than one (1) accessory dwelling unit may be allowed within or appurtenant to a single – family dwelling.

(2) The primary single – family dwelling or accessory dwelling unit must be occupied by the owner of the property.

(3) The accessory dwelling unit shall be created entirely within the existing single – family residence or an existing accessory structure, except as provided in Subsection (B).

(4) Evidence must be provided that the property has sufficient wastewater capacity to accommodate both the single – family dwelling and the accessory dwelling.

(5) The accessory dwelling unit shall not exceed 30 percent (30%) of the total habitable floor area of the single – family dwelling.

(6) Minimum lot size and residential density requirements do not apply to accessory dwellings; however the accessory dwelling must meet applicable setback, coverage and parking requirements as specified in these Regulations.

(B) An accessory dwelling that is to be located within a new accessory structure, that exceeds the floor area limitation, that increases the height or floor area of the existing single family dwelling, or the dimensions of the parking existing area, may be created subject to conditional use review and approval by the Board of Adjustment under Section 5.7 of these Regulations.

(C) The zoning permit for an accessory dwelling unit shall clearly state that the dwelling is permitted only as an accessory to the principal single family dwelling and as such shall be retained in common ownership. An accessory dwelling unit may be subdivided or converted for conveyance or use as a principal dwelling only if it meets and is subsequently approved under these Regulations as a two – family dwelling (for

attached units) or as separate single family dwelling or other principal use (for a detached unit) that meets all lot, density and dimensional requirements for the district in which it is located.

4.2 Agricultural Uses: Agricultural uses, including the keeping of horses, cattle, hogs, sheep, goats and poultry, with the exception of uses exempted from these Regulations by the Act [4413(d)], shall comply with the following requirements:

(A) Buildings. Farm buildings (for the keeping of horses, cattle, hogs, sheep, goats and poultry), other than dwellings, shall not be erected within 300 feet of a neighboring property line. The Zoning Administrator may, with written notice to adjacent property owners, approve a lesser distance.

(B) Uses. Feed lots, fenced runs, pens, and similar intensively used facilities for animal raising and care shall not be located within 300 feet of a neighboring property. The Zoning Administrator may, with written approval of the neighboring property's owner, approve a lesser distance to a minimum of 100 feet.

(C) Roadside Stands. Roadside stands for sale of agricultural products shall be allowed as farm produce standards regulated under Section 4.7.

(D) Livestock in RB, R2, B1, CTR, MXD and MXD-C Districts. Unless exempt by the Act [4413(d)], the raising or harboring of livestock including, but not limited to, horses, cattle, hogs, sheep, goats and poultry, shall be prohibited in RB, R2, B1, CTR, MXD and MXD-C Districts on lots having 40,000 or less square feet. On lots in these districts having more than 40,000 square feet, but less than three (3) acres, approval may be granted for this purpose subject to conditional use review by the Board of Adjustment under Section 5.7 and the following:

(1) The raising or harboring of livestock in existence prior to the enactment of these Regulations shall be allowed to continue at a level not to exceed the operational size at the time of that enactment. If such activity is discontinued for a period of nine (9) months, it will not be allowed to resume.

(2) Approved kennels and veterinary clinics, where otherwise allowed, and common household pets, are exempted from this provision.

(3) The Board of Adjustment, in determining whether or not to grant conditional use approval, shall also consider the proposed housing, feeding, exercise, and waste disposal areas for the proposed animals in relation to neighboring properties to ensure that no objectionable odor, noise, nuisance, health or safety hazards, or other detrimental effects are created.

4.3 Barns Used as Commercial Storage Establishments: Use of a barn as a storage establishment shall be considered a conditional use in districts specified in Article II, subject to conditional use review under Section 5.7, site plan review under Section 5.6 and the following standards:

(A) The barn must have been in existence as of February 7, 1972.

(B) The barn must be located on a lot of not less than twenty-five (25) acres in size and located at least 200 feet from any residential structure situated on an adjacent property.

(C) The barn may not be expanded.

(D) No office use shall be allowed as an accessory use to the storage establishment use.

(E) No exterior storage shall be permitted.

(F) Traffic generated from the storage establishment shall not place an undue burden (either in capacity or congestion) on existing public or private roads nor be out of character with the area.

(G) Heavy truck traffic shall not be allowed if it is deemed to be undesirable for the neighborhood in question.

(H) Minimum square footage on the first floor shall be no less than 1,500 square feet.

4.4 Congregate Housing: Where allowed in specific districts, congregate housing developments may be approved, subject to conditional use review under Section 5.7, site plan review under Section 5.6, and the following standards:

(A) Congregate housing, in accordance with federal and state fair housing laws, shall mean housing that:

(1) Is intended for and occupied only by persons who are 62 years or older; or

(2) At least 80 percent (80%) of the dwelling units are to be occupied by at least one (1) person who is 55 years or older, in adherence to written policies and procedures enforced by the owner or manager to house persons who are 55 years or older; or

(3) Is specifically designed for occupancy by elderly persons under a state or federal housing program.

(B) Congregate dwelling units may be attached or detached, but must include common interior spaces for recreation, meeting and socializing and either common dining facilities and/or on – site health care facilities.

4.5 Day Care Homes and Facilities: For the purposes of these Regulations, the care and supervision of children as a business or service shall be classified as either a "day care home" or "day care facility" in accordance with the definitions set forth in Section 8.1, and meet the requirements of this section.

(A) Day Care Home. In accordance with the Act [§ 4412(5)], a home child care business operated in a single family dwelling by a resident of the dwelling who is licensed or

registered by the state, and serves up to ten (10) children, shall constitute a permitted use of the single family dwelling.

(B) Day Care Facility. All other day care facilities as defined in Section 8.1, including nonresidential day care facilities, shall be subject to conditional use review by the Board of Adjustment under Section 5.7, site plan review by the Planning Commission under Section 5.6, and the following:

(1) In addition to the conditional use criteria under Section 5.7, no day care facility shall be permitted by the Board of Adjustment that:

(a) Results in on – street parking.
(b) Results in objectionable noise or disturbance to adjoining properties.
(c) Does not comply with all requirements of a state certified day care facility.
(d) Includes playground equipment and/or play areas within the required front yard setback.

(2) In addition to all of the site plan review requirements of Section 5.6, approval by the Planning Commission shall be contingent upon:

(a) Provision of off – street parking allowing for one space per employee and adequate space for the pick up and delivery of children.
(b) Provision of appropriate screening and fencing around playground equipment and/or play areas.

4.6 Extraction of Earth Resources: Extraction of earth resources, as defined in Section 8.1, may be allowed as a conditional use only in the AR, R1, and I1 Districts, except as otherwise provided in Subsection (C) for the removal of topsoil, subject to conditional use review by the Board of Adjustment under Section 5.7, site plan review by the Planning Commission under Section 5.6, and the provisions of this section.

(A) Purpose. The purpose of this section is to facilitate the extraction and use of earth resources in a manner which does not have an undue adverse effect on surrounding properties, traffic on or condition of surrounding roads, and does not detract from the visual quality of the Town. In addition, this Section is intended to ensure that the site is reclaimed in a manner that promotes future use of the site, maintains the visual quality of the area and prevents soil erosion.

(B) Removal of Topsoil. Extraction operations devoted exclusively to the removal and sale of topsoil shall meet the following requirements:

(1) Application Materials. In addition to other requirements for applications for conditional use review under Section 5.7, the following materials shall be submitted with an application for a topsoil removal operation:

(a) A map showing the boundaries of the site on which the removal operation is to be located, the area from which topsoil is to be removed, the names of adjoining property owners, existing watercourses and/or flood plains on or

adjacent to the site, vegetation to be removed, proposed buffer strips and screening, scale and north arrow.

(b) A description of the operation including the duration of the removal operation, working hours and days, equipment to be used and the rate of removal.

(c) A description of the methods to be employed for the control of storm water and prevention of erosion.

(d) A description of the plan for stabilizing the area after topsoil removal is complete, including grading and planting specifications.

(2) Specific Standards.

(a) A buffer strip no less than twenty-five feet (25') in width shall surround the area from which topsoil is to be removed and separate it from adjoining properties.

(b) Adequate provision shall be made for the control of storm water and prevention of erosion in conformance with Essex Stormwater Ordinance in effect at the time of application.

(c) Topsoil shall not be removed from any designated flood hazard area or surface water or wetland buffer area except as incidental to development approved by the Board of Adjustment under Section 5.8 (Flood Hazard Areas) or Section 3.11 (Surface Water Protection).

(d) No less than four inches (4”) of undisturbed topsoil shall be left on the area from which topsoil is removed.

(e) Stabilization and replanting plans shall incorporate accepted federal (U.S. Natural Resource Conservation Service) or state (Vermont Department of Environmental Conservation) conservation practices.

(C) Other Extraction Operations. Extraction of earth resources operations involving the removal of material other than, or in addition to, topsoil shall be reviewed and approved in accordance with the following provisions:

(1) Operations Approval. In addition to conditional use approval per Section 5.7 of these Regulations, the Board of Adjustment shall review proposed extraction operations in accordance with the provisions of this subsection.

(a) Application Materials. In addition to the application materials required for conditional use review, the following shall be submitted with any application for extraction operations, and shall be prepared by a licensed engineer or other qualified person:

(i) A map or maps showing existing topography at contour intervals of five feet (5') or less, all existing and proposed excavation areas, the location of all features of the site such as wooded areas, buildings, utilities, wells, walls and fences, roads, easements, wetlands and standing water, surface drainage patterns, the name of the owner of the site, the names of the owners of adjacent properties, existing and proposed access roads, parking areas, all features of the proposed extraction operation, scale and north arrow;

(ii) Cross – sections of the extraction area showing depth of extraction, temporary slope of extraction faces, elevation of pit floor, and other areas affected by the extraction operation;

(iii) A description of all equipment to be operated on the site, and the proposed location for such equipment;

(iv) A description of proposed working hours and the operating season of the extraction operation;

(v) A discussion of the planned rate of extraction and the daily number of truckloads of material to be transported from the site;

(vi) An indication on the site reclamation plan, and description of the ways in which the extraction operation will be buffered or screened from surrounding properties or from public roads;

(vii) A plan for the control of storm water and erosion during the extraction period;

(viii) A traffic study from a qualified consultant addressing sight distance and turning movement characteristics of the entrance to the project and the impact of anticipated traffic on the safety and congestion of surrounding roads;

(ix) Notification that a Reclamation Plan has been reviewed and approved by the Planning Commission in accordance with the provisions of Subsection (D)(2) of below; and

(x) The Planning Commission shall also recommend to the Board of Adjustment whether the project provides adequate landscaping and screening.

(b) Specific Standards.

(i) A buffer strip of at least twenty – five feet (25') shall be maintained around the perimeter of the site. The buffer strip shall retain the original vegetation and plant materials. The Board may require supplemental plantings in order to effectively screen the extraction site and operations from adjoining properties or public roadways.

(ii) An area of no more than five (5) acres shall be open for active extraction at any time. Other areas shall either be retained in their original condition or be closed in accordance with the approved site reclamation plan.

(iii) If the Board of Adjustment deems it necessary to prevent a potential safety hazard, suitable fencing may be required around the excavation area, sedimentation basins, or areas for storage of waste or equipment.

(iv) Slopes on the working face of the excavation area shall not exceed four (4) vertical on one (1) horizontal.

(v) Hours of operation on the extraction site shall be determined by the Board of Adjustment.

(vi) Adequate provision shall be made for control of storm water runoff in conformance with the Essex Stormwater Ordinance in effect at the time of application. Swales, brooks and other waterways shall be diverted upstream of the open extraction area and routed around all disturbed areas. Sedimentation basins shall be provided as needed. The volume, velocity and quality of water exiting the site shall be the same as, or better than, prior to commencement of the extraction

activities.

(vii) Appropriate measures shall be provided for the control of dust from all extraction and processing activities as well as from hauling activities. Dust shall not adversely affect surrounding properties or public roadways.

(viii) Adequate sound screening by landforms and/or vegetation shall be provided to prevent noise from adversely affecting surrounding properties or public roadways.

(ix) Traffic to and from the extraction operation shall not cause dangerous or hazardous conditions on public roads in the area, nor shall it cause undue degradation of public roads serving the site. Particular attention shall be given to the point where the site access road intersects public roads.

(x) Stumps removed from the site may be buried on – site if the burial location is not located in any flood plain. This disposal site must be identified on any approved plan and approved by the Town Engineer. If off – site stump disposal is proposed, the disposal location must satisfy all relevant State requirements.

(xi) No extraction activities shall occur within designated flood hazard areas or, unless specifically approved by the Board of Adjustment under Section 3.11, within surface water or wetland buffer areas.

(2) Reclamation Plan Approval. Any proposed extraction of earth resources under Subsection (D)(1) above shall not be approved until the Planning Commission has reviewed and approved a site reclamation plan, subject to site plan review under Section 5.6 and the following requirements. Site plan review shall precede or be conducted concurrently with conditional use review.

(a) Application Materials. In addition to application materials required for site plan approval under Section 5.2, application to the Planning Commission for site reclamation plan approval shall include the following:

(i) A map or maps showing existing topography at contour intervals of five feet (5') or less, all existing and proposed excavation areas, the location of all features of the site such as wooded areas, buildings, utilities, wells, walls and fences, roads, easements, wetlands and standing water, surface drainage patterns, the name of the owner of the site, the names of the owners of adjacent properties, existing and proposed access roads, parking areas, all features of the proposed extraction operation, scale and north arrow.

(ii) Cross – sections of the extraction area showing depth of extraction, temporary slope of extraction faces, elevation of pit floor, and other areas affected by the extraction operation.

(iii) An indication of the site reclamation plan, and description of the ways in which the extraction operation will be buffered or screened from surrounding properties or from public roads.

(iv) A plan for the reclamation of the site and a schedule of reclamation activities, including re – grading and planting specifications.

(v) A bond or other form of security to the Town sufficient to guarantee

completion of the site reclamation plan and all plantings for a minimum of two (2) years.

(b) Specific Standards. Upon completion of excavation activities on all or part of the site, the site shall be returned to a stable condition according to a site reclamation plan which satisfies the following requirements:

(i) Finish grades shall not exceed one (1) vertical on two (2) horizontal or the slope of undisturbed areas nearby, whichever is greater; or six (6) vertical to one (1) horizontal in rock or ledge excavations.

(ii) All topsoil removed for the extraction operation shall be stockpiled and used for reclamation.

(iii) After finish grading, a minimum of four inches (4") of topsoil shall be spread over the graded area, fertilized, seeded and mulched according to a planting plan prepared by a qualified professional. The Planning Commission may require the planting of trees or shrubs if it deems it necessary to preserve the aesthetic qualities of the reclaimed site.

(iv) Permanent erosion control devices shall be provided where necessary in conformance with the Essex Stormwater Ordinance in effect at the time of application.

(v) The reclaimed site shall be left in a usable condition and the site reclamation plan shall indicate potential future uses for the area.

4.7 Farm Stands and Markets: Farm produce stands and farm markets as defined under Section 8.1 and allowed in specified zoning districts, unless exempt from these Regulations pursuant to the Act [4413(d)], shall meet the following requirements:

(A) Farm Produce Stand. Small roadside stands used for the seasonal sale of farm produce and products must meet the following requirements:

(1) A farm produce stand must be used exclusively for the sale of farm products.
(2) A farm produce stand must be located at least fifty feet (50') from the nearest edge of the roadway surface.
(3) A farm produce stand shall not contain more than 600 square feet of enclosed space and 200 square feet of outdoor display space.
(4) A farm produce stand shall not be in operation more than eight (8) of any consecutive twelve (12) months.
(5) All parking shall be outside of the right-of-way of any public or private roads.
(6) The farm produce stand shall be located on or adjacent to working farmland.
(7) Signs shall conform to the requirements of Section 3.10 (Signs).

(B) Christmas Tree Stand. Roadside stands for the sale of Christmas trees may be allowed as a temporary, permitted use only on a vacant or partially vacant lot, or a lot in single family use, in the AR, C1, C2, I1, O1, MXD, CTR, RB, R3, and B1 Zoning Districts regardless of whether or not agriculture and forestry are allowed uses in the district.

(C) Farm Market. A farm market, which is larger than a farm produce stand, may be approved subject to conditional use review by the Board of Adjustment under Section 5.7, site plan review by the Planning Commission under Section 5.6, and the following requirements:

(1) The farm market must be associated with a working truck farm of at least fifty (50) acres.

(2) The produce to be sold shall be either grown on the associated farm or locally produced.

(3) Signs shall conform to the requirements of Section 3.10 (Signs).

4.8 Residential Care Facilities:

(A) Group Home. In accordance with the Act [§ 4412(1)(G)], a residential care home or group home operated under state licensing or registration that serves no more than eight (8) persons who are developmentally disabled or physically handicapped as defined by the state (9 V.S.A. § 4501) shall be considered a single family dwelling under these Regulations, unless the home is located within 1,000 feet of another existing or permitted group home.

(B) Residential Care Facility. Other types of residential care facilities, including convalescent, rehabilitation or nursing home facilities, are allowed within designated zoning districts subject to conditional use review by the Board of Adjustment under Section 5.7, and site plan review by the Planning Commission under Section 5.6.

4.9 Home Occupations and Businesses: In accordance with the Act [§ 4412(4)], no provisions of these Regulations shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Daycare homes under 4.5 above are not subject to the requirements of this section.

(A) Home Office/Studio. A home office or studio located entirely within a dwelling, for use only by residents of the dwelling, which involves no signs, general public access, or exterior storage or displays, is exempted from these Regulations (see Table1.1 Exemptions).

(B) Home Occupation. Home occupations which meet the following requirements are allowed as accessory uses in all districts where residential uses are allowed. A proposed home occupation shall be considered a permitted use and approval shall be granted by the Zoning Administrator if, in his/her judgment, the following criteria are met:

(1) No delivery of equipment or merchandise other than an occasional UPS – type vehicle and/or occupant's personal vehicle.

(2) Only one business vehicle owned by the resident may be parked at the dwelling. The business vehicle parked at the dwelling shall not exceed a one-ton capacity and shall be parked in an adequate off-street parking area.

(3) No more than five (5) customer visits per day at the premises shall be allowed.

(C) Home Business. Any proposed home-based business not meeting the requirements of Subsections (A) or (B) may be allowed in designated zoning districts subject to conditional use review by the Board of Adjustment under Section 5.7, and the following requirements. No home business shall be approved that:

(1) Changes the outside appearance of the dwelling in such a way as to be out of character with the neighborhood or is visible from the street or adjoining properties.

(2) Comprises an area within the existing dwelling or accessory building, or in a combination of the two, that either exceeds twenty five percent (25%) of the living area of the dwelling or exceeds a maximum of 500 square feet except that in the CTR and R-B Districts the home business may occupy up to fifty percent (50%) of the living area or up to 1,000 square feet.

(3) Employs on the premises more than one full – time employee other than household members, or part – time employees who are not household members and whose combined time equals more than forty (40) hours per week.

(4) Does not provide adequate off-street parking for all employees in parking areas designed to be consistent with the character of the neighborhood.

(5) Generates sewerage or water use which places an undue burden on the existing sewage disposal system or water source.

(6) Generates traffic which places an undue burden (either in capacity or congestion) on existing public or private roads.

(7) Does not provide off–street parking spaces in number and location as reviewed and approved by the Board of Adjustment.

(8) Creates a hazard to person or property or results in electrical disturbance, objectionable noise, vibration, smoke, dust, odors, heat, excessive glare, or other nuisance.

(9) Results in outside storage or display of materials.

(D) Permit Expiration. The permit for a home occupation or home business shall specify that the approval is granted to the applicant only for the length of time that the applicant occupies the dwelling. Approval shall terminate upon relocation by the applicant and shall neither remain with the subsequent occupant of the dwelling nor transfer to a new location with the original applicant.

4.10 Junkyards: Junkyards as defined in Section 8.1 are prohibited except in the I1 Zoning District, where they may be allowed subject to conditional use review by the Board of

Adjustment under Section 5.7, site plan review by the Planning Commission under Section 5.6, and the following requirements:

(A) Specific Standards.

(1) No portion of the junkyard may be within fifty-feet (50') of any property line or public road, or 100 feet from any streams, ponds or other surface waters.

(2) Junkyards shall be effectively screened from view of a public highway and adjacent private property at all seasons of the year. Screening may be a natural barrier such as vegetation, coniferous trees or topography, or an artificial barrier such as an earthen berm, a metal or wooden fence, or other method approved by the Board of Adjustment or Planning Commission.

(3) All existing vegetation outside and proximate to the artificial barrier shall be retained to aid in maintaining a natural appearance. If no natural vegetation is present, the Board of Adjustment or Planning Commission may require the planting of suitable vegetation.

(4) The Board of Adjustment must find that the junkyard will not have an undue adverse effect on the public health, safety or welfare due to offensive or unhealthy odors, smoke, noise or other causes.

(5) All junk to be stored or deposited and all work on the junk shall be done within an enclosed and appropriately screened yard.

(B) Selectboard Approval. Junkyards as defined in accordance with state statute [24 V.S.A. § 2241(7)] are also subject to Selectboard review and applicable state regulations.

4.11 <u>Lumber Processing Operations</u>: Lumbering processing operations as defined in Section 8.1, unless exempted from these Regulations (see Table 1.1 Exemptions), may be allowed in the AR, C1, and O1 Districts subject to conditional use review by the Board of Adjustment under Section 5.7, site plan review by the Planning Commission under Section 5.6 and the requirements of this section.

(A) No new residential uses shall be permitted until such time as any existing/expanded lumber processing operation, whether under present or future ownership, ceases.

(B) All applicable district dimensional requirements under Article II shall apply. However, either the Board of Adjustment or the Planning Commission may require greater setback distances from any lot line and/or additional screening.

(C) Any lumber processing operation in existence at the effective date of these Regulations shall not be subject to the nonconforming use provisions under Section 3.8 provided no reduction of the contiguous land area of the operation may create a nonconformity.

4.12 Mobile Home Parks: In accordance with the Act [§ 4412(b)], these Regulations shall not have the effect of excluding mobile home parks, as defined by the state and in Section 8.1, from the Town. New and expanded mobile home parks may be allowed in designated zoning districts subject to review by the Planning Commission as planned residential developments (PUD-Rs) under Section 6.8. In addition, pursuant to the Act:

(A) If a mobile home park legally in existence as of the effective date of these Regulations is found to be nonconforming, its nonconforming status shall apply only to the park as a whole, and not to individual mobile home sites within the park. Accordingly:

(1) An individual mobile home lot that is vacated shall not be considered a discontinuance or abandonment of a nonconformity under Section 3.8.

(2) The requirements of these Regulations, including district dimensional standards, shall not have the effect of prohibiting the replacement of mobile homes on existing lots.

4.13 Motor Vehicle Sales: No sale of any motorized vehicle eligible for registration for operation on public highways is allowed, with the following exceptions:

(A) No more than four (4) motor vehicles per dwelling unit per calendar year may be displayed for sale on the property on which the vehicles are located.

(B) The use of a property for the sale of motor vehicles may be allowed only in conjunction with automobile repair shops and junkyards in designated zoning districts, subject to conditional use review by the Board of Adjustment under Section 5.7, and site plan review by the Planning Commission under Section 5.6. The revenue produced from the sale of motor vehicles shall not exceed twenty-five percent (25%) of the gross revenue generated by all commercial activity on the property in any calendar year including the primary use (i.e., the automobile repair shop and/or junkyard).

4.14 Public Facilities:

(A) Pursuant to the Act [§ 4413(a)], adequate provisions have been made within these Regulations in appropriate zoning districts, for the following public facilities and uses, as defined by the state:

(1) State or community owned and operated institutions and facilities.

(2) Public and private schools and other educational institutions certified by the Vermont Department of Education.

(3) Churches and other places of worship, convents and parish houses.

(4) Public and private hospitals.

(5) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.

(6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

(B) The above uses are allowable either individually (e.g., schools, hospitals) or under various classifications (essential services, municipal services and facilities, public services and facilities) in specified districts and, in accordance with the Act, are subject to all applicable provisions of these Regulations relating to dimensional requirements and performance standards associated with parking, lighting and landscaping.

(C) Public facilities may be subject to conditional use review by the Board of Adjustment under Section 5.7 and/or site plan review by the Planning Commission under Section 5.6, as listed in Article II tables and defined in Section 8.1. However, notwithstanding other provisions of these regulations:

(1) Site plan approval is not required for uses under the definition of "essential services."

(2) State owned and/or operated and/or contracted correctional facilities, as defined in Section 8.1, shall be located only in the O-I District south of VT Route 15 in the southwest quadrant of the Town.

(3) The Town finds that the disposal of solid waste and hazardous waste in Essex is appropriate only in the AR District, subject to conditional use review by the Board of Adjustment under Section 5.7 and site plan approval by the Planning Commission under Section 5.6. Further, the Town finds that the RPD-I District especially is not an appropriate location for said disposal because of the special consideration these Regulations provide for the RPD-I District.

4.15 Temporary Uses and Structures:

(A) Temporary Sales. Temporary sales (such as auctions, garage sales, children's lemonade stands, or the sale of bait or incidental family items) are exempted from these Regulations under Table 1.1 (Exemptions). However:

(1) Auctions or garage sales lasting longer than three (3) consecutive days or six (6) days per calendar year, respectively, shall be considered to be businesses and, as such, are restricted by other portions of these Regulations.

(B) Temporary Uses.

(1) Uses not to exceed three (3) consecutive days in length such as craft shows, sporting events, carnivals, and auto shows will be permitted in all districts subject to administrative review and the issuance of a permit by the Zoning

Administrator. Such permits will only be issued after the Zoning Administrator has determined that:

(a) The proposed use will not be a significant annoyance to surrounding neighborhood or area properties;
(b) Adequate security and traffic control will be provided;
(c) Proper sanitation measures will be taken (including Health Department license if applicable); and that
(d) There is adequate off–street parking available.

(2) Portable food stands and flower sales may be granted a permit for seven (7) consecutive days.

(3) All other temporary uses proposed for any site in any calendar year shall require conditional use approval from the Board of Adjustment under Section 5.7 and site plan approval by the Planning Commission under Section 5.6.

(C) Temporary Structures. Temporary structures used in conjunction with design and construction work shall be permitted only during the period that the design and construction is in progress. Permits for temporary structures shall be issued by the Zoning Administrator for a six (6) month period, and may be renewed upon determination that the work is progressing and will be completed in a reasonable period of time. All temporary structures will be exempt from conditional use review by the Board of Adjustment.

4.16 Wireless Telecommunication Facilities

(A) Authority

(1) Under authority granted by 24 V.S.A. Chapter 117, the Town of Essex adopts this Wireless Telecommunication Facility Zoning Bylaw.

(2) Pursuant to 24 V.S.A. § 4414(12), the Planning Commission shall have the authority to regulate construction, alteration, and development, decommissioning and dismantling of Wireless Telecommunication Facilities in the Town of Essex.

(B) Purpose: The purpose of this bylaw is to promote the public health, safety, welfare, and convenience of the residents of the Town of Essex, while accommodating the telecommunication needs of the Town's residents.

(C) Consistency with Federal and State Law; Severability: This bylaw is intended to be consistent with the Telecommunications Act of 1996 and Title 24, Chapter 117 of Vermont Statutes Annotated. If any section of this bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this bylaw.

(D) Definitions: The following terms shall have the meanings indicated:

(1) Wireless Telecommunication Service: Any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

(2) Wireless Telecommunication Facility: Any tower or other support structure, including antennae, that will extend twenty (20) or more feet vertically, and any accompanying structure, building, access road, service utility or equipment that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services.

(3) Wireless Telecommunication Service Provider: Any person or entity providing Wireless Telecommunication Services.

(E) Permit Required; Exemptions

(1) Wireless Telecommunication Facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in the following zoning districts: AR, CTR, B1 (except in MXD PUD), I1, MXD, RPD-I, O1, C1. No installation or construction of, or significant addition or modification to, any Wireless Telecommunication Facility shall commence until a permit has been issued by the Planning Commission. However, in accordance with 24 V.S.A. § 4412(9), a permit shall be issued for a Wireless Telecommunication Facility that in, the determination of the Planning Commission will impose no impact or merely a de minimis impact upon any criteria established in Section (I) below. The Planning Commission's determination regarding no impact or de minimis impact shall be in writing and shall be subject to appeal under 24 V.S.A. § 4471.

(2) No permit shall be required for a Wireless Telecommunication Facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed fifty-feet (50') in elevation.

(3) This bylaw shall not apply to amateur radio, citizens band radio, AM or FM radio, or broadcast television service.

(4) The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the Public Service Board according to the provisions of that section.

(5) This ordinance shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit, receive, or transmit and receive communications signals on the property owner's premises if the aggregate area of the largest face of the antennae is not more than eight square feet, and if the antennae and the mast to which they are attached do not extend more than twelve–feet (12') above the roof of that portion of the building to which they are attached.

(F) Permit Application Requirements

(1) In addition to information otherwise required in the Zoning Bylaw, applicants shall include the following supplemental information:

(a) The applicant's legal name, address and telephone number. If the applicant is not a person, the applicant shall provide the state in which it is incorporated and the name and address of its resident agent.
(b) The name, title, address and telephone number of the person to whom correspondence concerning the application should be sent.
(c) The name, address and telephone number of the owner or lessee of the property on which the Wireless Telecommunication Facility will be located.
(d) The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public right – of-way.
(e) A vicinity map showing the entire vicinity within a 2,000 foot radius of the Facility, including the location of any tower, topography, public and private roads and driveways, buildings and structures, schools, utilities, water bodies, wetlands, landscape features, historic sites and necessary wildlife habitats. It shall indicate the property lines of the proposed Facility site parcel and all easements or rights of way needed for access from a public way to the Facility.
(f) The location of the Facility on a USGS Topographic Map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two(2) – mile radius of the proposed tower site.
(g) Elevations and proposed site plans of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of one inch = fifty feet (1' = 50').
(h) In the case of a site that is forested, the approximate average elevation of the existing vegetation within fifty feet (50') of any tower base.
(i) Construction sequence and time schedule for completion of each phase of the entire project.
(j) A report from a qualified engineer that:
(i) Describes any tower's design and elevation;
(ii) Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between antennas;
(iii) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate;
(iv) In the case of new Facilities, demonstrates that existing towers and structures within five (5) miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community;
(v) Potential changes or additions to existing structures or towers that would enable them to provide adequate coverage;

(vi) Output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided;

(vii) Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards;

(viii) Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR); and

(ix) Includes such other information as determined by the Planning Commission to evaluate the application.

(k) A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.

(l) In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.

(m) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required is not required for the facility.

(G) Independent Consultants: Upon submission of an application for a Wireless Telecommunication Facility permit, the Planning Commission may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the Planning Commission. The consultant(s) shall work at the Planning Commission's direction and shall provide the Planning Commission such reports and assistance, as the Planning Commission deems necessary to review an application.

(H) Balloon Test

(1) The Planning Commission may require the applicant to fly a four-foot (4') diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test at least seven (7) days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Planning Commission, in writing, of the date, time and location of the test, at least fifteen (15) days in advance of the test.

(2) The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Planning

Commission.

(I) Criteria for Approval and Conditions

(1) An application for a Wireless Telecommunication Facility permit shall be approved after a hearing when the Planning Commission finds all the following criteria have been met:

a) The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the Planning Commission may require the applicant to provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant;

(b) The Facility will not project more than twenty feet (20') above the average elevation of the tree line measured within fifty feet (50') of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate collocation of facilities;

(c) The minimum distance from the base of any tower to any property line is not less than 125 percent the total elevation of the tower, including antenna or equipment;

(d) The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw;

(e) Should the facility be abandoned or cease to operate, applicant will notify the Zoning Administrator within thirty (30) days and will remove the facility within two (2) years. The Planning Commission, for good cause, may extend this time period. The Planning Commission may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Planning Commission to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate;

(f) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation;

(g) The applicant will maintain adequate insurance on the Facility, and will properly maintain the appearance and structural integrity of the Facility at all times until the Facility is removed;

(h) The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Planning Commission may condition a permit on the provision of appropriate fencing;

(i) The proposed equipment cannot be reasonably collocated at an existing Wireless Telecommunication Facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Planning Commission shall consider the following factors:

(i) The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment

at a reasonable cost.

(ii) The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.

(iii) The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.

(iv) Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.

(v) Collocation of the equipment upon an existing tower would cause an undue aesthetic impact.

(j) The Facility provides reasonable opportunity for collocation of other equipment.

(k) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

(l) The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Planning Commission shall consider the following factors:

(i) The results of the balloon test, if conducted.

(ii) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.

(iii) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.

(iv) The duration and frequency with which the Facility will be viewed on a public highway or from public property.

(v) The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.

(vi) Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.

(vii) The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.

(viii) The sensitivity or unique value of a particular view affected by the Facility.

(ix) Any significant disruption of a view shed that provides context to an important historic or scenic resource.

(m) The Facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.

(n) The Facility will not generate undue noise.

(J) Continuing Obligations for Wireless Telecommunication Facilities: The owner of a Wireless Telecommunication Facility shall, at such times as requested by the Planning Commission, file a certificate showing that it is in compliance with all FCC standards

and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Planning Commission shall mean that the Facility has been abandoned.

(K) Removal of Abandoned or Unused Facilities

(1) Unless otherwise approved by the Planning Commission, an abandoned or unused Wireless Telecommunication Facility shall be removed within ninety (90) days of abandonment or cessation of use. If the Facility is not removed within ninety (90) days of abandonment or cessation of use, the Planning Commission may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

(2) Unused portions of a Wireless Telecommunication Facility shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit, pursuant to Section V.

ARTICLE V: DEVELOPMENT REVIEW

5.0 **Applicability:** Development review procedures and standards under this article apply only to development that requires site plan approval by the Planning Commission and/or conditional use approval by the Board of Adjustment prior to the issuance of a zoning permit:

(A) **Site Plan Review**. Site plan review and approval by the Planning Commission under Section 5.6 is required for all uses other than one- and two-family dwellings and their accessory structures, accessory dwellings, accessory uses, and home occupations as specified in these Regulations; below ground essential services, and agriculture, forestry, and other uses specifically exempted from these Regulations (see Table 1.1).

(1) Lots that have received master site plan approval in association with a Planning Commission approval of a planned unit development under Section 6.9 are specifically exempted from subsequent site plan review by the Planning Commission as long as site development conforms to prior approvals in effect.

(B) **Conditional Use Review.** Conditional use review and approval by the Board of Adjustment under Section 5.7 is required for all uses identified as "conditional uses" in Article II tables, and to other development as specified in these Regulations, including any development within designated flood hazard areas (C2 District) under Section 5.8 below. The purpose of conditional use review is to ensure that proposed development does not have an undue adverse effect on the character of the area in which it is located, community facilities and services, traffic and roads, and properties and uses in the vicinity of the project.

5.1 **Coordination of Review:** In the event that more than one development review process applies to a particular project, the timing and sequence of each review will be coordinated by administrative staff on behalf of the applicant and town, in accordance with the following:

(A) **Subdivision Review**. Subdivision review by the Planning Commission, where required, generally shall precede site plan or conditional use review for the subsequent development of subdivided lots. Applicable conditions of subdivision approval shall be incorporated under site plan and conditional use review. In the event that a condition of site plan or conditional use approval is inconsistent with the conditions of subdivision approval, the more restrictive shall apply, and an amendment of a prior subdivision approval may be required as appropriate. Where feasible, site plan or conditional use review may be held concurrently with final subdivision review, particularly for development within planned unit developments under Article VI.

(B) **Conditional Use and Site Plan Review**. Conditional use review by the Board of Adjustment generally shall precede site plan review by the Planning Commission. Applicable conditions of conditional use approval shall be incorporated under site plan review. In the event that a condition of site plan review is inconsistent with the conditions of conditional use approval, the more restrictive shall apply. An amendment of prior approval(s) may be required as appropriate.

(C) **Advisory Committee Review**. Applications that require review by one or more Advisory Committees appointed under these Regulations shall be referred by staff to the appropriate committee(s). Advisory Committee review of an application may be conducted prior to or concurrently with the formal review of an application by the Planning Commission or Board of Adjustment. It may also include meetings with the applicant and site visits, in accordance with Section 7.7(A) and (D). Any Committee recommendations shall be presented in writing separately or as part of a staff report at or before a Planning Commission or Board of Adjustment hearing, or may be presented orally at the public hearing.

5.2 **Application Requirements**: Applications for site plan review, conditional use review, or substantial amendments to a previously approved plan, and associated application fees, shall be filed with the Administrative Officer or Zoning Administrator for referral, respectively, to the Planning Commission or Board of Adjustment, the Public Works Department, and Advisory Committees.

(A) The application package shall consist of ten (10) copies of all application materials, which at minimum must include the following:

(1) A completed application form.
(2) The names and addresses of the owners of record of all abutting and facing properties, as listed in the town land records.
(3) A detailed, written description of the project.
(4) A copy of the approved subdivision plat and conditions of prior approvals, including master plan approvals, as applicable.
(5) A site plan prepared in accordance with applicable *Town of Essex Application Checklists* that shows existing site features, and all existing and proposed site improvements.
(6) Supporting documentation and plans as specified in *Town of Essex Application Checklists* including, but not limited to, construction cost estimates and a timetable for the completion of proposed improvements.
(7) A certification that there are no outstanding violations with respect to the property, or a detailed, written description of any and all outstanding violations.

(B) The Administrative Officer or Zoning Administrator may waive one or more application requirements, subject to reconsideration by the Planning Commission or Board of Adjustment, based on an initial determination that the information is unnecessary for a comprehensive review of the application.

(C) An application will not be considered complete for referral to the Commission or Board until all required materials have been submitted. The Planning Commission or Board of Adjustment may require the submission of additional information at any time prior to public hearing adjournment as needed to determine project compliance with these Regulations. This may include an independent review of the application, or related legal documents, to be paid for by the applicant.

5.3 **Review Process:**

(A) **Conceptual Discussion**. An applicant may schedule a preliminary conceptual discussion with the Planning Commission prior to developing and submitting a formal

application for site plan review under Section 5.6. The purpose of such a discussion is to explore possible concepts for developing a site without requiring detailed surveying or engineering data. This is intended to be an informal exchange of ideas. It is not binding and is not intended to result in approvals or denials of development plans, nor does it imply approval or denial when formal application is made.

(1) Materials provided at a conceptual discussion should include a site plan drawn to scale showing major features of the site (natural and man-made), north arrow, general location of the site within the Town, the area of the site, and sketches of possible development approaches.

(B) **Application Review**. Within 60 days of receipt of a complete application, the Administrative Officer or Zoning Administrator, in consultation with the Planning Commission or Board of Adjustment, shall schedule a public hearing to be warned in accordance with Section 7.7(C). The Commission or Board shall act to approve, approve with conditions, or deny an application within 45 days of the date of hearing adjournment, and issue a written decision that includes findings, conclusions, any conditions of approval and provisions for appeal in accordance with the Act [§ 4464] and Section 7.4. Failure to act within the 45-day period shall be deemed approval as of the 46th day.

(C) **Conditions of Approval**. The Planning Commission or Board of Adjustment may require revisions to proposed plans or the submission of as-built drawings as conditions to approval, and may authorize a representative of the Commission or Board to certify that such conditions have been met, following staff review of revised plans or drawings. It shall be the applicant's responsibility to bring revised plans or drawings to staff to demonstrate that the required conditions of approval have been met.

(1) When a representative of the Commission or Board has determined that all conditions have been met and that the required revisions have been made they shall so certify on the plans, and shall notify the Commission or Board and all interested parties of record, of this action.

(2) Should a representative of the Commission or Board determine that proposed revisions do not satisfy the intent of Planning Commission or Board of Adjustment conditions, no such certification shall be placed on the plans and construction shall not commence. The applicant may, in writing, request a public hearing for reconsideration by the full Commission or Board.

(3) Public hearings under this section shall be warned in accordance with Section 7.4, with posting and written notification to all interested parties, and shall be held within sixty (60) days of the date of a request for reconsideration is filed.

(D) **Requirements Following Approval.** Following Planning Commission or Board of Adjustment approval and before any zoning permits may be issued, where appropriate, the Town Attorney shall certify as to any legal document's sufficiency. This review shall be done at the expense of the applicant.

5.4 Effective Dates:

(A) A Planning Commission or Board of Adjustment approval is not effective until the time for appeal under Section 7.4 has passed or, in the event that a notice of appeal is properly filed, until the appeal has been decided by the Environmental Court.

(B) Commission and Board approvals for a non-phased project will expire two (2) years from the date of issuance of the written decisions if construction has not yet begun. Commission and Board approval for phased development will expire one (1) year after the planned completion date of each phase if the work to be done in that phase is not completed. If approval expires, work on the development must cease until such time as a new application has been submitted and approved.

(C) If good cause is shown for any delay, the Commission or Board may grant an extension of up to one (1) year in the completion dates specified in the approval.

5.5 Amendments: Projects approved by either the Planning Commission or the Board of Adjustment under these Regulations may be amended as follows:

(A) **Minor Amendments**. Minor amendments to an approved plan that do not substantially alter the findings or conditions of Commission or Board approval, or result in a substantial impact under these Regulations, may be administratively reviewed and approved by the Planning Commission in accordance with the following consent agenda process:

(1) Minor amendment approval may be issued for alterations which do not involve changes to curb cuts, internal circulation patterns, pedestrian circulation, screening, the general location of structures and parking areas, required setbacks and buffers or for other changes or alterations subject to review as specified in the conditions of approval.

(2) The Administrative Officer or Zoning Administrator shall determine if a proposed amendment is minor or substantial. If the Administrative Officer or Zoning Administrator can not clearly determine if the requested amendment constitutes a minor amendment, it shall be referred to the Planning Commission or Board of Adjustment for review under Subsection (B).

(3) Upon determining that an amendment application is complete, and does not involve substantial changes, staff shall review the application, prepare a draft decision for the Planning Commission or Board of Adjustment, and place the matter on a consent agenda for the Planning Commission or Zoning Board of Adjustment at the next available hearing date. Staff shall notify the applicant, adjacent property owners, and other interested parties of the application for an amendment, the draft decision, and the date on which the Planning Commission or Board of Adjustment will consider the matter under its consent agenda, at least fifteen (15) days prior to the meeting, in accordance with Article VII of these regulations.

(4) By a majority vote of its membership, the Planning Commission or Board of Adjustment may approve the consent agenda as a whole without discussion. If a member of the Board or Commission, the applicant or other interested party, requests a more complete hearing on an item in the consent agenda, that item may be withdrawn from the consent agenda by a majority vote of the Commission or Board. A hearing shall be held on that item, either later in the meeting or to be continued at a subsequent meeting, if necessary.

(5) Following action by the Planning Commission or Board of Adjustment, the decision shall be issued in accordance with Section 7.7(E) of these regulations.

(B) **Substantial Amendments**. Substantial (non-minor) amendments to approved site plans shall not be made without submitting a revised application for review and approval by the Planning Commission or Board of Adjustment under Section 5.2.

5.6 **Site Plan Review**: The purpose of site plan review is to ensure that the layout and design of development on pre-existing or approved lots conform to the Town Plan of record, these Regulations and applicable conditions of previous subdivision and conditional use approvals. Standards specifically relate to the internal layout of a site, its physical design, and the functional integration of the site with adjoining properties, uses and infrastructure. In reviewing site plans, the Planning Commission shall consider and may impose conditions and safeguards only with respect to criteria specified below.

The Planning Commission shall have the authority to commission an independent technical review of an application by a qualified consultant in circumstances where town staff has indicated that an element is beyond their scope of expertise. The cost of this review shall be paid by the applicant. The Commission may table the application pending the results of this review.

(A) **General Requirements.** In the review of site plan applications, the Planning Commission shall consider and may impose conditions with regard to:

(1) Conformance with the duly adopted Essex Town Plan.
(2) All dimensional limitations and other applicable provisions of these Regulations.
(3) Aesthetics including consideration of visual impacts only insofar as it may directly interrelate with the following other aspects of site plan review.
(4) Any outstanding violations on the property.

(B) **Natural Features**. Site layout and design, to the extent feasible, shall incorporate and protect significant natural features as identified on the Significant Features and Water Resources Maps contained in the Town Plan of record or though site investigation. At minimum, site layout shall be designed to:

(1) Topography – Minimize changes to existing site topography and vegetation. The site shall be planned to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. No topsoil, sand or gravel shall be removed from the site for any other purpose than to meet construction needs of the site

development unless special approval is obtained from the Zoning Board of Adjustment.

(2) Surface Waters and Wetlands – Preserve natural watercourses, wetlands and adjacent buffer areas in accordance with the requirements of Section 3.11. No natural watercourse shall be piped, dammed or altered without the approval of the Town and, where applicable, the Vermont Department of Environmental Conservation.

(3) Renewable Energy – Protect access to renewable energy resources. The Planning Commission shall find that the proposed development is sited to maximize energy efficiency and does not have an undue adverse effect on the ability of adjoining properties to use these forms of energy.

(C) **Access**. Pedestrian and vehicular access to the site, including road intersections, shall meet all applicable design standards, including the Town's public works specifications and related access requirements under Section 3.1. In addition, the Planning Commission shall consider and may impose conditions with regard to the following:

(1) Any on-site or off-site improvements needed to mitigate the impact of traffic generated by the development proposed for the site. In the event that on-site or off-site mitigation measures are determined by the Planning Commission, after soliciting the opinion of the Town Engineer, to be infeasible or undesirable, the amount of traffic generation may be limited by the Planning Commission.

(2) The maximum safety of pedestrian and vehicular access to and from the site from the street network and adjacent property, including but not necessarily limited to:

(a) Access location(s);
(b) The number and width of access points;
(c) Curve radii at access points;
(d) Acceleration or deceleration lanes on adjacent public streets;
(e) Sight distance improvements;
(f) Shared access with adjoining properties;
(g) Safe and efficient exterior lighting of pedestrian and vehicular circulation areas, suitable to the level of use and context of the site;
(h) The location of sidewalks and/or other walkways; and
(i) Pedestrian or vehicle signs.

(3) The Planning Commission may require the installation of service roads connecting to public roads, with provision for connection to similar service roads on adjacent property where it feels that limiting the number of intersections to the public road is in the interest of the health and safety of the community.

(4) All roads, regardless of whether they are to be private or taken over by the Town, shall be constructed to meet the current *Town of Essex Public Works Specifications*.

(D) **Site Circulation**. The Planning Commission shall consider and may impose conditions as necessary to ensure the adequacy of on-site vehicular and pedestrian circulation.

(1) Particular attention shall be given to safety, including:

(a) Aisle widths to accommodate emergency vehicles;
(b) Traffic and pedestrian movement patterns;
(c) The location of parking areas and loading docks to prevent conflicts with traffic entering and exiting onto a public street; and
(d) The number and size of parking spaces, as required under Section 3.9.

(2) Consideration shall be given for accessibility as required by the *Americans with Disabilities Act* and related regulations as most recently amended, including associated parking standards under Section 3.9.

(3) The Planning Commission may require pedestrian walkways to facilitate pedestrian movements.

(4) In all districts, the Planning Commission may require provision for pedestrian trails/paths and walkways along waterways or other natural features to connect with similar present or anticipated trails/paths on adjacent properties for use by residents or occupants of the development. In particular, such trails/paths shown in the Town Plan of record shall be incorporated in site layout and design.

(5) The Planning Commission may require dedicated easements for future access roads, lanes, non-motorized paths or trails for use by residents or occupants of the development.

(E) **Parking**. In all districts, the Planning Commission shall require the provision of parking in accordance with Section 3.9 of these Regulations. No more than fifty percent (50%) of the required front yard setback shall be devoted to parking.

(1) The Planning Commission may require the provision of joint parking facilities.

(F) **Landscaping and Screening**. The Planning Commission may require planting and other landscaping in order to achieve the objectives of these Regulations and the Town Plan. The Planning Commission shall consider and may impose requirements with regard to the adequacy of landscaping, screening and setbacks to achieve maximum compatibility and protection of adjacent properties, including size, variety, number and location of trees, front yard green space, other buffer yards, and screening outside of storage areas or other unsightly areas from public streets and/or adjoining properties, in accordance with the following:

(1) Objectives – Landscaping shall be designed to achieve the various landscape objectives set forth in the accompanying table (Table 5.1). This table indicates which of these objectives are applicable to specific zoning districts. In the table,

the columns refer to listed objectives (A) through (G) and the rows refer to groups of zoning districts.

(2) Cost – The cost of the landscaping required under this Section (excluding seeding, sod or grass) shall not exceed three percent (3%) of the total estimated project construction costs (i.e., total project costs less land and equipment).

(3) Existing Vegetation – Determining the amount of landscaping the Planning Commission shall consider existing trees, shrubs, evergreens and other plant material to be preserved on the site, and landscaping to be provided in buffer areas under Section 3.2 of these Regulations.

(4) Preferred Species – The Planning Commission shall annually adopt Site Plan and Landscape Guidelines which indicate preferred species of plants for various applications. Proposed landscaping shall be consistent with those guidelines. All planting stock shall be nursery grown unless conditions support the use of natural grown plants.

(5) Landscaping Plan – The landscaping plan shall include the following:

(a) The location, common name, scientific name, size at planting and size at maturity of all proposed plant materials.
(b) Relevant planting specifications, including mulching, fertilizing, watering and on-going maintenance of all proposed plant materials.
(c) A written landscaping cost estimate prepared by a professional landscaper presenting costs for all landscaping required under this Subsection of these Regulations excluding landscaping required under Section 3.2 (Buffer Areas), landscaping which may be required under a design control overlay district, and seeding, sod, mulching, etc., of grassed or lawn areas.
(d) Consideration of landscaping and species on adjacent parcels so as to avoid drastic changes in style, species or appearance, and the natural features of the area in order to achieve a harmonious design.

(6) Plantings – All plantings shall be of a size and shape consistent with any Site Plan and Landscape Guidelines adopted by the Planning Commission, or as approved by the Planning Commission.

(7) Phasing – Where a development is to be constructed in phases, the Planning Commission may authorize the completion of the landscaping plan in corresponding phases. If phasing is to occur, the phasing shall be illustrated on the landscaping plan and a schedule shall be provided showing when each phase shall be completed. It is the intent that landscaping associated with each phase be installed prior to occupancy of any buildings in that development phase, subject to seasonal planting requirements.

(8) Maintenance – All landscaping shall be completed and maintained in accordance with the landscaping plan as approved by the Planning Commission. Any dead or diseased plantings shall be replaced as soon as seasonally possible.

Table 5.1 Landscaping Objectives

Landscaping shall be designed to achieve the various landscape objectives set forth in paragraphs (A) through (G) below. The following table indicates which of these objectives are applicable to specific districts. In the table, the columns refer to objectives (A) through (G) and the rows refer to groups of zoning districts.

Districts and Types of Development	Landscaping Objective						
	(A) Street Trees	(B) Parking Areas	(C) Lawn and Building	(D) Loading and Storage Areas	(E) Preserve Forest Cover	(F) Planting Strip	(G) Town Common
Residential Districts:							
• Single and two family structures on individual lots	X						
• Multi-family lots	X	X	X				
Industrial District	X	X	X	X			
Resource Preservation-Industrial District					X		
Business Districts	X	X				X	
Center District	X	X					
Mixed Use Development-Commercial District	X	X	X				X

Objectives:

(A) **Street Trees**. The purpose of street trees is to create a unifying visual element defining the edge of the public space (i.e., the roadway) and to create a canopy over the roadway. One street tree shall be provided for each fifty feet (50') of frontage along a public or private road, provided that no fewer than two (2) street trees shall be provided for each lot.

(1) Street trees shall be planted in the public right-of-way, either between the sidewalk and the curb or edge of pavement, or no more than five feet (5') inside of the front property line, at the discretion of the Planning Commission. If street trees are to be located outside the public right-of-way, the Planning Commission shall require a deed restriction which prohibits the removal of said trees without the Planning Commission's express approval.

(2) Street trees shall be of a species identified as appropriate on any Site Plan and Landscape Guidelines adopted by the Planning Commission or as approved by the Planning Commission.

(3) At the time of planting, all street trees shall have a minimum two-inch (2") caliper.

(4) Street tress will be guaranteed for a period of five (5) years from the date the Town takes over the road as a public road.

(B) **Parking Areas**. Landscaping shall be used to screen parking areas from view from roadways, to break up large expanses of parking and to provide shade on parking areas.

(1) Where parking lot islands are provided, they shall be no less than the size of one parking space, shall be surrounded by concrete or stone curb, shall be raised six inches (6") above the surface of the parking lot, shall contain no less than one (1) shade tree and may contain shrubs, all areas not covered by trees or shrubs shall be grassed. Shrubs and trees shall be sized to create and maintain a clear visual area between the heights of thirty-six inches (36") and sixty inches (60") above the surface of the parking lot.

(C) **Lawn and Building Enhancements.** Landscaping shall be designed to enhance entries and walkways, to enhance the visual qualities of buildings, or to provide streetscape amenities such as attractive planted areas, additional shade trees, etc. Such landscaping shall consist of shade trees, ornamental trees, shrubs and/or other plants located in front or side yards.

(D) **Loading and Storage Areas**. Landscaping shall be used to screen loading areas, outdoor storage areas or other outdoor work areas from view from public roads.

Table 5.1 Landscaping Objectives, continued

Landscaping shall be designed to achieve the various landscape objectives set forth in paragraphs (A) through (G) below. The following table indicates which of these objectives are applicable to specific districts. In the table, the columns refer to objectives (A) through (G) and the rows refer to groups of zoning districts.

Districts and Types of Development	Landscaping Objective (same chart as on previous page)						
	(A) Street Trees	(B) Parking Areas	(C) Lawn and Building	(D) Loading and Storage Areas	(E) Preserve Forest Cover	(F) Planting Strip	(G) Town Common
Residential Districts:							
• Single and two family structures on individual lots	X						
• Multi-family lots	X	X	X				
Industrial District	X	X	X	X			
Resource Preservation-Industrial District					X		
Business Districts	X	X				X	
Center District	X	X					
Mixed Use Development-Commercial District	X	X	X				X

Objectives:

(E) **RPD-I District**. To preserve the existing forest cover in the RPD-I District:

(1) Utilities shall be routed through or along driveway clearings wherever practicable.

(2) Where the placement of utility lines or other construction has removed existing vegetation in required set-back areas or buffer areas, trees of the same species shall be planted at densities that approximate that of the existing vegetation to the extent possible.

(3) Planting plans for portions of the buffer areas cleared for utilities shall be approved by the Planning Commission and the Town Engineer.

(F) **Planting Strip**. To create a landscaped planting strip along the front of the lot (except driveways):

(1) The depth of the planting strip shall be at least thirty percent (30%) of the depth of the required front yard.

(2) The planting strip shall be kept free from buildings and parking areas.

(3) The planting strip shall be landscaped and planted with permanent plantings of shrubs, bushes and/or trees, and may include landforms such as berms.

(G) **Town Common**. To create the Town Common as specified in the Town Plan for the new Town Center area:

(1) Where applicable, approximately one-third of the total landscaping required shall be devoted to street trees and other shrubs and plantings in the planned Town Common. In cases where it is not practicable to landscape small parts of the Town Common individually, the Planning Commission may approve a contribution of up to one percent (1%) of the total construction cost to a fund dedicated to the development of the Town Common in lieu of landscaping required under this paragraph.

(G) **Lighting.** A lighting plan for site plan review shall be submitted, including a point by point photometric plan and grid spacing not to exceed ten feet (10') and cut sheets for all proposed light fixtures. The photometric plan shall depict the location, light source and type, and level of illumination of all proposed lights on the property, and any existing lights in the adjacent right-of-way or on adjacent properties that will contribute to light levels on the site. The plan shall describe the level of illumination, hours of illumination and need for illumination in relation to the effects of the lighting on adjacent streets and properties.

The Planning Commission may grant a waiver of the requirement for a lighting plan if it determines that the application has a negligible lighting impact on the adjacent right-of-way and surrounding properties. In no case may a waiver be granted for any property fronting on Susie Wilson Road between VT Route 15 and Kellogg Road, or in the HP-DC or B-DC zones. If a waiver of the requirement for submission of a lighting plan is granted, the applicant must nevertheless comply with all other provisions of this section.

The Planning Commission may at its discretion invoke technical review of a lighting plan in accordance with Section 5.6 to determine conformance with these standards.

The lighting plan and photometric plan shall demonstrate that light trespass from the site, measured five feet (5') beyond the property line, shall not as a result of the proposed site lighting, be increased by more than:

(1) One-tenth (0.1) foot-candle on any property in residential use or in a residential zoning distinct, and
(2) Two-tenths (0.2) foot-candles on any property in non-residential use or in a non-residential zoning district

All exterior lighting, including building mounted fixtures, freestanding light fixtures, and street lighting shall be designed and installed in accordance with the following criteria:

(1) The objective of the lighting plan shall be to provide site lighting and lighting levels that are appropriate for the anticipated activities on the site and the property's surrounding context, and that maximize the efficiency of site lighting and energy demand, while minimizing up-light glare, and unnecessary spillover light or light diffusion onto adjacent properties.

(2) In conjunction with the review and approval of a lighting plan pursuant to this section, the Planning Commission shall have the authority to allow the siting of light fixtures and poles within required setbacks where the Commission finds that such a location is consistent with optimization of the site's overall lighting.

(3) The objective of the site lighting plan shall be to achieve a uniformity ratio (average to minimum ratio) of five (5) to one (1) with no single data point exceeding seven (7) foot-candles as indicated by the photometric analysis.

(4) All fixtures shall be full cut-off fixtures, and all light sources and reflector/refractor surfaces shall be concealed from view, except if waived by the Planning Commission.

(5) In reviewing a site plan and lighting plan, the Planning Commission shall take into account the existing and proposed lighting levels of an adjacent public right-of-way. In the event that the Planning Commission determines that a degree of light trespass for site lighting into the public right-of-way is advisable, the Planning Commission may, at its discretion, waive the provisions of Section (2), (3) or (4) above upon a specific finding that such a waiver is consistent with the provision of safe and adequate lighting in the public right-of-way.

(6) Exterior light sources should be selected to minimize adverse color rendering of surrounding landscaping.

(7) Parking lot lights mounted on poles shall not ordinarily exceed twenty-two feet (22') in height, or fifteen feet (15') in height if located adjacent to residential districts. Not withstanding this limitation, in conjunction with the review and approval of a lighting plan pursuant to this section, the Planning Commission shall have the authority to allow freestanding light fixtures with a maximum height of up to thirty feet (30') above finished grade. Such height shall include the total height of bases, poles and fixtures measured from finished grad to the highest point of the structure. In granting such an approval, the Planning Commission shall make a finding that the height of the proposed fixtures contributes to the overall quality of the lighting plan by promoting even lighting levels at grade, reducing the total number of required light fixtures and poles on the site, or minimizing light trespass on adjacent properties.

(a) The Planning Commission may allow an increase in mounting height up to a maximum of thirty feet (30') if it finds that the additional height is necessary for energy conservation, or to ensure that parking lot lighting is adequate for safe use of a particular site, and adjoining properties are not adversely affected.

(8) To the extent practicable, exterior lighting shall be consistent with any site lighting guidelines that the Planning Commission may adopt.

(H) **Utilities and Services**. The Planning Commission shall consider, and may impose conditions, with regard to the following utilities, facilities and services:

(1) Water and Sewage Disposal − The adequacy of provisions for potable water supply and waste disposal, in accordance with Section 3.13. If municipal services will be relied upon, then the availability of sufficient capacity will need to be demonstrated. Improvements to these systems related to the impact of the development may be required.

(2) Stormwater Management − The adequacy of the proposed storm water drainage system and its regular maintenance. All systems shall be designed to meet the

requirements of the Town's Stormwater Management Ordinance. Any proposed drainage system shall direct storm water to the nearest existing natural watercourse. Easements to the Town along any natural or manmade elements of the drainage system shall be provided if requested by the Town Engineer. All calculations for the drainage system and the amount of storm water runoff to be generated shall be based on the twenty-five (25) year storm event or as required by the Town Engineer. Proposed systems shall also include detailed information explaining how the system will be maintained regularly over the long-term and who shall be responsible for said maintenance. Such information shall include proposed deed language for inclusion in the Town Land Records. In the event the town maintains a duly adopted storm water management plan, information shall be provided indicating how the proposed development conforms to that plan.

(3) Utilities − All utilities shall be underground except where the Planning Commission, upon recommendation of the Town Engineer, determines that ledge, underground water or other conditions make underground installation infeasible. Underground siting of distribution transformers is preferred. If above grade, distribution transformers shall be provided with adequate safety covers, and shall be landscaped and sited in unobtrusive locations.

(I) **Fire Protection.** Adequate provision for fire protection shall be made in the site layout insofar as it may directly interrelate with the above aspects of site plan review.

5.7 **Conditional Use Review**: Conditional use review is intended to ensure compliance with standards addressing the potential impacts of development. Typically, land uses are subject to conditional use review because their scale, intensity and potential for off-site impacts warrant more careful scrutiny by the Board of Adjustment. Standards and conditions relate to the identification, avoidance and mitigation of potential impacts. In reviewing applications for conditional use approval, the Board of Adjustment shall consider and may impose conditions and safeguards only with respect to criteria specified below.

(A) **General Standards**. The Board of Adjustment, after public notice and public hearing, may grant conditional use approval only upon finding that the proposed development shall not result in an undue adverse effect on any of the following:

(1) Capacity of existing or planned community facilities − The Board shall consider the demand for community services and facilities resulting from the proposed development in relation to the available capacity of affected services and facilities, the Town's adopted capital improvement plan, official map and any impact fee ordinance in effect. Conditions, including project phasing or improvements necessary to accommodate the proposed development, may be imposed as necessary to ensure that the demand for facilities or services does not exceed existing or planned capacity.

(2) Character of the area affected − The Board shall consider the location, scale, type, density and intensity of the proposed development in relation to the character of the area likely to be affected, as defined by the purpose(s) of the

zoning district(s) within which the project is located, and specifically stated polices and standards of the municipal plan.

(3) Traffic on roads and highways in the vicinity – The Board shall consider the projected impact of traffic resulting from the proposed development on the existing and planned capacity, safety, efficiency and use(s) of affected roads, bridges and intersections. A traffic impact study may be required. The Board will rely on generally accepted transportation standards and the Town's adopted road and public works standards in evaluating traffic impacts, and shall not approve a project that will result in the creation of unsafe conditions for motorist, pedestrians, or cyclists, or unacceptable levels of service for local streets, highways and intersections. The Board may impose conditions as necessary to avoid or mitigate undue adverse effects resulting from the proposed development, including improvements to the street network and/or traffic management strategies and control devices.

(4) Bylaws and ordinances in effect − The Board shall consider whether the proposed development complies with all municipal bylaws and ordinances in effect at the time of application, including other applicable provisions of these Regulations. No development shall be approved in violation of existing municipal bylaws and ordinances.

(5) Utilization of renewable energy resources − The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including the existing and future availability of and access to such resources, on adjoining properties.

(B) **Specific Standards**. In addition the preceding general standards, the Board shall also consider, and may impose conditions as necessary with regard to:

(1) Conformance with the Town Plan − Applications for conditional use approval shall conform to specific, applicable policies and objectives of the Town Plan of record.

(2) Site plan review criteria − The Board of Adjustment may apply any applicable site plan review criteria under Section 5.6 in its review of conditional use applications that do not require site plan review and approval as it deems necessary to fully evaluate a proposed conditional use under the criteria of this section.

(3) Conformance with community character − The Board of Adjustment may consider whether the development has an undue adverse effect on the character of the community as specifically expressed in the policies and objectives of the Essex Town Plan.

5.8 Flood Hazard Area Review: Conditional use review by the Board of Adjustment under Section 5.7 and the provisions of this section, is required for all development within the Floodplain Overlay (C2) District as specified in Table 2.19, in accordance with the Act [§

4424] and state and federal requirements for community participation in the National Flood Insurance Program. For the purposes of this section, development shall be defined as any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(A) **Purpose.** The purposes of this section are:

(1) To protect human life and health, and to minimize public and private financial losses due to flooding;
(2) To conserve drainage courses and permit only that development which will not impede or divert floodwaters, or otherwise increase flood hazards, to the detriment of others;
(3) To help minimize public expenditures for flood control projects, and rescue and relief efforts;
(4) To encourage maintenance of flood hazard areas in open-space uses and/or as usable open space which will complement the use and development of adjacent areas; and
(5) To ensure continued community eligibility in the National Flood Insurance Program.

(B) **Designation of Flood Hazard Areas and Regulatory Flood Levels**.

(1) Areas of special flood hazard, under the Floodplain Overlay (C2) district, shall be identified from the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are also hereby incorporated by reference and declared to be part of these Regulations.

(2) Where available (i.e., in Zones A1-A30, AE and AH), base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP), in the Flood Insurance Study for the Town of Essex and accompanying maps, shall be used to administer and enforce these Regulations in areas of special flood hazard, as incorporated under the Flood Plain Overlay (C2) District. Where base flood elevations and floodway limits are not provided (i.e., Zone A), base flood elevations and floodway data provided by FEMA or available from state or federal agencies or other sources, shall be obtained and used to administer and enforce these regulations. Where base flood elevations and floodway limits are *not provided* (i.e., Zone A), base flood elevations and floodway data provided by FEMA or available from state or federal agencies or other sources, shall be obtained *by the applicant* and used by the *Town of Essex* to administer and enforce these regulations.

(C) **Warning and Disclaimer of Liability**. The provisions of this section do not imply that land outside the designated areas of flood hazard or land uses permitted within such areas will be free from flooding or flood damages. These provisions shall not create liability on the part of the municipality or any official or employee thereof for

any flood damages that result from reliance on these Regulations or any administrative decision lawfully made there under.

(D) **Applicability.** The flood hazard area overlaps other zoning districts established in these Regulations. In addition to meeting all requirements of the underlying zoning district and other specific provisions of these Regulations, development in the designated flood hazard area shall meet the requirements of this Section. Where other provisions of these Regulations differ or conflict with the requirements of this Section, the more restrictive shall apply.

(1) Allowed and prohibited uses within the Flood Plain Overlay (C2) District are specified in District Table 2.19.

(2) Nothing in this Section shall be deemed to prevent the following:

(a) Normal continuation and maintenance of a nonconforming structure.
(b) Any improvements solely required for the purpose of and necessary to comply with any environmental, safety, and health, or energy codes, laws or regulations, providing that reasonable efforts are taken to comply with the provisions of this Section if physically possible to do so.
(c) Any improvements solely required for maintaining the structural integrity and historic significance of a building or place which is listed on the National Register of Historic Places or on the State Inventory of Historic Places.

(E) **Application Requirements**. In addition to application requirements under Section 5.2 above:

(1) Any application under this section for-flood hazard area review shall include:

(a) The pre and post development grades and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current flood Insurance Rate Maps.
(b) A completed FEMA “Elevation Certificate” prepared by a registered surveyor, engineer, architect, or other official authorized by the state to certify building elevations.
(c) The lowest elevation of the lowest floor (including basement) for all existing and proposed buildings.
(d) A description of any proposed flood proofing or storage of materials and certification (“Floodproofing Certificate”) from a licensed professional engineer or architect that the flood proofed structure meets flood proofing criteria under this section.
(e) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
(f) A hydraulic analysis for any development located within a floodway.
(g) Such other information as may be required to determine compliance with this Section.

(h) A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and attached to the permit before work can begin.

(2) If deemed necessary for determining the suitability of a particular site for the proposed development, the Board of Adjustment may require the following information:

(a) 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.
(b) A profile showing the slope of the bottom of the channel or flow line of the stream.
(c) Specifications for building construction and materials in relation to proposed flood proofing.

(3) For applications filed for development within flood hazard areas, the Zoning Administrator shall immediately:

(a) Refer a copy of the application to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
(b) Notify affected adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section regarding any proposed alteration or relocation of a watercourse. Copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program.
(c) Notify the applicant that other state or federal permits may be required.

(F) **Board of Adjustment Review.** In reviewing an application for development within the Flood Plain Overlay (C2) District, the Board of Adjustment shall consider, in addition to the criteria and standards set forth in Section 5.7 above, the following:

(1) The danger to life and property due to flooding or erosion damage.
(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 those systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding.
(4) The susceptibility of the proposed development to flood damage and the effect of such damage on individual owners.

(5) The necessity to the project of a waterfront location.
(6) The availability to the applicant of alternative locations not subject to flooding.
(7) The safety of access by ordinary and emergency vehicles to the property in times of flood.
(8) The cost of providing governmental and public facilities during and after flooding.
(9) The evaluation of the Vermont Department of Environmental Conservation.

(G) **Development Standards − Floodways Areas.**

(1) Development or other such encroachments within the regulatory floodway is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

(2) In areas where no regulatory floodway has been designated by the National Flood Insurance Program, development shall not be permitted in the floodway unless a technical evaluation is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(3) Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

(H) **Development Standards − Floodway Fringe Areas (Outside Floodways).** As a condition of approval, the Board of Adjustment shall specifically require that all development proposals shall be located, designed and constructed to minimize flood damage, in accordance with the following standards:

(1) All development shall be designed to (a) minimize flood damage to the proposed development and to public facilities and utilities, and (b) provide adequate drainage to reduce exposure to flood hazards. All developments shall be reasonably safe from flooding.

(2) Structures shall (a) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (b) be constructed with materials resistant to flood damage, (c) be constructed by methods and practices that minimize flood damage, and (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

(4) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(5) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(6) New and replacement mobile homes or manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is one foot or more above the base flood elevation.

(7) The lowest floor, including basement, of all new buildings, except for accessory structures under Subsection (8), shall be one foot or more above the base flood elevation. This elevation requirement must be documented, in as-built conditions, with a FEMA Elevation Certificate and recorded as required in Section 5.8(K).

(8) Accessory buildings that represent a minimal investment may be built below the base flood elevation provided that the building (a) shall not be used for human habitation, (b) shall be designed to have low flood damage potential, (c) shall be constructed and placed on the building site so as to offer minimal resistance to the flow of floodwaters, (d) shall be firmly anchored to prevent flotation which may result in damage to other structures, and (e) shall have elevated or floodproofed service facilities such as electrical or heating equipment.

(9) Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of Subsection (7).

(10) Existing buildings to be substantially improved for nonresidential purposes shall either (a) meet the requirements of Subsection (7), or (b) be designed to be watertight two feet (2') above the base flood elevation with impermeable walls and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood proofed shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

(11) Recreational vehicles placed on sites with special flood hazard areas shall either: (a) be on the site for fewer than 180 consecutive days, (b) be fully licensed and ready for highway use, or (c) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Subsection (6) above.

(12) Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.

(13) Fully enclosed areas that are above grade, below the lowest floor, below base floor elevation and subject to flooding, shall:

(a) Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,

(b) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two (2) openings on two (2)walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(I) **Variances**. In addition to the general standards for issuing variances under Section 7.5(A), variance requests within the Flood Plain Overlay District must also meet with the requirements of Section 7.5(C), including the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

(J) **Permit Conditions.** Conditional use permits granted under this section shall state that the nonconforming structure "is located in a regulated flood hazard area, and may not be eligible for any flood insurance which may pertain to regulated flood hazard areas, and will be maintained at the risk of the owner." A copy of such permit shall be affixed to the copy of the deed of the concerned property on file in the Town Clerk's Office. In addition:

(1) Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(2) No Certificate of Occupancy shall be issued by the Zoning Administrator for any building or use of land under Section 7.3 unless until the building is completed and the land is developed or used in accordance with the conditions of approval, and all other necessary permits have been received from federal and state agencies for development in this district.

(3) Enforcement and Penalties

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

(b) If any appeals have been resolved, but the violation remains, the Zoning Administrator shall submit a declaration to the Administrate of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

(c) Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. § 4812.

(K) **Recording Requirements**. In addition to other permit recording requirements under Section 7.7(F), for development under this section, the Zoning Administrator shall maintain a record of:

(1) All permits issued for development in areas of special flood hazard;
(2) The elevation (consistent with the datum of the elevation on the NFIP maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings;
(3) The elevation (consistent with the datum of the elevation on the NFIP maps for the community) to which buildings have been floodproofed;
(4) All elevation and floodproofing certificates required under this section; and
(5) All variance actions, including justification for their issuance.

End of Article V
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ARTICLE VI: PLANNED UNIT DEVELOPMENT

6.0 Authorization and Purpose:

(A) **Authorization.** In accordance with the Act [§ 4417], Planned Unit Developments (PUDs) are allowed in various zoning districts as authorized in Article II of these Regulations, if they meet the requirements of this article.

(B) **Purpose.** PUDs shall be allowed in order to fulfill the purpose of these Regulations as set forth in Article I, and to meet the purposes, goals and objectives set forth in the Essex Town Plan − specifically those goals and objectives relating to land use, clustering of development, affordable housing, and protection of agricultural soils and natural features.

6.1 PUD Categories: The following categories of PUDs may be approved in any of the various zoning districts, as authorized in Article II. Each category may have unique purposes and requirements, as set forth below in this article. The categories are:

(A) Planned Unit Development – Industrial (PUD-I)
(B) Planned Unit Development – Commercial (PUD-C)
(C) Planned Unit Development – Mixed Use (PUD-MU)
(D) Planned Unit Development – Residential (PUD-R)

6.2 Applicability: Planned Unit Developments may involve single or multiple properties, one owner or multiple owners, and properties in condominium ownership as defined in Section 8.1, and may be limited to project sites that have a minimum area as set forth below.

6.3 Application Requirements and Review Procedures:

(A) **Review Procedures**. In accordance with the Act [4417(c)]:

(1) Planned unit developments that involve the subdivision of land as defined in Section 8.1, including the creation of "footprint lots" for subdivisions in condominium ownership, shall be reviewed by the Planning Commission as major subdivisions under the Town of Essex Subdivision Regulations, and all applicable requirements of this article.

(2) Planned unit developments that do not involve the subdivision of land shall be subject to conditional use review by the Board of Adjustment under Section 5.7, site plan review by the Planning Commission under Section 5.6 and all applicable requirements of this article.

(3) An applicant for PUD approval may also request simultaneous approval of a "Master Site Plan" in accordance with the provisions of Subsection 6.9 below. No subsequent site plan approval by the Planning Commission is required for the development of individual lots in a PUD that has received master site plan approval; however administrative review is required.

(B) **Coordination of Review**.

(1) In the event that conditional use and site plan review are required for subdivided lots within a PUD (including flood hazard area review under Section 5.8), in order to expedite the permitting process, site plan and conditional use review may be conducted concurrently with the process for final subdivision approval under the Town of Essex Subdivision Regulations, as long as the notice, hearing and decision requirements for each review process are met. To the extent practicable, associated decisions shall be issued simultaneously, to allow for consolidated appeals under Section 7.4 (Appeals).

(2) If no subdivision review is required, conditional use review by the Board of Adjustment may precede or be conducted concurrently with site plan review by the Planning Commission

(C) **Application Requirements.** In addition to other subdivision or development review application requirements, including the information required in associated checklists, applications submitted by a developer for PUD approval, shall include a site plan and/or other plans which clearly show the location, height and space of buildings, open spaces, landscaping, streets, driveways, off – street parking, outside storage areas, and all other physical features of the area, accompanied by a statement setting forth the nature of all proposed modifications, changes or supplementations of existing zoning regulations. In addition:

(1) Building elevations are also required. PUD-R applications must include elevations only for multifamily structures.

(2) If the approval requested is only for the creation of lots, the information regarding proposed buildings may be omitted, but subsequent site plan and/or conditional use approval shall be required prior to development of individual, subdivided lots.

6.4 General Standards (Applicable to All Planned Unit Developments):

(A) **Conformance**. The PUD shall conform to the Essex Town Plan, and shall meet all other applicable provisions of these Regulations except where waived or modified by the Planning Commission under subdivision or site plan review, in accordance with this article.

(B) **Uses**. The use of the land shall not differ substantially from the uses allowed in the district in which the proposed PUD is located. Uses shall be consistent with the purposes and provisions set forth in Article II of these Regulations. Conditional uses, if proposed, shall be subject to review and approval by the Zoning Board of Adjustment in accordance with Section 5.7 of these Regulations.

(C) **Purposes**. The PUD shall be consistent with the purposes of the district in which it is located and Section 6.0.

(D) **Multiple Buildings**. It may not be necessary for PUDs to provide separate lots for individual buildings. The Planning Commission may approve multiple buildings on a single lot if it determines that doing so achieves the purposes of this Section.

(E) **Density Calculations**. All public and private roads shall be subtracted from the total lot acreage prior to establishing density. In addition, areas of land that occur in any of the following categories shall be subtracted from the lot acreage prior to establishing density: floodplains, floodways (C2 District), wetlands, and lands with slopes in excess of twenty percent (20%). In the absence of topographic data for the site, the applicant shall use the NRCS soil survey to determine slope limitations. If using the soil survey, mapping units with ratings of "severe" or "very limited" due to slope for the specific uses proposed will be considered undevelopable.

(F) **Density**. The Planning Commission may allow greater concentration or density of land use within developable portions of the PUD, if it determines that the shift is necessary to enable innovation in design and layout and more efficient use of land.

(1) In granting approval of a greater concentration or density or intensity of use on developable portions of the PUD, the Planning Commission shall require that it be offset by a lesser concentration in other areas, or that an amount of land at least equal to that needed to support the shifted density under normal density requirements be set aside as common or open space and secured be a grant, easement or covenant to the municipality.

(G) **Roads**. The following roads may be required as public roads dedicated to the Town as necessary and appropriate to implement and advance specifically stated policies of the Essex Town Plan, in accordance with Section 7.7(E)(3):

(1) The principal entry to the planned unit development.

(2) Roads servicing or planned to service adjacent properties.

(3) Internal roads which will carry daily traffic in excess of 750 vehicles per day, based on current trip generation rates published by the Institute of Transportation Engineers, or which will serve twenty (20) or more dwelling units.

(4) Non-looped or cul-de-sac roads of 300 feet or more in length.

(5) Looped roads (roads having more than one connection to another road) of 750 feet or more in length.

(6) Other roads may be private, if approved by the Planning Commission.

(H) **Open Space**. Open spaces shall include lands identified on the Significant Features Reference Map, land determined to be undevelopable, and land intended for recreational uses.

(1) Any open spaces not included in individual lot dimensions will be retained and maintained by the developer or other organization established for that purpose, unless specifically requested by the Town of Essex.

(2) All PUDs shall meet the setback and buffer area requirements in Section 3.2 (Buffers) and 3.11 (Surface Waters and Wetlands Protection).

(I) **Covenants**. Protective covenants to insure orderly and controlled development of the Planned Unit Development shall be supplied by the developer to the satisfaction of the Planning Commission or Board of Adjustment.

(J) **Impact Fees**. Development within an approved PUD shall be subject to any impact fees that the Town may enact in accordance with state law (24 V.S.A., Chapter 131). However, if the PUD developer is required to provide land or construct facilities explicitly included in the calculation of the impact fees, the developer may apply for a credit against the impact fees in an amount equal to the cost of such construction.

(K) **Residential Density Bonuses**. Density bonuses may be granted at the Planning Commission's discretion in the R2, R3, RB, and CTR districts for developments that meet at least one of the criteria listed below. Density bonuses must be specifically requested in the application. The applicant shall provide sufficient information to justify a density bonus request. The Planning Commission may request additional information in order to make a determination. The request may be denied at the discretion of the Planning Commission.

Density bonuses may be granted by the Planning Commission only in PUDs. Notwithstanding the minimum lot size requirements set forth in this article for residential developments and PUDs, the Planning Commission may grant density bonuses not to exceed a total of twenty-five percent (25%) of the density normally allowed in the district. All units in any development that is granted a density bonus must meet the Energy Star standards as defined by Efficiency Vermont. Density bonuses for congregate housing shall not be granted in the R2, R3, RB or CTR districts. Density bonuses may be earned according to the following criteria:

(1) Construction of all of the residential units in a development to a minimum of LEED Certified – eligibity of a bonus of twenty-five percent (25%).

(2) An applicant may request a density bonus of twenty-five percent (25%) if they can demonstrate meeting one or a combination of any of the following conditions:

(a) Contribution to a municipal conservation fund in an amount that is at least fifty percent (50%) of the current assessed lot value;
(b) preservation and donation to a nonprofit organization of open space above and beyond that required by density calculations, and which is uniquely valuable to the non-profit or the Town, as determined by the Planning Commission;

(c) Construction of recreation facilities above and beyond those required to serve the project's residents and which are available to all Town residents. The construction amount must be at least fifty percent (50%) of the current assessed lot value, as verified by the Town Engineer and the Assessor and/or

(d) Construction of trails and bicycle paths as approved by the Planning Commission The construction amount must be at least fifty percent (50%) of the current assessed lot value, as verified by the Town Engineer and the Assessor.

(3) Provision of perpetually affordable housing units (must be specified in the deed) as defined in these Regulations, which are deeded to a land trust or other nonprofit organization which guarantees continued affordability. A minimum of twenty-five percent (25%) of the bonus units must be affordable housing units – eligibility for a bonus of twenty-five percent (25%).

(4) Other considerations which, in the Planning Commission's opinion, provide important community services or amenities, including the dedication of land for public purposes, eligibility for a bonus twenty-five percent (25%).

Density bonuses may be granted at the Planning Commission's discretion in the MXD, MXD-C and MXD-PUD (R2 sub-zone only) districts for developments that meet at least one of the criteria listed above. In addition, a density bonus may be granted for construction of congregate housing units as defined in these regulations. Density bonuses must be specifically requested in the application. The applicant shall provide sufficient information to justify a density bonus request. The Planning Commission may request additional information in order to make a determination. The request may be denied at the discretion of the Planning Commission.

Density bonuses may be granted by the Planning Commission only in PUDs. Notwithstanding the minimum lot size requirements set forth in this article for residential developments and PUDs, the Planning Commission may grant density bonuses not to exceed 400 percent of the density normally allowed in the district if the development consists exclusively of multi-family housing, as defined in these regulations. If a density bonus is granted, twenty-five percent (25%) of the total units must be perpetually affordable. This applies to market housing as well as congregate housing.

6.5 Planned Unit Development – Industrial (PUD-I): An industrial PUD (PUD-I) may be approved in the Industrial (I1) District. A PUD-I is an area of land, to be developed as a single entity for a variety of uses (primarily industrial), which may not satisfy all of the minimum lot and yard requirements of the Industrial District as specified elsewhere in these Regulations.

(A) The purposes of PUD-I provisions are to ensure orderly and efficient development of land designated for industrial uses, and to implement the relevant goals and objectives of the Essex Town Plan.

(B) The area of land to be developed for a PUD-I shall not be less than ten (10) acres.

(C) No individual lot shall be less than 30,000 square feet in size.

(D) Lot coverage shall not exceed seventy percent (70%).

6.6 Planned Unit Development – Commercial (PUD-C): Planned Unit Developments-Commercial (PUD-Cs) may be approved in the Retail Business (B1) District and those portions of the MXD-PUD District designated for nonresidential development (B1 "Subzones"). A PUD-C is an area of land, to be developed as a single entity for a variety of business uses (and congregate and one (1) - and two (2) -bedroom multiple family residential uses where authorized in Article II), the plan for which may not satisfy all of the minimum lot and yard requirements of the relevant zoning district.

(A) The purposes of the PUD-C provisions are to encourage the creation of compact commercial and mixed use development in areas designated for such uses, to encourage creative design, and to implement the relevant goals and objectives of the Town Plan.

(B) The area of land to be developed for a PUD-C shall not be less than three (3) acres.

6.7 Planned Unit Development – Mixed Use (PUD-MU): PUD-MUs may be approved in the Mixed Use Development (MXD) and Mixed Use Development – Commercial (MXD-C) Districts as authorized in Article II. A PUD-MU must be an area of land, to be developed as a single entity for a mixture of residential and non-residential uses; the plan for which may not satisfy all of the minimum lot and yard requirements of the MXD-C District as specified elsewhere in these Regulations.

(A) The purposes of the PUD-MU provisions are to encourage compact development and creative design of mixed use developments in accordance with the goals and objectives of the Town Plan.

(B) The area of land to be developed for a PUD-MU shall not be less than five (5) acres.

(C) Uses shall be those specified for the MXD and MXD-C Districts in Article II of these Regulations. The ratio of commercial floor area (square footage) to residential floor area (square footage) shall be as specified for the MXD-C District in Article II of these Regulations. If that ratio is satisfied, single use buildings may be approved.

(D) The maximum amount of building space to be allowed in a PUD-MU shall be established as follows:

(1) Residential – The maximum number of dwelling units shall be equal to the total developable land area computed per Subsection 6.4(E) above, divided by the minimum lot area per dwelling in Article II of these Regulations. Any density bonuses as may be authorized in Subsection 6.4(K), above may then be added to the maximum computed per this section. The dwellings may be clustered as appropriate to meet the design objectives of the district.

(2) Nonresidential – Other than the use mixture, floor and building area, and open space requirements set forth for the MXD-C District in Article II, and the need to provide required parking, there are no density requirements for nonresidential development.

(3) If a proposed PUD-MU includes a building or buildings that do not include residential uses, the land devoted to such building(s), associated parking and open space shall only be counted at two-thirds (2/3) value in computing the maximum residential dwelling units under subparagraph (1) above.

(4) Mixed use buildings on lots fronting on "Main Street" may be allowed a net density bonus of up to two (2) dwelling units per acre, providing that this falls within the overall density bonus limit of twenty-five percent (25%).

(E) Within a PUD-MU, the net residential density on any single parcel or block (whichever is smaller) shall not exceed ten (10) dwelling units per acre, except as may be allowed under Subsection (D)(4) above.

(F) As part of a PUD-MU, a phasing plan shall be developed and approved by the Planning Commission which shows the land areas, the gross residential floor area and the gross total floor area to be developed in each phase. The proportion of gross floor area devoted to residential uses in each phase shall approximate that for the entire project. Construction of any phase other than the first shall not commence until all previous phases are complete. This phasing plan shall be consistent with any master plan approval and/or preliminary residential phasing allocation granted to the development under Article III of the Town's Subdivision Regulations.

(G) Within a PUD-MU, the Planning Commission may approve a small number of uses that exceed the 10,000 square foot per floor limitation set forth for the MXD-C District in Article II, provided that the uses are allowed in the district, and that the proposed structure is designed to convey the visual image of small establishments, as set forth in *The Town Center Master Plan* (1991).

6.8 Planned Unit Development – Residential (PUD-R): In accordance with the Act [§ 4417], PUD-Rs may be allowed in zoning districts designated under Article II of these Regulations, if the project meets the requirements and intent of this article.

(A) The purposes of the PUD-R provision are to promote the creative and efficient use of land which respects the topography and other natural features, to encourage the preservation of open space, to provide for the efficient development of the site and use of public services and facilities, to minimize the visual impact of the development, to encourage creative design, appropriate variety and aesthetic development, and to provide greater housing opportunities.

(B) A PUD-R is a residential development in which the dwelling units in some portions of the development may have a density higher than normally allowed in the district, which provides open spaces for recreational purposes in sufficient area so that the average density of the entire development (including open space) does not exceed that

stated in these Zoning Regulations, and which demonstrates exceptional design in terms of respect for natural features of the site, innovative layout and efficient use of land.

(C) A PUD-R shall have a minimum of ten (10) acres and six (6) dwelling units.

(D) A PUD-R may consist of single-family dwellings, two-family dwellings and multifamily dwellings, provided that those uses are allowed in the district in which the development is to be located. The dwelling units may be owner or renter occupied. Any multifamily building in conjunction with a PUD-R will be exempt from conditional use review by the Board of Adjustment.

(E) In addition to application requirements under Section 6.3 above, plans submitted by a developer for approval as a PUD-R shall include:

(1) Elevations for multifamily structures only.

(2) A computation of the maximum number of dwelling units allowable in the proposed development, set forth as follows:

(a) Net developable area, computed in accordance with Subsection 6.4(E), above, divided by the smallest minimum lot size for the district in which the proposed development is located equals the maximum number of dwelling units allowed.

(b) It is the applicant's responsibility to demonstrate to the Planning Commission that this requirement is satisfied, and the Planning Commission must agree that all undevelopable land has been identified and that the amount of land devoted to roads and streets is reasonable.

(F) **Minimum Lot Size and Lot Area per Dwelling.** The Planning Commission may authorize a reduction of the minimum lot size and minimum lot area per dwelling normally required in the district in which the development is to be located, if the Planning Commission determines that the reduction is necessary to enable a creative and efficient use of the site and to provide for useful open space, that the design satisfies all purposes and intents of these Regulations, and that all relevant health standards are satisfied. However, the average allowed lot area per dwelling unit shall not be less than shown in the following table (Table 6.1). Average allowed lot area per dwelling unit shall be computed as the sum of the area of all lots proposed divided by the total number of dwellings proposed. Also see applicable PUD-R dimensional requirements in Article II.

Table 6.1 Minimum Residential Densities		
	Lot Area/Dwelling Unit	
District	District Standard (Min)	PUD-R Standard (Avg)
AR	3 Acres	1 Acre
R1	1 Acre	0.5 Acre
R2	20,000 SF 30,000 SF	10,000 SF 15,000 SF
C1	10 Acres	1 Acre

(G) **Front, Side, Rear Yard and Frontage Minimums** (see also Article II District Tables).

(1) **Front Yard.** The Planning Commission may approve the reduction of the minimum front yard setback to 20 feet where the plan presents a creative design.

(2) **Side Yard**. The minimum side yard setback shall be as follows:

(a) Single family and two-family dwellings − ten feet (10')
(b) Multifamily dwellings − thirty feet (30')
(c) In the R2, R3, and HP-DC Districts, the Planning Commission may allow one minimum side yard setback of a lot for a single family residence to be reduced to zero feet (0') if it determines that doing so will allow the implementation of an innovative and effective PUD-R design that is consistent with the purposes of this section. Access easements on adjoining properties may be required as necessary to allow for the maintenance and repair of structures located on lot lines.

(3) **Rear Yard**: The minimum rear yard setback shall be the same as specified for the district; it may not be reduced for a PUD-R.

(4) **Frontage**. The minimum frontage for single family dwellings shall be seventy-five feet (75') in the R2 District and 100 feet in the R1 and AR Districts.

(5) **Multifamily Townhouse Developments**. To provide for the development and sale of land under townhouse units as lots, the footprints of individual units may be approved as lots and the minimum frontage, setback and size provisions specifically waived by the Planning Commission as part of project approval. Said lots shall have no independent existence as a property interest apart from the unit with which they are initially conveyed and may not be conveyed separately there from. The lots under townhouse units that may have been damaged or destroyed may be sold only with a deed restriction limiting future use of the lot to the reconstruction of the units, the format and content of which shall be approved by the Town Attorney prior to conveyance.

(H) **Buffers**. Where multiple family dwellings are proposed in a location which is adjacent to existing single family dwellings, a buffer area of fifty feet (50') in width shall be provided along the peripheral boundary of the project. Said buffer shall be

planted with trees, evergreens or landforms as approved by the Planning Commission and said buffer may be required separate and apart from any setback requirements.

(I) **Mobile Home Parks**. Mobile home parks may be allowed as PUD-Rs in designated zoning districts, in accordance with the following standards:

(1) General Standards.

(a) The minimum size for a mobile home park shall be ten (10) acres.
(b) The number of individual mobile home sites shall not exceed the number of dwelling units allowed as computed under Subsection (E) above.
(c) There shall be buffer strips around the periphery of the mobile home park which shall be 100 feet in depth and shall be landscaped with existing or newly planted trees as approved by the Planning Commission.

(2) Specific Site Standards.

(a) The minimum size of each mobile home site shall be five thousand square feet (5,000 SF).
(b) The minimum lot frontage of each mobile home site shall be fifty feet (50').
(c) The placement of mobile homes on the sites shall reflect the following setback requirements:
(i) Minimum front yard setback from streets in the park shall be thirty feet (30').
(ii) Minimum side and rear yard setback shall be ten feet (10').

(3) Other Improvements.

(a) Individual tenants of the mobile home sites may construct attached enclosures to mobile homes or accessory structures without seeking an amendment to the PUD approval, provided that such enclosures or structures conform to all setbacks as set forth in Subsection 6.7(G), above and the following:
(i) Attached enclosures shall not exceed 100 percent of the floor area of the mobile home.
(ii) Construction of attached enclosures or accessory structures shall require a zoning permit under Section 7.2.

(b) There shall be provided in each mobile home park such other improvements as the Planning Commission may require, providing such requirements shall be in the interests of the residents of the park.

(J) **Open Space**. In addition to the requirements set forth in Subsection 6.4(H) of these Regulations, the following shall apply to all PUD-Rs:

(1) General Requirements:

(a) Open space shall be planned so that parcels set aside as open space are at least one (1) acre in area.
(b) Open spaces within the development must have a general flowing pattern so they are connected one with another. Exceptions may be made for intentionally "enclosed" open space areas (e.g., central greens, neighborhood parks).
(c) Land which is not reasonably adaptable for recreational purposes may be excluded from density considerations at the Planning Commission's discretion.
(d) Plans for development of recreational areas must be presented simultaneously with the presentation of all plans for the development.
(e) Open spaces must be located with respect to the dwellings in such a manner that no individual dwelling unit occupant will be unfairly deprived of equal use or benefit of the facilities.
(f) The open space must be an integral part of the design of the whole development and intended to achieve the open space protection goals set forth in the Town Plan, not simply a tract of land included in the plan to meet density requirements.
(g) Open spaces established to protect agricultural soils or features identified on the Significant Natural Features Reference Map shall be located, sized, and restricted to adequately protect the identified resources.

(2) **Management of Open Space.**

(a) Protective covenants specifying the restrictions and uses of open space, the ownership thereof and the manner of maintenance and control shall be submitted to the Planning Commission and approved prior to approval of the development. These covenants may include the provision that a representative of the Town shall be an ex-officio member of the body which manages the open space.
(b) The Selectboard may appoint a representative of the Town to be an ex-officio member of the body which manages the open space. This will serve to give continuity to the community for the handling and regulating of open space.
(c) The Planning Commission, when granting approval of a proposed PUD-R, shall determine when the development of the open space will be completed. If development is not required prior to the conveyance of lots, a satisfactory cash escrow or performance bond shall be posted with the Town to insure completion of the development of the open space within the time stipulated.
(d) In the event that the open space includes parts of the individual parcels, covenants must be placed in the deeds of those individual parcels, designating the portions of the parcel that are to be part of the open space and usable by all homeowners.

(K) **Justification.**

(1) The developer must clearly demonstrate that the PUD-R will be coordinated with proposed development of surrounding land and be compatible in use to surrounding land.

(2) The developer must submit a statement indicating the planned rate of development and an assessment of the impact of the development on the community and region. Such assessment should consider, among other things, schools, traffic, water, etc.

(L) **Flexibility.** The Planning Commission may apply a degree of flexibility and discretion in establishing additional requirements or conditions that ensure the development will be in harmony with the surrounding area. In permitting a PUD-R the Planning Commission or, where applicable, the Board of Adjustment, may impose conditions necessary to protect the best interest of the surrounding property, the neighborhood, or the municipality as a whole. These conditions may include the following:

(1) Preservation of light, air and view.
(2) Elimination of undue congestion.
(3) Designation of sites for recreational facilities.
(4) Designation of school sites.
(5) Provision of adequate internal traffic circulation.
(6) Provision of suitable landscaping and/or screening both internally and around the perimeter of the development.

6.9 Master Site Plan Approval: An applicant may request that a proposed PUD-I or PUD-C be reviewed by the Planning Commission for a Master Site Plan Approval in accordance with this section. Master Site Plan Approval establishes overall parameters for the subsequent development of individual lots within the PUD. Proposed development on an individual lot in a PUD having received a Master Site Plan Approval will not require additional site plan approval by the Planning Commission under Section 5.6, but will require administrative "Project Plan Approval" by the Administrative Officer to determine that it is consistent with the parameters of the Master Site Plan Approval.

(A) In addition to all applicable site plan approval requirements in this section, any Master Site Plan approval shall at minimum address the following overall parameters:

(1) Total sanitary sewage flow and allocation for the entire project;
(2) Total water flow requirements for the entire project;
(3) Total peak hour and total daily trip ends to be generated by the entire project;
(4) Total parking needs for the entire project;
(5) An overall landscaping plan for the entire project;
(6) An overall stormwater management plan for the entire project, and
(7) A general land use allocation indicating the types and amounts of activities to be expected on the various individual lots.

(B) In order to ensure that the development on individual lots is consistent with the total development, internal access, circulation, landscaping and organization envisioned in the overall plan for the development, the overall plan shall include general allocations of such quantities as sewer flow, water demand, parking and trip ends (and others as may be required by the Planning Commission) among the various individual lots.

(C) The comprehensive stormwater management plan, and associated plans for individual lots, shall meet the requirements of the Essex Stormwater Ordinance, and include a regular maintenance plan.

End of Article VI
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ARTICLE VII: ADMINISTRATION AND ENFORCEMENT

7.0 **Applicability**: Administration and enforcement of these Regulations are subject to all applicable provisions of the Act [24 V.S.A., Chapter 117] and the Essex Town Charter, now in effect or as hereafter amended.

7.1 **Permits and Approvals**: No land development, as defined under Section 8.1, shall be undertaken in the Town of Essex until all applicable municipal land use permits and approvals have been issued by the Town, as provided for in the Act [§ 4446] and these Regulations, unless the development is specifically exempted from these Regulations under Table 1.1 (Article 1). Required permits and approvals may include, but not be limited to, those listed in Table 7.1. The Zoning Administrator, and other staff of the Community Development Department as assigned by the Town Manager, will coordinate the development review process on behalf of the Town, refer applications to the appropriate board, commission or municipal officer, and assist applicants.

Table 7.1 Permits and Approvals

Type:	Required for:	Issued by:
Zoning Permit (Section 7.2)	All development regulated under these Zoning Regulations	Zoning Administrator
Site Plan Approval (Section 5.6)	All development except for single and two family dwellings and associated accessory structures and uses	Planning Commission
Conditional Use Approval (Section 5.7)	Conditional uses as listed by district, or as otherwise specified in these regulations	Board of Adjustment
Planned Unit Development Approval (Article VI)	All planned unit developments, as defined in these regulations, including planned residential developments	Planning Commission
Variance Approval (Section 7.5)	Requests, on appeal, for a variance from the requirements of these Regulations	Board of Adjustment
Certificate of Occupancy (Section 7.3)	The use or occupancy of land or a principal structure, or part thereof, for which a zoning permit has been issued.	Zoning Administrator

7.2 **Zoning Permits:** No land development subject to these Regulations, including initial site work, the establishment of a use, or the construction, relocation, enlargement or alteration of a structure (including interior renovations and repairs), may be commenced in the Town of Essex until a Zoning Permit for the development has been issued by the Zoning Administrator.

(A) **Applications.** The application for a zoning permit shall be submitted with required application fees to the Zoning Administrator on forms provided by the Town, to be accompanied by a site plan showing the dimensions of the lot and of all existing and proposed structures, setbacks, parking spaces, and other details as the Zoning Administrator may require for a clear understanding of the application. The intended use(s) of land and structures shall be clearly indicated.

(1) If the proposed development requires one or more approvals from the Planning Commission, Board of Adjustment or other municipal official prior to the issuance of a zoning permit, the application materials and fees required for each approval shall be submitted concurrently with the application for a zoning permit. The Zoning Administrator shall refer complete applications to the appropriate board, commission or other municipal official.

(2) The applicant shall provide additional copies of applications which require referral to a state agency, including all applications for development within the Floodplain (C2) District. The Zoning Administrator shall refer application materials to the appropriate state agency.

(B) **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 and fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the Planning Commission, Board of Adjustment, Selectboard and/or state for review in conformance with these Regulations. If the Zoning Administrator fails to act within this thirty-day period, the permit shall be deemed issued on the 31st day.

(2) No zoning permit shall be issued by the Zoning Administrator:

(a) For the development of a lot for which subdivision approval is required until subdivision approval has been issued under the *Official Subdivision Regulations of the Town of Essex Outside the Village of Essex Junction.*
(b) For any use or structure that requires approval of the Planning Commission, Board of Adjustment, Selectboard, or other municipal official until such approval has been issued. It is the applicant's responsibility to obtain all necessary permits and approvals.
(c) Until evidence is submitted that septic, sewage and water service will be provided in conformance with applicable state and municipal requirements.
(d) Until all required legal documents have been certified by the Town Attorney.
(e) For any development requiring state agency referral, until a response has been received from the state, or thirty (30) days have passed from the date of application referral, whichever comes first.

(3) If public notice has been issued by the Selectboard for their first hearing on a proposed amendment to these regulations, the Zoning Administrator shall issue a permit for development that is subject to the proposed amendment only in accordance with the Act [§ 4449(d)].

(4) In accordance with the Act [§ 4449(b)], all zoning permits shall include a statement of time in which appeals may be taken under Section 7.4.

(5) Within three (3) days of the date of issuance, the Zoning Administrator shall

deliver a copy of the permit to the Assessors, and post a copy of the permit at the Town Office. The permit shall be posted for 15 days from the date of issuance.

(C) **Display.** A zoning permit notice shall be posted by the applicant, on a form prescribed by the Town, on the front of the building or property in such a manner that it is visible from the nearest street line. The zoning permit notice shall remain posted until the appeal period has passed and during construction.

(D) **Effective Dates.**

(1) Pursuant to the Act [§ 4449], zoning permits are not effective until the time for appeal has passed or, in the event that a notice of appeal is properly filed, until the appeal has been decided by the Board of Adjustment or the Environmental Court. If an appeal is taken to the Environmental Court, the permit shall not take effect until the Environmental Court rules on whether to issue a stay, or until the expiration of fifteen (15) days, whichever comes first.

(2) Zoning Permits shall be issued for a period of twelve (12) months but, prior to the expiration date, may be extended by the Zoning Administrator for up to one year without fee if construction has commenced. No additional extensions shall be granted. If construction has not commenced, a new Zoning Permit must be issued and the fee paid in accordance with the regulations and fee schedules then in effect. If a new fee schedule is in effect upon renewal, an allowance will be made for fees previously paid.

7.3 Certificates of Occupancy: A certificate of occupancy issued by the Zoning Administrator is required prior to the use or occupancy of land, a principal structure, or part thereof, for which a zoning permit has been issued. This includes all changes in commercial or industrial uses. Certificates of Occupancy shall not be required for accessory buildings, additions or interior alterations, additions and renovations which do not create additional dwelling units, provided that such alterations, additions and renovations are consistent with all other requirements of these Regulations.

(A) Certificates of occupancy shall not be issued until evidence is provided to the Zoning Administrator that all septic, sewage, water, curb cut, highway access, public building, Act 250 and other necessary state and municipal permits have been complied with.

(B) The certificate of occupancy shall state that the proposed use, land, building, structure, or part thereof, are in complete conformity with the provisions of these Regulations and all associated conditions and stipulations of permit approval.

(C) Conditional certificates of occupancy may be issued for individual structures within a phased development, where an alteration does not require vacating the premises, or where parts of a building may be ready for occupancy before the entire structure is completed.

(D) Certificates of occupancy shall be issued as a right upon satisfaction of the requirements of these Regulations and associated conditions and stipulations of

approval. The Zoning Administrator shall promptly inspect and either grant or deny a certificate of occupancy within thirty (30) days of receipt of an application. A failure of the Zoning Administrator to act within this period shall constitute automatic approval on the 31st day. Denials shall be in writing, state all known reasons for the denial, and shall be mailed to the applicant by certified mail, return receipt requested. Any person using the property after a denial, in violation of these Regulations, shall be subject to notices and penalties under Section 7.6.

7.4 Appeals:

(A) **Administrative Acts.** Any interested person who has participated in the local proceeding, and as defined under the Act [§ 4465(b)] and Section 8.1, including the applicant, may appeal an act or statutory inaction of the Zoning Administrator or Administrative Officer to the Board of Adjustment in accordance with the Act [§§ 4465, 4466, 4468]. An application, including a notice of appeal and fee, is required.

(1) **Notice of Appeal.** The Notice of Appeal shall be filed with the Secretary of the Board of Adjustment, or Town Clerk if no Secretary has been elected, within fifteen (15) days of the date of the administrative act. A copy of the notice of appeal shall be filed with the Zoning Administrator. The Notice of Appeal shall include all of the following:

(a) The name and address of the appellant.
(b) A brief description of the property with respect to which the appeal is being taken.
(c) References to applicable provisions of these Regulations.
(d) The relief requested by the appellant, including any requests for variances from the provisions of these Regulations.
(e) The alleged grounds why such relief is believed proper under the circumstances.

(2) **Hearing.** The Board of Adjustment shall warn and conduct a public hearing within sixty (60) days of the date of the filing of a notice of appeal in accordance with Section 7.7(C). A copy of the hearing notice shall be mailed to the appellant at least fifteen (15) days prior to the hearing date.

(a) Pursuant to the Act (§ 4470), the Board may reject an appeal or request for reconsideration without hearing, and render a decision within ten (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 substantially or materially on the same facts by or on behalf of the appellant.
(b) All appeal hearings shall be open to the public and the rules of evidence applicable at the hearings shall be the same as the rules of evidence applicable in contested cases before administrative agencies [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.

(3) **Decision.** The decision shall be issued in writing, to include findings of fact, within forty-five (45) days of the date of hearing adjournment, in accordance with Section 7.7(E).

(B) **Board and Commission Decisions.** Any interested person as defined under the Act [§ 4465(b)] and Section 8.1 who has participated in a proceeding before the Board of Adjustment or Planning Commission may appeal a decision made by the Board or Commission to the Vermont Environmental Court in accordance with the Act [§ 4471].

(1) "Participation" for these purposes shall consist of having offered, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

(2) The notice of the appeal shall be filed by certified mailing to the Environmental Court, and by mailing a copy to the Essex Town Clerk, within thirty (30) days of the date of the issuance of a decision by the Planning Commission or Board of Adjustment, in conformance with Vermont Environmental Court Rules.

(a) The Town Clerk or Zoning Administrator, if so designated, shall supply a list of interested persons to the appellant within five (5) working days of receipt of the Notice of Appeal. The appellant is required to notify every interested person of the appeal by certified mail.

7.5 **Variances:** The Board of Adjustment may grant a variance from the provisions of these Regulations only in accordance with the Act [§ 4468].

(A) The Board shall grant a variance, and render a decision in favor of the appellant, only if finds that ***all*** of the following criteria are met, and the findings are specified in its written decision:

(1) There are unique physical circumstances or conditions, including irregular topography, 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 such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located.

(2) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) Unnecessary hardship has not been created by the applicant.

(4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially nor permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.

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

(B) **Renewable Energy Structures.** Where a variance is requested for a structure that is primarily a renewable energy resource structure that is not otherwise exempted from municipal regulation (e.g., solar panel or wind generator that is not connected to the power grid), the Board shall grant a variance, and render a decision in favor of the appellant, only if finds that ***all*** of the following criteria are met, and the findings are specified in its written decision:

(1) It is unusually difficult or unduly expensive for the appellant to build a suitable 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 nor permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.

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

(C) **Special Flood Hazard Areas.** In addition to criteria under Subsection (A) above, variances for development within the Floodplain Overlay (C2) District shall be granted by the Board of Adjustment only in accordance with the Act [§§ 4469 and 4424(E)] and the criteria for granting variances found in 44 CFR Section 60.6 of the National Flood Insurance Program regulations, to include findings that:

(1) The variance will not result in any increase in flood levels in the regulatory floodway.

(2) The variance will not result in increased flood heights, threats to the health, safety and welfare of the general public or other property owners, extraordinary public expense, nuisances, fraud or victimization of the public.

(3) 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.

(4) The variance, so granted, states that the resulting nonconforming structure is located in a regulated flood hazard area, does not conform to the regulations pertaining to that area, and will be maintained at the risk of the owner.

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

(D) **Conditions of Variance Approval.** In granting a request for a variance, the Board of Adjustment may attach such additional conditions and safeguards as it may deem necessary and appropriate under the circumstances to implement the purposes of this Section and these Regulations.

7.6 Violations and Enforcement: The commencement or continuation of any land development that is not in conformance with these Regulations shall constitute a violation. Each day that a violation continues shall be considered a separate offense. All violations shall be pursued in accordance with the Act [§§ 4451, 4452].

(A) The Zoning Administrator is authorized to institute or cause to be instituted, in the name of the Town of Essex, any and all actions, legal or equitable, which may be appropriate or necessary for the enforcement of these Regulations.

(B) No action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. The notice of violation shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within seven (7) days, and that the alleged offender will not be entitled to an additional warning notice. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation after the seven (7)-day notice period and within the succeeding twelve (12) months

(C) Any enforcement action 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 is instituted within fifteen (15) years of the date that the alleged violation first occurred. The burden of proof regarding the date that the alleged violation first occurred is on the person against whom the enforcement action is initiated.

(D) All fines imposed and collected for violations shall be paid over to the Town.

7.7 Municipal Administrative Requirements:

(A) **Appointments.** The following municipal appointments shall be made as required for the administration and enforcement of these Regulations, and as provided for in the Act and the Essex Town Charter:

(1) **Administrative Officer(s)**: The Town Manager may appoint the following Administrative Officer(s) as required for the administration and enforcement of these regulations. An Administrative Officer shall be a regular Town employee

subject to all rules and regulations applicable to Town employees, and may be discharged by the Town Manager for cause at any time.

(a) A Zoning Administrator shall be appointed for a term of three (3) years. It shall be the duty of the Zoning Administrator to literally administer and strictly enforce these Regulations, and to issue permits only for development that conforms to the provisions of these Regulations. The Zoning Administrator shall inspect development, maintain records, and perform other tasks as necessary for bylaw administration and enforcement, in accordance with the Act [§ 4448] and these Regulations.
(b) An Assistant Zoning Administrator also may be appointed, who shall have the same duties and responsibilities as the Zoning Administrator only in the Zoning Administrator's absence.
(c) For the purposes of administering these Regulations, the Town Manager may also appoint the Administrative Officer, or other staff as appropriate, to conduct administrative reviews as specified in these Regulations, in accordance with the Act [§ 4464(c)].

(2) **Planning Commission.** Each Planning Commissioner shall be appointed by the Selectboard for a term of four (4) years as previously determined by the Selectboard. At or near the end of their term, the member shall notify the Selectboard in writing of their intent for reappointment. All members shall serve without compensation. Members may be removed at any time any unanimous vote of the Selectboard. The Commission shall adopt rules of procedure and rules of ethics with regard to conflicts of interest to guide its official conduct. The Planning Commission shall have the authority under these Regulations to hear and act upon:

(a) Proposed amendments to these Regulations under Section 1.4.
(b) Applications for access to development that lacks road frontage under Section 3.1.
(c) Applications for site plan approval under Section 5.6.
(d) Applications for design review under established design control districts (Table 2.15 HP-DC District and Table 2.16 B-DC District).
(e) Applications for planned unit development under Article VI.

(3) **Board of Adjustment.** The Board of Adjustment shall be appointed by the Selectboard in accordance with the Act [§ 4460]. The Selectboard may also appoint alternates to serve in the absence of regular board members. All members shall be residents of the Town of Essex and shall serve without compensation. Members may be removed for cause by the Selectboard upon written charges and after a public hearing. The Board shall adopt rules of procedure and rules of ethics with regard to conflicts of interest to guide its official conduct. The Board of Adjustment shall have the authority under these Regulations to hear and act upon:

(a) Applications for conditional use approval under Section 5.7.
(b) Appeals of an act of the Zoning Administrator or Administrative Officer

under Section 7.4.

(c) Requests for variances under Sections 7.4 and 7.5.

(4) **Advisory Committees.** The Selectboard may appoint one or more advisory committees (Conservation, Trails, etc.) to advise the Planning Commission, Board of Adjustment, applicants and interested persons in the development review process, in accordance with the Act [§§ 4433, 4464(d)]. Advisory committees shall have the authority to:

(a) Review applications and prepare findings and recommendations on each of the review standards under these Regulations that are within the committee's purview for consideration by the Planning Commission or Board of Adjustment at public hearing.

(b) Meet with the applicant and interested parties, conduct site visits, and perform other fact-finding as needed to make recommendations.

(c) Inform applicants of any negative recommendations prior to the public hearing, and suggest remedies to correct identified deficiencies in applications.

(B) **Fee Schedule.** The Selectboard shall establish a schedule of fees to be charged in administering these Regulations, which may be amended from time to time. Fees shall be payable upon submission of an application, or prior to the issuance of a permit or certificate of occupancy, as established in the fee schedule. The Selectboard may also establish procedures and standards for requiring an applicant to pay for the review of any required legal documents by the Town Attorney, and reasonable costs of an independent technical review of an application.

(C) **Public Notice.** Public hearings shall be warned in accordance with the Act (§ 4464) and the requirements of these Regulations.

(1) Public notice for public hearings for conditional use applications and appeals (including variance requests), and final hearings for planned unit developments, shall be given not less than fifteen (15) days prior to the date of the public hearing by *all* of the following:

(a) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the town.

(b) Posting of the same information in three (3) or more public places within the municipality in conformance with the requirements of state statute [1 V.S.A., § 312(c)(2)], including the posting of a hearing notice within view of the public right-of-way nearest to the property for which the application is being made.

(c) 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.

(d) Written notification to the Secretary of the Agency of Transportation for any variance request regarding setbacks from a state highway.

(2) Public notice for other types of quasi-judicial public hearings under these Regulations, including site plan application hearings and sketch plan and preliminary planned unit development hearings, shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:

(a) Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality in conformance with the requirements of state statute [1 V.S.A., § 312(c)(2)].
(b) 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.
(c) Written notification to the Secretary of the Agency of Transportation for any modification or waiver of setbacks from a state highway.

(3) Applicants are required to bear the costs of public warning and notification, and to identify in writing all adjoining property owners for notice by the Town as determined from the current municipal grand list.

(4) In the case of a condominium or townhouse projects, all of the property owners within the project shall be notified as abutters.

(5) No defect in the form or substance of any required public notice under this section shall invalidate any action taken 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.

(6) Public hearings concerning proposed amendments to these regulations shall be noticed and warned in accordance with the Act [§§ 4441, 4444].

(D) **Meetings and Hearings.**

(1) **Planning Commission and Board of Adjustment**. Pursuant to the Act [§§ 4461−4464] and Vermont's Open Meeting Law, all meetings and hearings of the Planning Commission and Board of Adjustment, except for deliberative and executive sessions, shall be open to the public.

(a) If an application requires more than one type of review under these Regulations, reviews and associated hearings, to the extent feasible, shall be conducted concurrently.
(b) In any hearing under these Regulations there shall be an opportunity for

each person wishing to achieve status as an interested person, for purposes of participation or appeal under Section 7.4, to demonstrate that the criteria for achieving interested person status have been met. The Commission or Board shall keep a written record of the name, address, and participation of each of these persons.

(c) The Commission or Board may recess the proceedings on any application pending submission of additional information, and should close evidence promptly after all parties have submitted requested information.

(2) **Advisory Committees.** In accordance with the Act [§ 4464(d)], meetings of an Advisory Committee to review an application under these Regulations shall comply with Vermont's Open Meeting Law and the committee's adopted rules of procedure, but shall not be conducted as public hearings before a quasi-judicial body. Committee recommendations may be incorporated in staff reports, presented in writing before a Planning Commission or Board of Adjustment hearing, or may be presented orally at the public hearing.

(E) **Decisions.** Decisions of the Planning Commission and Board of Adjustment shall be issued within forty-five (45) days of the date of public hearing adjournment. Failure to issue a decision within the forty-five (45)-day period shall be deemed approval and shall be effective the 46th day.

(1) All decisions shall be issued in writing and include stated findings of fact, stated conclusions based on the findings, and a statement of the time within which appeals may be taken under Section 7.4(B). Meeting minutes may suffice provided they meet these requirements.

(2) In rendering a decision in favor of an applicant, the Commission or Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these Regulations, and the Essex Town Plan then in effect. This may include, as a condition of approval:

(a) A requirement that no certificate of occupancy be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

(b) A requirement for the submission of a three (3)-year performance bond, escrow account, or other form or surety acceptable to the Essex Selectboard, which may be extended for an additional three (3)-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.

(c) A requirement for the execution of a development agreement acceptable to the Essex Selectboard that governs the timing, financing, and coordination of private and public facilities and improvements in accordance with the terms and conditions of approval, provided that the agreement complies with all applicable municipal bylaws and ordinances then in effect.

(3) Any permit condition that requires a property owner or applicant to dedicate land

or easements to the Town, or another public entity, shall be justified in the findings of fact that:

(a) The required dedication advances a stated public interest, as set forth in the Essex Town Plan, and
(b) The required dedication is reasonably related in both nature and extent to the impact of the proposed development.

(4) All decisions shall be sent by certified mail, within the required forty-five (45)-day period, to the applicant or to 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 Town Clerk as part of the public record of the municipality, in accordance with Subsection (F).

(5) Pursuant to the Act [§ 4464(c)], any decision issued by the Planning Commission or Board of Adjustment may authorize that subsequent changes or amendments to an approved project may be allowed subject to administrative review by the Zoning Administrator or Administrative Officer in accordance with these Regulations and the following, which shall be specified in the decision:

(a) The decision shall clearly specify the type of administrative review applicable, and the thresholds and conditions under which administrative review and approval shall be allowed.
(b) The thresholds and conditions shall be structured such that no new development shall be approved which results in a substantial impact under any of the requirements of these Regulations.
(c) No amendment issued under administrative review shall have the effect of substantially altering the findings of fact of any Commission or Board approval in effect.
(d) Any decision issued under administrative review may be appealed to the Board of Adjustment in accordance with Section 7.4.

(F) **Recording Requirements**.

(1) Within thirty (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 municipal land use permit or notice of violation to the Town Clerk for recording in the land records of the Town generally as provided in 24 V.S.A. § 1154(c), and file a copy in the Town 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.

(2) For development within the Floodplain District, the Zoning Administrator shall also maintain a record of all permits, elevation certificates, elevations, floodproofing certifications and variance actions issued for development within the district.

(G) **Availability and Distribution of Documents**. Copies of these Regulations, other related municipal regulations and ordinances, and the Essex Town Plan shall be made available to the public during normal business hours in the Town Clerk's Office, in accordance with the Act [§ 4445].

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ARTICLE VIII: DEFINITIONS

8.0 Terms and Usage:

(A) Unless otherwise defined herein, definitions of words and terms used in the Act [§ 4303] and in the Town of Essex Subdivision Regulations shall apply. All other words shall carry their customary meanings.

(B) For the purposes of these Regulations, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words used in the plural number include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

8.1 Definitions:

Abut: Refer to Adjacent Lot/Land.

Accepted Agricultural Practices (AAPs): Accepted practices for agriculture, including farm structures other than dwellings, as currently defined by the Secretary of the Vermont Agency of Agriculture, Food and Markets (see exemptions under Table 1.1). See also Agriculture, Farm Structure.

Accepted Management Practices (AMPs): Accepted practices for silviculture (forestry) as currently defined by the Commissioner of the Vermont Department or Forests, Parks and Recreation (see exemptions under Table 1.1). See also Forestry.

Accessory Dwelling Unit: 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 (see Section 4.1). See also Caretaker Apartment.

Accessory Use: A use customarily incidental and subordinate to the principal use and located on the same lot as the principal use.

Accessory Structure: A structure on the same lot with, and of a nature customarily incidental and subordinate to the principal structure, such as a garage, patio, tool shed, carport, satellite dish antenna, etc. Structures attached to the principal structure shall be considered as part of the principal structure. A structure used for dwelling purposes shall not be considered an accessory structure.

Act, the: The Vermont Planning and Development Act [24, V.S.A. Chapter 117]

Adjacent Lot/Land: A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land or is separated by a highway, street, right-of-way, railroad, river, stream or dedicated public easement. The terms adjoining and abut shall carry the same meaning as adjacent.

Adjoining: Refer to Adjacent Lot/Land.

Administrative Officer: For the purpose of these Regulations, the Administrative Officer shall include the Zoning Administrator and Administrative Officer appointed by the Town Manager.

Affordable Housing: A housing development in which at least twenty percent (20%) of the units, or a minimum of five (5) units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of fifteen (15) years.

Affordable Housing Development: A housing development in which at least twenty percent (20%) of the units, or a minimum of five (5) units, whichever is greater, are affordable housing units.

Agriculture: As defined by the Vermont Secretary of Agriculture, Food and Markets to include the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; the raising, feeding or management of livestock, poultry, equines, fish or bees; the operation of greenhouses; the production of maple sap; the on-site storage, preparation and sale of agricultural products principally produced on the farm; and the on-site production of fuel or power from agricultural products or wastes produced on the farm. The term shall include commercial greenhouses and riding stables, but specifically excludes the slaughtering of animals or poultry for commercial purposes.

Alteration: A change or rearrangement to a structure or building which involves a change of the structural parts of the building or its entry or exit facilities, an enlargement of the building (either by extending on one or more sides or by increasing the height), or the moving of the building from one location to another.

Apartment: Any dwelling unit which is located in a structure which contains two or more dwelling units.

Applicant: Any person, firm, corporation, partnership, association, or their authorized agent, who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein.

Area of Special Flood Hazard: The land in the flood plain within the community subject to a one percent (1%) or greater chance of flooding in a given year. The area includes all "A" zone designations on the Flood Insurance Rate Maps (FIRM). It does not include the "B" and "C" zones.

Automobile Sales and Rental Establishment: Any lot or area of land, including the building or buildings thereon, which is used primarily for the sale or rental of motor vehicles, and including any ancillary service, repair or office facilities associated with the sale or rental of motor vehicles.

Automobile 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 facilities for lubricating, washing, servicing or repairing motor vehicles by any means, but not including major body repairs.

Automobile Service Station, Existing: An automobile service station, not located in any of the

B1, B3 or MXD Districts, which was in existence as of February 7, 1972, and has been in operation continuously since that time.

Automotive Repair Shop: Any lot or area of land, including the building or buildings thereon, which is used for the purpose of making major or minor repairs for hire to motor vehicles, including painting, body work, and the sale of automotive parts, and provided that all motor vehicles located on the premises are for repair or rebuilding and not for salvage.

Bank: An establishment which provides and/or administers the receipt or lending of money, either via walk-in tellers and offices, drive-through tellers or automated tellers. A bank shall include office space associated with banking activities if located in the same building as the tellers or offices used for receipt or lending of money.

Barns Used as Commercial Storage Establishments: An existing barn used for the storage of goods and/or materials in accordance with Section 4.3 of these Regulations.

Base Flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

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

Bed and Breakfast: Any establishment, including a tourist home, operated on a commercial or profit basis, where sleeping accommodations of no more than four bedrooms for hire are provided and where meals are provided incidental to the provision of accommodations.

Bedroom: A private room with a closet(s) planned and intended for sleeping, physically separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

Board, Board of Adjustment: The Board of Adjustment established by these Regulations, in accordance with the Act [24 V.S.A. Chapter 117] as amended.

Buffer: Unless otherwise defined elsewhere in these Regulations, the required minimum distance from the front, side or rear boundary lines inward toward the center of a property for the purpose of separating two or more abutting properties, inside of which buildings shall not be located. Subject to the appropriate approving board's discretion, a buffer may contain a variety of appearances. A buffer measured from a property line or right-of-way may include, or extend beyond, a required setback (yard) area; where a required buffer distance exceeds the required setback distance, the buffer distance shall define the setback distance. See also Setback.

Buffer, Riparian, Shoreland, Wetland: The width of land measured horizontally from the mean water level for lakes, from the top of bank or top of slope for streams, and from delineated wetland boundaries, to the edge of other land uses. Buffers that protect surface waters and

wetlands are typically undisturbed areas, consisting of trees, shrubs, groundcover plants, duff layers, and naturally vegetated, uneven ground surface. See also Setback.

Building: Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, vehicles, machinery or materials, including shipping or storage containers, and trailers or other roofed structures on wheels. For the purpose of this definition "roof" shall not include an awning or other similar covering, whether or not permanent in nature. For purposes of flood hazard area regulation only, this definition also includes gas or liquid storage tanks that are principally above ground.

Building Coverage: The portion of the area of a lot (measured in square feet) which is covered by buildings and/or accessory structures.

Building Envelope: A three-dimensional volume within which all structures must be contained. A building envelope shall be defined by building lines on the ground and one or more maximum height limitations. Where building envelopes are prescribed for a site, all buildings on that site must be entirely contained within the prescribed envelope.

Building Footprint: A horizontal projection, on the ground, of the outer-most perimeter of a building, including all projections, overhangs, chimneys, porches, stoops, etc.

Bylaws: The duly adopted Zoning Regulations, Subdivision Regulations, and Official Map of the Town of Essex.

Camp: Land on which is located one or more noncommercial cabins, trailers, shelters, or other accommodations suitable for seasons or temporary living purposes, excluding mobile homes.

Campground: An area or place of business providing accommodations for tents, recreation or camping vehicles on a commercial basis, including travel trailer parks and the like.

Car Wash: A site with a building designed to allow washing of automobiles and trucks through automated or manual equipment.

Caretaker Apartment: A dwelling unit that is accessory to the principal use of a property that is intended as living or sleeping quarters for occupancy only by persons employed to take care of the property.

Cemetery: Land used for the burial of the dead, and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of a cemetery. Cemetery shall also include land used for and dedicated to the burial of animals.

Church: A building or structure, together with any accessory structures, used for the regular assembly for religious worship, and which is maintained and controlled by a religious body organized to sustain such worship.

Civic Organization: A general membership, social or fraternal organization, not organized for profit and operated to promote social welfare through benefit to the community.

Clinic: A facility for human ailments operated by a group of physicians, dentists, or other licensed practitioners for the treatment and examination of out – patients who have their offices in a common building. A clinic may include laboratory facilities in conjunction with normal services, but shall not include in – patient care.

Commission, Planning Commission: The Planning Commission of the Town of Essex appointed in accordance with the provisions of 24 V.S.A. Chapter 117, as amended.

Administrative Officer: The director of the Community Development Department as appointed by the Town Manager. See also Administrative Officer.

Condominium Ownership: A form of ownership of real property, applicable to structures containing one or more units, consistent with 27 V.S.A. §1301, in which individual owners have title to individual dwelling units to the center lines of boundary walls and/or the land under buildings (e.g., "footprint lots"), and where a condominium association consisting of all dwelling owners holds title to the balance of all buildings, land and other facilities for the common use of all owners. Condominium ownership may also apply to nonresidential properties.

Congregate Housing: Elderly or senior housing as regulated under Section 4.4, consistent with state and federal fair housing laws. This definition does not include other types of residential care facilities (see Residential Care Facility).

Contiguous: Land abutting other land which is not separated by streets.

Contractor's Yard: A lot or parcel, or portion thereof, used by a contractor for storage of material, equipment and vehicles used as part of the contractor's business.

Convenience Store: A retail store selling groceries and sundry necessary items, designed primarily to serve the immediate neighborhood. Such store may include the selling of gasoline, oil, and related products.

Convenience Store, Existing: A convenience store which was in existence as of February 7, 1972, and has been in operation continuously since that time.

Correctional Facilities: A state owned or contracted facility for the confinement of people who are awaiting trial or who have been convicted of a crime. Also includes jails, penitentiaries, reformatories, or any state or federally owned facility which provides living quarters under secure conditions.

Creative Design: An imaginative plan or conception that preserves or promotes the visual quality or maintains the integrity of the surrounding area, of a land development idea to be carried into effect subject to approval by the Planning Commission and/or Board of Adjustment, as applicable.

Cultural Facilities: Establishments such as libraries, museums, art galleries, interpretive centers, botanical or zoological gardens, etc. which are of historic, educational or cultural interest, and which are not operated for profit.

Day Care Facility: Any place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care and supervision of more than ten (10) children (the ten (10) children include six (6) full-time pre-school and four (4) part-time school age children) under sixteen (16) years of age outside their homes for periods of less than twenty-four (24) hours a day by a person other than the child's own parent, guardian or relative.

Day Care Home: A State registered or licensed day care facility which provides for care on a regular basis, in the caregiver's own single family residence, for not more than six (6) children "full time pre-school and four (4) part time school age children" as per the State of Vermont Day Care Registration regulations at any one time, not including children who reside in the residence of the caregiver. No more than twelve (12) children including the caregiver's and staff's own children are allowed in a day care home. Notwithstanding the above, any day care facility defined by 24 V.S.A. § 4412(5), as it may be amended in the future, shall be defined as a "Day Care Home" for the purposes of these Regulations.

Dedication: An intentional donation of land or an easement for public use that is accepted by the Town of Essex or other proper public authority.

Density Bonus: An increase in the number of dwelling units authorized for a particular parcel of land beyond the otherwise maximum allowable residential density allowed by these Regulations.

Development: The division of a parcel into two (2) 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, or land, or extension of use of land. For purposes of these regulations, subdivisions of land shall be regulated only under the Town's Subdivision Regulations, except within a planned unit development.

Development, in the Flood Hazard Area: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Dust: Any light particulate emission, created, generated or dispersed by any activity, which can cause any damage to health to humans or animals, vegetation or other forms of property, or which can accumulate or cause any excessive soiling at any point on the property of others.

Dwelling: Any structure designed or used as the living quarters for one (1) or more families.

Dwelling, Accessory: See Accessory Dwelling Unit.

Dwelling, Single-Family: A building, or portion thereof, used or designed to be used as a residence for one (1) family.

Dwelling, Two-Family: A building, or portion thereof, used or designed to be used as a residence for two (2) families, with each occupying a dwelling unit separate and independent of

the other.

Dwelling, Multiple Family: A building, or portion thereof, used or designed to be used as a residence for three (3) or more families, with each occupying a dwelling unit separate and independent of the others.

Dwelling Unit: A building, or entirely self-contained portion thereof, containing complete housekeeping facilities for a single family. A recreational vehicle, room in a boarding house, rooming house, convalescent home, fraternity or sorority house, hotel, inn, lodging or nursing home shall not be considered a dwelling unit.

Easement: Authorization by a property owner for the use of any designated part of his/her property by another for a specified purpose.

Electrical Disturbance: Any continuous or repetitive electrical emission which causes an abnormal degradation in performance of other electromagnetic radiators or receptors, of quality and proper design, in the vicinity.

Equipment Sales, Rental, or Repair: Any lot or area of land, including the building or buildings thereon, which is used primarily for the sale or rental of equipment, tools, etc., not including motor vehicles, and including any ancillary service, repair or office facilities associated with the sale or rental of equipment.

Essential Services: The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of "local consumer" underground or overhead gas, telephone, electric, steam, water or sewer collection, distribution or transmission systems, equipment and accessories in connection therewith, including buildings, reasonably necessary for the furnishing of adequate services, consistent with the public health, safety or general welfare of the community, and consistent with other applicable provisions of state law.

Existing Manufactured Home Park or Subdivision*:* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is *completed before the effective date of the initial floodplain management regulations* adopted by the Town.

Expansion to an Existing Manufactured Home Park or Subdivision*:* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Extraction of Earth Resources: The removal of sod, loam, sand, gravel, or quarried stone except when incidental to or in connection with the construction of a building on the same lot.

Facade: The principal face of a building, generally facing the street and/or containing a public entrance. A building having more than one side fitting this definition, as determined by the Zoning Administrator, may be considered to have more than one facade. The area of a facade shall not include any projection of roof area.

Family: One or more persons occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel. Family may also include a group of not more than five (5) persons not related by blood, adoption, marriage or civil union living as a single housekeeping unit.

Farm Market: A market for selling farm produce and farm products.

Farm Produce Stand: A small stand used for the seasonal sales of farm produce and farm products.

Farm Structure: A structure used for or in association with agricultural uses, i.e., the cultivation of the soil, production of crops and/or the raising of livestock, but not including structures used for the slaughter of animals. A roadside stand used for the seasonal sale of agricultural produce grown on the premises shall be considered a farm structure. In accordance with the Act [§ 4413(d)], this definition includes farm buildings, silos, enclosures and fences, but specifically excludes dwellings for human habitation.

Fence: An assemblage, regardless of material used, designed and erected for the purpose of restricting visual or physical access to or from an area, not including terraces, steps or similar features of less than three feet (3') in height above grade or the floor level of the ground story of an associated structure.

Firewood Processing and Sales: Any activity including the storage, cutting, splitting or otherwise processing firewood for the purpose of sale and distribution to users other than the owner of the property on which the activity takes place.

FIRM, Flood Insurance Rate Map: An official map of the community, on which the Federal Insurance Administrator has delineated both areas of special flood hazard and the risk premium zones applicable to the community.

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

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 cumulatively increasing the water surface elevation more than one foot at any point.

Flood Protection or Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities or structures and their contents.

Footprint Lot: A parcel of land which consists solely of the area directly under a structure.

Forestry: Any activity involving the maintenance and/or management of an area of trees for any of the following purposes: to produce commercial timber and/or other forest products; to provide good forest cover for water shed protection; to protect and preserve open land; or to maintain

wildlife habitat. This definition specifically excludes Firewood Processing and Sales, and Lumber Processing Operations, which are separately defined and regulated under these Regulations.

Funeral Home: A structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

Funeral Home, Existing: A funeral home which was in existence as of May 22, 1995, and has been in operation continuously since that time.

Garage, Private: A building or a portion thereof, accessory to a main building, whether attached or independent, providing for the storage of automobiles, in which no occupation or business for profit is carried on, and in which space for not more than one automobile is leased to a non-resident of the premises.

Garage, Public: Any building or area, or portion thereof, other than a private garage, used for the storage or servicing of vehicles for profit.

Garden Center: An establishment primarily engaged in the retail sale of plant materials such as trees, shrubs, flowering plants, seeds, bulbs, or sod that are primarily grown off site, and associated lawn and garden supplies such as bagged or bulk mulch, topsoil, fertilizer, or pots, landscaping materials, and gardening equipment. A garden center may include, as incidental or accessory to the principal use, both indoor and outdoor storage and display areas, including greenhouses, and the sale of a limited amount of product grown or prepared on-site

Glare: Illumination beyond property lines caused by direct rays from incandescent, fluorescent or arc lighting, or from such high temperature processes as welding or petroleum or metallurgical refining, or by diffuse reflection from a surface such as a wall or roof of a structure.

Greenhouse: A structure, frequently with a transparent or translucent roof, designed and used for the planting, breeding, growing, care and display of plants, flowers, and vegetables (of whatever type) for sale to others on a retail basis. See also Agriculture, Farm Structure.

Gross Leasable Area: The total floor area designed for the tenant's occupancy and exclusive use.

Halo Lighting/Reverse Channel Lighting: A sign lighting technique where the sign has individual cutoff letters and/or symbols and the light is located behind them. The light does not shine through the letters and/or symbols and the light sources are not visible.

Hazardous Materials: (1) Any material or combination of materials which may be explosive, flammable, toxic, acidic, corrosive, an etiologic agent, caustic, pathogenic, or radioactive, either when in fluid or solid form, or which may become so when acted upon by heat or radioactivity, and any material which, when present in sufficient quantity or combination, may be reasonably assumed to constitute a peril for health and safety of employees, nearby residents, firefighters and/or others who may be or become exposed to them, or (2) as otherwise defined by a state or federal agency.

Heat, Excessive: Heat which causes a temperature increase on any adjacent property, whether

such change occurs in the air or on the ground, in a natural stream or lake, or in any structure on such adjacent property.

Height: The vertical dimension measured from the average elevation of the finished lot grade at the base of the structure, to the highest point of the structure.

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

Home Occupation: An occupation carried on within a residential property by residents, which is incidental and secondary to the residential use of the property, which is customary in residential areas, and which does not change the character thereof (see Section 4.9). See also Home Business.

Home Business: An expanded home-based business conducted by one or more residents of a single family dwelling which is carried on within the principal dwelling and/or an accessory structure, and meets all applicable requirements of these regulations (see Section 4.9). See also Home Occupation.

Hospital: An institution for the medical or surgical care of sick or injured persons, or for the care of contagious or infectious diseases. A hospital may provide care on both an out - patient basis and on an in-patient basis where patients are admitted overnight.

Hotel, Motel: Any building other than a boarding house or tourist home where sleeping accommodations are provided for compensation. Included are motels, cabins, tourist courts, motor lodges and similar uses.

Junk: Any worn-out, cast-off, or discarded article or material, including motor vehicles, which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

Junkyard: Any place of outdoor storage or deposit, which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. “Junkyard” also means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping one or more non-operative, non-inspected, or non-registered vehicles, or junk as defined herein, all of which are visible from any portion of a public highway or within 300 feet of lands of others, public or private. However, the term does not include a private garbage dump or a sanitary landfill which

is in compliance with 24 V.S.A. § 2202 and the regulations of the state secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than ninety (90) days for inspection or repairs.

Kennel: Any premises in which caring, breeding, housing or keeping of four (4) or more dogs, cats, or other domestic animals is done for monetary purposes.

Lake: A body of standing water, including bodies named lake, pond, and reservoir, that may have natural or artificial water level control. For purposes of this regulation, off-stream reservoirs specifically constructed for the following purposes are not considered lakes: snowmaking water storage; golf course irrigation; stormwater management; and, fire suppression.

Landfill, Sanitary: A land disposal site employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, and applying and compacting cover material at the end of each operating day [10 V.S.A. § 6602(11)].

Licensed Amateur Radio Station Operator: Any individual defined and licensed by the Federal Communications Commission (FCC) to operate any apparatus capable of performing the transmission and reception of voice via radio signals.

Light Manufacturing: The processing and fabrication of certain materials and products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. Light Manufacturing includes the production of the following goods: home appliances; electrical instruments; office machines; precision instruments; electronic devices; timepieces; jewelry; optical goods; musical instruments; novelties; wood products; printed material; lithographical plates, type composition, machine tools, dies and gages; ceramics; apparel; lightweight non-ferrous metal products; plastic goods; pharmaceutical goods; and food products, but not animal slaughtering, curing, nor rendering of fats.

Lot: A definable parcel of land occupied or capable of being occupied by one or more structures or uses.

Lot Area: The area within the property lines of a lot, calculated from dimensions derived by horizontal projection of the boundaries of the lot, exclusive of any portion of the lot contained within the boundaries of a street, proposed street, right-of-way or public thoroughfare.

Lot, Corner: A lot at the point of intersection of or abutting on two (2) or more intersecting streets, the angle of intersection being not more than 135 degrees.

Lot Coverage: The portion of the area of a lot (measured in square feet) which is covered by buildings, accessory structures, parking areas, walkways, trails/paths, loading areas, access drives, outside service areas and outside storage areas, divided by the total lot area and expressed as a percent.

Lot Depth: The mean distance between the front and rear lot lines, measured at right angles to the front lot lines.

Lot, Frontage: The horizontal distance measured along the property line which separates the lot from a public or private street. No newly created lot(s) shall be permitted unless the minimum lot frontage is contiguous along a public highway.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: Any lot which individually, or as part of a subdivision, has been recorded in the office of the Clerk of the Town of Essex.

Lot, Width: The mean distance between the side lines of a lot, measured at right angles to its depth.

Lot Width to Depth Ratio: The mathematical ratio of lot width to lot depth, including consideration of any calculated average to determine lot depth and lot width.

Lowest Floor: The lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Lumber Processing Operation: A business involving ten (10) or more contiguous acres of land within the Town of Essex and engaged in one or more of the following uses: preparation of timber and related by-product processing for the market including lumber mills and lumberyards; establishments primarily engaged in the gathering of forest products; tree nurseries; outside storage of materials, products, by-products, machinery, and apparatus related to any of the uses described herein; and, maintenance, repair shop, and business and sales office facilities related to any of the uses described herein.

Machinery Repair Shop, Major: Any lot or area of land, including the building or buildings thereon, which is used for the primary purpose of making major or minor repairs to machinery, such as tractors, power mowers, snowmobiles, etc. and including the sale of parts.

Machinery Repair Shop, Minor: Any lot of land, including the building or buildings thereon, which is used for the primary purpose of making major or minor repairs to small machinery (such as bicycles, clocks, electric motors) and household appliances, and where the amount of noise generated will be minimal.

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

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufacturing: The process whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled and packaged.

Mean Water Level: The normal summer (June 1 –September 15) water level, measured in feet above sea level, of lakes as determined by an average of water level readings available over time or as established by the Vermont natural Resources Board.

Mobile Home: A residential structure, constructed at a separate manufacturing facility, designed to be transported on its own permanent chassis, designed to be used with or without a permanent foundation, and which, when connected to appropriate water supply and sewage disposal systems, contains all necessary elements for a dwelling unit.

Mobile Home Park: A parcel of land under single or common ownership or control, which is used, or is designed to be used, to accommodate two or more mobile homes.

Motel: A hotel, for purposes of these Regulations.

Municipal Land Use Permit: As defined in the Act [§ 4303] to include, as issued by the municipality: (1) final zoning, subdivision, site plan or building permits or approvals relating to subdivision and land development; (2) septic or sewage system permits; (3) final official minutes of meetings which relate to permits or approvals, which serve as the sole evidence of such permits or approvals; (4) certificates of occupancy, compliance or similar certificates; and (5) any amendments to the previously listed, permits, approvals and/or certificates.

Municipal Facilities: The erection, construction, alteration, or maintenance of municipal services or facilities such as governmental offices, a library, building for fire, police or rescue, water supply or sewage treatment facilities, garage, recreation facilities, and power generating facilities primarily for “local consumers”.

Neighborhood Shopping Center: A shopping center containing several convenience retail establishments (e.g., supermarkets, hardware stores, pharmacies, gift shops, etc.), personal service facilities (e.g., barbershops or beauty parlors, and food service establishments), and which is designed and sized to serve primarily the residential development surrounding it.

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

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the Town.

Nonconforming Lots or Parcels: Lots or parcels that do not conform to these Zoning Regulations covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Zoning Regulations, including a

lot or parcel improperly authorized as a result of error by the Zoning Administrator.
Nonconforming Structure: A structure or part thereof not in conformance with the provisions of these Zoning Regulations but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Zoning Regulations, including a structure improperly authorized as a result of error by the Zoning Administrator.

Nonconforming Use: A use of land that does not comply with all the provisions of these Zoning Regulations but did conform to all applicable laws, ordinances and regulations prior to the enactment of these Regulations including a use improperly authorized as a result of error by the Zoning Administrator.

Nonconformity: A nonconforming use, structure, lot, or parcel.

Office: Facilities occupied by consulting firms, clerical services, real estate or insurance agencies, doctors, lawyers, architects, engineers, accountants, government offices, travel agencies, financial institutions (excluding banks and drive-up window establishments), and establishments providing similar services, but not including manufacturing, repairing, processing, or fabrication of any article, substance or commodity, or the retail sale of goods.

Office, Major: Establishments not requiring regular and frequent access by non-employees including corporate offices, laboratories, industrial support offices, consulting firms, clerical services, government offices, financial institutions (excluding banks and drive-up window establishments) and establishments providing similar services but not including manufacturing, repairing, processing, or fabrication of any article, substance or commodity, or the retail sale of goods. Any establishment included in this definition must be at least fifteen thousand gross leasable area (15,000 GLA) in size.

Off-Site: Not located on the lot on which the principal use or structure being served is located. This is particularly relevant to sewage disposal and water supply systems, and signs.

On-Site: Located on the same lot as the principal use or structure being served. This is particularly relevant to sewage disposal and water supply systems, and signs.

Parking Facility: A lot or garage or portion thereof, used for the temporary storage of motor vehicles in association with uses or activities which may or may not be located on the same lot. A parking facility may be the principal use of a lot.

Parking Space: An off-street area, other than a loading space, of not less than nine feet (9') by eighteen feet (18') in size, exclusive of access or maneuvering area, ramps, columns, etc., to be used exclusively as a temporary storage space for a single motor vehicle.

Personal Services Establishment: An establishment for the provision of direct services to other individuals or businesses. Such establishments include barbershops, hairdressing shops, beauty parlors, shoe repair shops, shoe shine stands or shops, laundries, laundromats, dry cleaners, photographic studios, and businesses providing similar services of a personal nature on a commercial or profit basis.

Planned Residential Development (PUD-R): A residential development, approved by the

Planning Commission in accordance with Article VI of these Regulations, designed and planned as an integral unit which may contain various types of residential structures and which may consist of individual lots which do not satisfy all of the requirements otherwise contained in these Regulations. A planned residential development is a type of Planned Unit Development.

Planned Unit Development (PUD): A planned development, approved by the Planning Commission in accordance with Article VI of these Regulations, designed and planned as an integral unit which may contain various commercial, industrial and residential uses and which may consist of individual lots which do not satisfy all of the requirements otherwise contained in these Regulations.

Principal Building: A building or structure in which is conducted the main or principal use of the lot on which said building is located.

Private Club: A building and related facilities owned and/or operated by a corporation, association or group of individuals established for the fraternal, social, educational, recreational or cultural enrichment of its members.

Public Facilities: Pursuant to the Act [24 V.S.A.§ 4413], state or community owned and operated institutions and facilities; public and private schools and other educational institutions certified by the Vermont Department of Education; churches and other places of worship, covenants and parish houses; public and private hospitals; regional solid waste management facilities certified under 10 V.S.A Chapter 159; and hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

Public Hearing: The duly warned hearing as required by these Regulations, held by the Planning Commission or Board of Adjustment after public notice in accordance with the Act [24 V.S.A. § 4464] and Section 7.7.

Public Improvements: Capital improvements necessary for the safety, health and welfare of the public and which will subsequently be owned and maintained by the public. Examples include, but are not limited to, streets, sidewalks, sewers, storm drains, and water lines.

Public Works Specifications: Town of Essex Standard Specification for Construction, May 1989, as may be from time to time amended, and any successor or replacement which are incorporated herein by reference.

Recreation, Indoor: Recreation facilities and activities made available on a commercial profit or non-profit basis, which are located inside of a structure or building. Indoor recreation facilities include indoor bowling alleys, theaters, table tennis and pool halls, skating rinks, gymnasia, swimming pools, hobby workshops, and similar places of indoor recreation.

Recreation, Private Outdoor: Outdoor recreation facilities which are privately owned and which may be made available on a members only basis or to paying customers. Outdoor recreation facilities include but are not necessarily limited to golf courses, golf driving ranges, trap, skeet, and archery ranges, swimming pools, skating rinks, riding stables, parks, beaches, tennis courts, recreation stadia, skiing areas and similar facilities.

Recreation, Public Outdoor: Outdoor recreation facilities which are publicly owned and operated, such as playgrounds, playfields, parks, open spaces, swimming pools and similar facilities.

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

Recycling Establishment: An establishment which provides for the collection, storage, and processing of secondary materials in preparation for their sale for ultimate reprocessing into new materials. A secondary material is a material which has served its initial purpose, or waste or scrap from a manufacturing process. Examples of such secondary materials are paper, metals, plastics, textiles, and glass. Processing may include sorting, shredding, crushing and bailing.

Regional Solid Waste Disposal Facility: A lot or parcel of land or portion thereof used in accordance with State and Federal regulations, for the disposal of trash, refuse, junk discarded machinery, vehicles or parts thereof, or waste material of any kind. A Regional Solid Waste Disposal Facility may also include a recycling transfer station.

Religious Institution: Church, for the purposes of these Regulations.

Renewable Energy Resources: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat and geothermal sources.

Research and Testing Laboratory: A private commercial enterprise engaged exclusively in the pursuit of scientific research and development, including research related to and development of manufactured, processed or compounded products.

Residence: See Dwelling.

Residential Care Home: An institution, other than a hospital, for the care of children, the aged or infirm, or a place of rest for those suffering bodily ailments, which does not include facilities for the treatment of sickness or injuries or for surgical care.

Restaurant: An establishment whose primary operation accommodates food and drink preparation, service, and consumption primarily in designated locations on premises. A deli in a grocery store, convenience store, supermarket, or free- standing structure serving food and sandwiches for off premise consumption only, shall not be considered a restaurant. Restaurants shall be allowed in designated zoning districts under Article II, however, restaurants including any of the following additional facilities shall be considered a conditional use (in only those districts allowing restaurants) subject to Board of Adjustment approval: take out service, catering, drive-through window, live entertainment, outside seating, or other additional facilities deemed by the Zoning Administrator necessary to warrant approval by the Board of Adjustment.

Retail Store: An establishment consisting of an enclosed shop or store for the sale of retail goods or personal services, including a department store but excluding any free-standing retail stands, gasoline services, motor vehicle repair services, new and used car sales and service establishments, and trailer and mobile home sales and service establishments.

Reverse Channel Lighting/Halo Lighting: A sign lighting technique where the sign has individual cutoff letters and/or symbols and the light is located behind them. The light does not shine through the letters and/or symbols and the light sources are not visible.

Revetment: A facing or veneer of stone (riprap), concrete, or other materials used to support a sloping embankment or dike to protect it against erosion caused by waves or current.

Roadside Stand: An outside structure or structures (temporary or permanent) used for the display and retail sale of agricultural produce, and such locally produced products as honey, cider, maple syrup or plants. See also Farm Produce Stand.

School, Certified: Any establishment certified by the Vermont Department of Education, including: parochial; private; public and nursery schools; colleges; universities and accessory uses and excluding Technical/Vocational Schools.

School, Non-Certified: A commercially operated establishment for the teaching of professional trades and occupations not certified by the Vermont Department of Education such as schools of beauty culture, business, dancing, driving, music, culinary arts and other similar establishments.

Self Service Machine: A stand alone machine at which customers can transact various types of business without assistance from any staff, including but not limited to automatic bank teller machines, postal or shipping drop off machines, or other similar units.

Setback: The required minimum horizontal distance from a road right-of-way, property line, or other delineated feature (e.g., a stream bank, shoreline, or wetland) to the nearest point of a building or structure. A setback (yard) area can incorporate a required buffer area or, where a required buffer distance exceeds the required setback distance, the buffer distance shall define the setback distance. See also Buffer.

Setback Line: A line, parallel to a property line, road right-of-way, or other delineated feature (e.g., a stream bank, shoreline, or wetland area), which defines the required minimum setback where buildings shall not be located. For purposes of these Regulations, the setback line also defines yard areas.

Sign: Any device affixed to, painted, or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but excluding any flag or insignia of a government, government agency, school or religious group, and any official traffic control device.

Significant Features Reference Map(s): One or more maps incorporated by reference or appended to the Essex Town Plan which depicts important features in the Town.

Small Production and Sales Establishments: Small establishments such as woodworking shops, craft shops, print shops, etc., which include space for retail sales of the goods produced, and which do not sell goods not produced on the premises. Establishments with more than 1,000 square feet of floor space devoted to production shall be deemed manufacturing uses.

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

Start of Construction: For purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The "start of construction" includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Storage, Warehouse and Distribution Establishments: Establishments used primarily for storing, warehousing and distribution of goods, wares and merchandise, and which do not involve retail sale of such goods, wares or merchandise on the premises.

Street: Any road, highway, thoroughfare, avenue, land or right-of-way, whether public or private, used for vehicular circulation and/or to provide access to individual properties.

Stream: The full length and width, including the bed and banks, or any watercourse, including rivers, creeks, brooks, and branches. Streams include intermittent streams that have a defined channel and evidence of sediment transport, even if such streams do not have surface water flow throughout the year or throughout the channel. For purposes of these Regulations, constructed drainage ways including water bars, swales, and roadside ditches, are not considered streams.

Stream Section: A portion of a stream with similar features such as the same relative geometry

of cross section, similar side slopes and soils.

Structure: Any assembly of materials for display, use or occupancy, that has a value of $500.00 or more, including but not limited to buildings, mobile homes, shipping and storage containers, carports, porches, swimming pools, walls or fences and other building features but not including sidewalks, driveways, patios, or recreational vehicles, trailers or other vehicles on wheels if regularly used for their manufactured purpose and not for housing or storing animals or materials. For purposes of flood hazard area regulation only, this definition also includes gas or liquid storage tanks that are principally above ground.

Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, plots, units, or interests for the purpose of sale, lease or development, including amended subdivisions and re-subdivisions. The term "subdivision" shall mean the act of dividing a parcel of land as described above, and shall also include a footprint lot, the development of a parcel as a mixed-use development that includes housing, multiple family housing project, congregate housing project, or planned development.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three (3) years, or over the period of a common plan of development, cumulatively equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure

Swimming Pool: Any pool or structure used primarily for swimming, whether installed above or below the ground, which contains two (2) or more feet of water, at its deepest, and whether for public, private, or commercial use.

Technical/Vocational School: An establishment certified by the Vermont Department of Education for teaching of technical and vocational courses for secondary education and above. These courses include but are not limited to auto mechanics, building trades, electronics and culinary arts.

Top of bank: The point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

Top of slope: A break in slopes adjacent to steep-banked streams that have little or not floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut channel

meet floodplains that have been abandoned or are undergoing abandonment.

Town: Town of Essex, Vermont, outside the Village of Essex Junction.

Town Plan: The duly adopted plan for development of the Town prepared by the Planning Commission, as it may be amended from time to time, pursuant to the Act [24 V.S.A. § 4385].

Townhouse: A type of dwelling unit, located in a structure containing at least two (2) dwelling units, arranged so as to include rooms on two or more contiguous floors.

Trucking Terminal: A site including buildings where the primary use is storage and housing of trucks and related equipment. A business office and minor repair facilities are allowed.

Trailer: A mobile vehicle, with wheels, capable of being towed by a motor vehicle, and having an overall length of less than twenty-five feet (25') and an overall width of less than eight feet (8'). This shall include trailers designed for overnight living or camping purposes.

Truck Farm: A farm devoted to the raising of vegetables and other small food crops for sale.

Undue Adverse Effect (Impact): An adverse effect or impact which either (1) violates a clear, written community standard, including a provision of these Regulations, or a specific policy of the Essex Town Plan; or (2) which cannot be avoided through mitigation, design modifications, or conditions or approval.

Use: The specific activity or function for which land or a structure is arranged, designed or intended, or for which either land or a building is or may be occupied or intended.

Veterinary Clinic: An establishment which provides veterinary care of animals, including surgery, examination, treatment, medication, etc., and also including any facilities for caring, breeding, housing or keeping animals in conjunction with the provision of veterinary care.

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

Wall: An assemblage of material which is solid and opaque, and which is designed and erected for the purpose of restricting visual or physical access to or from an area.

Waterbody: A lake or stream.

Wetlands: Lands that are inundated or saturated by surface water or groundwater with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities. For purposes of these Regulations, these include wetlands that meet state requirements for Class I and Class II wetlands.

Wholesale Establishments: Establishments primarily engaged in selling merchandise to retailers, or industrial, commercial, or professional business uses, or which acts as agents in buying and selling merchandise to such companies. Wholesale establishments are not structures used primarily for storage of goods, wares, and merchandise although wholesale functions may include the maintainable of substantial inventories.

Yard: An open space on a lot, defined by a setback line, that is unoccupied and unobstructed from the ground upward, except as otherwise provided in these Regulations.

Yard, Front: A yard on the same lot with a principal building, extending the full width of the lot and situated between the street line and the front setback line extended to the side lines of the lot. Corner lots shall have front yards facing both streets.

Yard, Rear: A yard on the same lot with a principal building between the rear setback line and the rear line of the lot extending the full width of the lot.

Yard, Side: A yard on the same lot with a principal building between a side setback line of the lot, and extending from the front yard to the rear yard.

Zoning Administrator: An official appointed by the Town to carry out the duties set forth in these Regulations. See also Administrative Officer.

Zoning Permit: A permit issued under these Regulations in accordance with the provisions of the Act [24 V.S.A. § 4449].

APPENDIX TO ZONING REGULATIONS:
DISTRICT BOUNDARY DESCRIPTIONS

I. Agricultural Residential Districts (AR)

A. The AR district in the southwest quadrant is bounded on the south by the Village of Essex Junction, the State Tree Nursery O1 District (see VI-B), a line 600 feet north of and parallel to the Central Vermont Railroad tracks up to the Circumferential Highway, west on the Circumferential Highway approximately 600 feet and then parallel to the railroad tracks up to Gentes Road, and parallel to Gentes Road; to the west by the Town of Colchester; to the north by a line 500 feet north of and parallel to Lost Nation Road then turning easterly to meet Indian Brook Road 2,800 feet west of Old Stage Road, then turn south 1,200 feet to Lost Nation Road, parallel to the MXD-PUD District then southerly and parallel to the MXD-PUD District and then along VT Route 15 to the Village line;

B. The large northern AR district is fragmented by the flood plain zones along Abbey and Alder Brooks and the Browns River C2 zone. To the west of the Browns River it is bounded on the south by the R1 districts (see II-A); on the west by the C1 district (see IV-A); and to the north by the Town of Westford.

East of the Browns River, this district is bounded on the north by the Town of Westford; on the east by the C1 zone (see IV-B); and the Town of Jericho; to the south by the 600 foot elevation of the C1 district (see IV-C); and to the west by the I1 (see XIII-E) and C2 (see V-C) districts;

C. In the southeast quadrant, the AR district is bound on the north by the I-1 zone (see XIV-D), to the east by the Town of Jericho, south by the C2 district (see X), and to the west by the R2 zone (see III-E).

II. Low Density Residential (R1)

A. The central area zoned R1 is partially bounded on the south by Lost Nation Road starting from Old Stage Road; on the west by a line due north 1,200 feet from Lost Nation Road to Indian Brook Road, then northwest for 4,850 feet, then turning east extending to and parallel with Towers Road Extension for a portion of the northern boundary 3,750 feet in length.

The rest is a line extending east 1,500 feet from the intersection of Towers Road and Old Stage Road, then extending in a northerly direction to Colonel Page Road to a point 1,500 feet east of Old Stage Road, along Colonel Page Road easterly for approximately 1,400 feet, north for 700 feet and then east for 4,700 feet to a point 1,000 feet northeast of the end of Bixby Hill Road at the Browns River C2 zone--the easterly boundary. The rest of the southerly line is bounded by the R2 zone (see III-C), the O1 zone between Chapin Road and Towers Road (see VI-E), and the CTR zone (see IX-A);

B. A R1 district is formed between the AR zone (see I-A) as its west and north boundaries and the MXD-PUD zone (see XI). It is bounded on the east by Indian Brook,

the west by upper Main Street and on the south by the Village line.

III. **Medium Density Residential (R2)**

A. Bounded on the east and south by the Village of Essex Junction, this district is located in the southwest quadrant. A portion of the south boundary is the MXD zone (see X-B). The western boundary is formed by the B1 district (see VIII-A) and a line 300 feet west of and parallel to Susie Wilson Road up to the Indian Brook, following the brook westerly to the intersection of the Circumferential Highway and then parallel with the Circumferential Highway easterly to VT Route 2A. Within this zone is a Section excluded and zoned B1 (see VIII-B). The northerly boundary follows VT Route 2A down to the O1 district (see VI-B), follows VT Route 2A in a northerly direction to the point of intersection with Pinecrest Drive, then southerly along Indian Brook back to the point of beginning on the village boundary. Within this zone is a Section excluded and zoned MXD (see X-C);

B. A narrow R2 district extends from the Colchester Town line to Lamore Road between Gentes Road and VT Route 2A, to the point where the CV Railway splits off from VT Route 2A thus following the railway right of way back to the town line;

C. The major R2 district surrounds the business districts located in the area that was formerly the Village of Essex Center and the O1 district south of VT Route 15 (see VI-C).

The northern section of this district is bound on the east by Bixby Hill Road, south by VT Route 128 and the Alder Brook floodplain, west by the Alder Brook floodplain and Major Open Space, and the north by the R1 District.

The northwestern Section of this district is bounded on the north by the north boundary of the parcel now or formerly known as Old Stage Village, on the west by Old Stage Road, on the south by VT Route 15 and the R3 zone (see IX-C) and on the east by the CTR zone (see IX-A).

The northeastern Section of this zone is bounded on the north by the Browns River floodplain; following Browns River Road westerly to Alder Brook, south along Alder Brook to Jericho Road, easterly on Jericho Road all the way back to the Browns River flood plain; and including parcels southerly of VT Route 15 known as Map 52 parcels 4-1, 4, 3, 2, and 1, and tax map 8, parcels 8-1, 8, and 9.

The southeastern Section is bounded on the north by the northeastern R2 zone and on the east by the RPD-I district (see XIV) and Sand Hill Road, I1 and AR district; on the south by VT Route 117 and the Winooski River flood plain C2 zone and the River Road MXD zone (see X-A); and in the west by the Village of Essex Junction, the boundaries of parcels I and H in the Lang Farm, the MXD-PUD District (see XI); and in the northwest by the O1 districts (see VI-C);

D. Another small R2 district is created by formation of the MXD-type districts. It is bounded on the north by VT Route 15 and the RB zone (see IX-B), on the east by the O1 Districts (see VI-C), on the south by the Circumferential Highway, and on the west by the MXD-PUD zone (see XI).

IV. Conservation District (C1)

A. The conservation district in the northwest quadrant is bounded on the west by Colchester; on the north by Westford. On the east, the boundary is an irregular line comprised of: Old Stage Road (for a distance of 2,750 feet from the Westford line); thence westerly in a straight line to the northernmost corner of the parcel known as tax map 17, parcel 13, now or formerly known as the Shepard property, along the western boundary of the Shepard property; thence in a line parallel to Brigham Hill Road to a point 800 feet west of its intersection with Brigham Hill Lane; thence a line perpendicular to Brigham Hill Road running southerly to a point of intersection with the 700 foot elevation. This elevation forms the district boundary until its point of intersection with a straight line extension of Towers Road, 3,750 feet beyond its junction with Old Stage Road. From this point, the boundary runs southerly in a straight line to a point on Indian Brook Road 2,800 feet westerly of the intersection of Indian Brook and Old Stage Roads, then follows the AR districts (I-A) for its southerly boundary. Within this district is an excluded district zoned O1 (See VI-E);

B. In the northeast quadrant, a conservation district is bounded on the north by Westford (from a point 1,750 feet east of Browns River Road); on the east by Jericho (to a point 2,725 feet northeast of VT Route 15), thence a line perpendicular to the Jericho town line (1,000 feet) to a point of intersection with the 700-foot elevation (approximately 3,000 feet northwest of the Weed Road – VT Route 15 intersection). The western boundary is the irregular line formed by the 700-foot elevation, up to a point 600 feet southeast of the junction of Abbey Brook and Osgood Hill Road. A line perpendicular to the road connects with the contour line; the boundary continues 1,200 feet northerly along Osgood Hill Road to its junction with Hanley Lane; thence northwesterly 825 feet to a resumption of the 700-foot elevation;

C. Located in the southeast quadrant, this C1 district is bounded on the west by the RPD-I district (see XIV), the O1 district (see VI-D), and the I1 district (see XIII-D), on the north by the 600 foot contour commencing from a point 750 feet from Saxon Hill Road; and on the east by the Town of Jericho.

V. Flood Plain Districts (C2)

Flood plain districts, as indicated by the spotted pattern on the Zoning Map, are identified as areas of special flood hazard in the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Agency, and National Flood Insurance Program, as provided by the Secretary of the Natural Resources pursuant to 10 V.S.A § 753. Where the boundary of another zone is described as cutting across, or a point referenced is within a flood plain district, such lines are for reference purpose only and do not infringe upon the flood plain district boundaries.

VI. Open Recreation Districts (O1)

A. In the southwest quadrant, an O1 district is bounded on the west by the Town of Colchester; on the south and east by the Winooski River flood plain and also on the east

by the Village of Essex Junction; and in the north by an irregular line along Dalton Drive, Ethan Allen Avenue, and VT Route 15;

B. Adjacent to the Village of Essex Junction and northeast of VT Route 2A, an O1 district is delineated by the property lines of the State Tree Nursery (tax map 6, parcel 2);

C. A centrally located O1 district south of VT Route 15 is delineated by the property lines of the Town of Essex Forest to either side of the Alder Brook flood plain zone which dissect it, as well as the property in the Lang Farm adjacent and northeasterly to the residential Section H, bisected by the Circumferential Highway, otherwise identified as map 86 parcel 1;

D. Located in the southeast quadrant this district is bounded on the west by Saxon Hill Road, and is bounded on the north and east by the southeast C1 district (see IV-C) and on the south by the I1 district (see XIII-D). It is a parcel better known as the Essex Junction School District parcel tax map 8, parcel 1. This parcel contains another parcel (also considered to be in O1) which has a water tank on it;

E. A northwest district is located within a C1 district (see IV-A). It is better known as the Indian Brook Reservoir, as well as land now or formerly owned by the Winooski Valley Park District, otherwise known as parcel 3-1 of tax map 17 and its surrounding land otherwise known as parcel 22 tax map 10;

F. A central district is located at the intersection of Towers Road and Chapin Road. It is bounded by the Meadows Edge Development to Towers Road, follows Towers Road to Chapin Road, follows Chapin Road approximately 1,794 feet and then a perpendicular line easterly to Meadows Edge. It is better known as parcel 3-0 on tax map 97.

VII. Historic Preservation-Design Control (HP-DC)

A. This district begins at the intersection of Dalton Drive and Ethan Allen Avenue and proceeds west along Dalton Drive to the Town of Essex-Town of Colchester line; proceeds northeast along the Town of Essex-Town of Colchester line to the northernmost boundary line of land presently occupied by the Green Mountain Nursing Home (tax map 46, parcel 5); proceeds southeast 163.8 feet along the boundary of the Green Mountain Nursing Home property to a point 200 feet from the centerline of Ethan Allen Avenue, thence turns left and proceeds southeast and parallel to Ethan Allen Avenue a distance of 500 feet; thence turns right and proceeds southwest a distance of 200 feet to the centerline of Ethan Allen Avenue; proceeds east along Ethan Allen Avenue to the point of beginning.

VIII. Business Districts (B1)

A. In the southwest quadrant, the B1 district is located on both sides of Susie Wilson Road. It is bounded on the south by the Sunderland Brook floodplain, however, including all of parcel 10, tax map 46 (a portion of which is below the Sunderland Brook); on the west by the Colchester town line and the I1 district (see XIII-A), on the north by Kellogg Road and to the north of Kellogg Road includes one parcel identified as tax map 54 parcel 2-1. From the intersection of Kellogg and Susie Wilson Road, a line perpendicular to Susie Wilson Road and parallel to Blair Road. To the east of Susie Wilson Road, the district extends to the eastern boundaries of parcel 37, 11, 12-5, 12-6, 23 and 22 on tax map 47. On the south by Pinecrest Drive, proceeding parallel and westerly to the intersection of Susie Wilson Road, parallel and southerly along Susie Wilson to the point of beginning on parcel 10 tax map 46 at the intersection of Susie Wilson Road and VT Route 15; and

B. Located within the southwest R2 quadrant, this district is a triangle bounded by VT Route 2A, Gardenside Lane, and Susie Wilson Bypass; it includes parcels 5, 6, 6-1, 6-2, 6-3, and 8-2 on tax map 78.

IX. Essex Center Districts (CTR), (RB), BDC) & (R3)

A. The CTR District is bound to the east and south by the Alder Brook floodplain, also to the south by the O1 district, west by the RB, R3 and R2 districts, and to the north by the R1 and Alder Brook floodplain districts.

B. The RB district lies on the southerly side of VT Route 15 and proceeds along the southern and rear property lines of parcels 22 (at the southeast corner), 23, 24, 25, 52, 53, 54 and 55 on tax map 57 to the easterly property boundary of parcel 1-2 on tax map 87; along the southerly boundaries of parcels 1-2 and 1-1 on tax map 87; proceeds in a northeasterly direction along Saybrook Road to VT Route 15 and then in an easterly direction along VT Route 15 to the point of beginning, including all of parcel 21;

C. Located on the northern side of VT Route 15 in the area of Essex Center, the R3 district is bounded on the south by VT Route 15; on the east by a line perpendicular to VT Route 15 at a point 100 feet east of Sunset Drive which is the westerly boundary of the CTR district; on the north by the R2 district (see III-C); and includes parcels 10, 11, and 12 on tax map 57 and the portion of parcel 73 on tax map 10 that is between the above parcels; and

D. A Business-Design Control District is an overlay district whose boundaries include: all properties in the RB, R3, CTR, MXD-C districts. The overlay district also includes: portions of the MXD-PUD district bound by the Circumferential Highway, VT Route 15, and the portion of the bikepath east of Essex Way; south of VT Route 15 between the Village boundary and the Circumferential Highway those parcels adjacent VT Route 15; north of VT Route 15 between the Village boundary and Lost Nation Road those parcels in whole or in part contained within a 1,000 foot wide section of land from VT Route 15; those parcels in the R2 district bound by Old Stage Road, VT Route 15, the R3 district,

Old Stage Village residential development, Craftsbury Court, and the MXD-PUD district; parcels 1,2, 3 and 4 (for a 100' width section of land from the edge of Alder Lane right-of-way), 5, and 6 on tax map 59.

X. **Mixed Use District (MXD)**

A. The south-central MXD district is bounded on the south by River Road; on the west by the Village of Essex Junction; on the north by a line 750 feet from and parallel to River Road; and on the east by a line perpendicular to River Road and 300 feet west of Valleyview Drive; and

B. The southwest MXD district lies southerly of Pinecrest Drive. Bounded on the east by Parizo Drive and continuing parallel and in a southerly direction to the Village line; on the south by the Village line proceeding west to Susie Wilson Road; on the west by Susie Wilson Road to the intersection of Pinecrest Drive; then on the north by Pinecrest Drive in a easterly direction to the point of beginning.

C. The west-central MXD district is bounded on the east by the Indian Brook floodplain; on the west by VT Route 2A; on the north by Pinecrest Drive; and, on the south by the Village of Essex Junction.

XI. **Mixed Use-Planned Unit Development (MXD-PUD)**

A. This district is comprised of the property now, or formerly, known as the Lang Farm, excluding and bounded by the MXDC, AR, R2, O1 and R1 Districts. (See Sections XII - MXDC; I A - AR; III C - R2; III D - R3; VI C - O1; II - R1)

XII. **Mixed Use-Commercial (MXD-C)**

A. This district is located in the northerly portion of the area now, or formerly, known as the Lang Farm. It is bounded on the north by VT Route 15 and on the south by the MXD-PUD district (see XI), known as parcels 1, 3, and 5 on tax map 91.

XIII. **Industrial Park Districts (I1)**

A. In the southwest quadrant, a large industrial zone is bounded on the west by the Colchester town line from the point 917 feet south of Kellogg Road, north to the Central Vermont Railway; following the railway tracks southerly for 3/10 mile, west to Colchester Road, south along Colchester Road to Gentes Road, east to the eastern boundary of the Center Vermont Railway right-of-way, south to the centerline of the Circumferential Highway, east to a point 600 feet east of the centerline of the Central Vermont Railway right-of-way, south (600 feet parallel to the centerline of the Central Vermont Railway right-of-way) to the Old Tree Nursery parcel, east along the Old Tree Nursery parcel to Colchester Road, north to the centerline of the Circumferential Highway right-of-way, then turning and following the Circumferential Highway westerly to the intersection of Indian Brook; then southerly following Indian Brook to the R2 zone (see III-A); then proceeding southerly in a line parallel to and 300 feet from Susie Wilson

Road to the B1 zone along Kellogg Road; following Kellogg Road in a westerly direction to a point 205 feet east of Morse Drive; turning perpendicular to Kellogg Road and proceeding southerly to the northwest corner of parcel 3-4 tax map 47; and then turning perpendicular to that line and westerly to the point of beginning;

B. The central industrial park district is bounded on the west by the Village of Essex Junction; on the south by the Winooski River; on the north by River Road; and on the east by a line 300 feet west of Valleyview Drive and perpendicular to River Road;

C. In the southeast quadrant, an I1 district is located just south of the RPD-I district and is bounded on the west by the R2 District, on the north by the RPD-I district, the O1 district, and the 600 foot elevation which delineates the boundary of the C1 district, on the east by the Jericho town boundary, and on the south by the southern boundary of a 100 foot right-of-way owned by Green Mountain Power north of River Road;

D. An I1 district is located north of the RPD-I district and is bounded on the east by the Saxon Hill Road, on the north by VT Route 15, on the west by R2 parcel 8 on tax map 8, and on the south by the RPD-I. (See XIV.) It includes parcels 4-2, 4-3, 4-5, and that portion of 4 within the described area on tax map 8; and

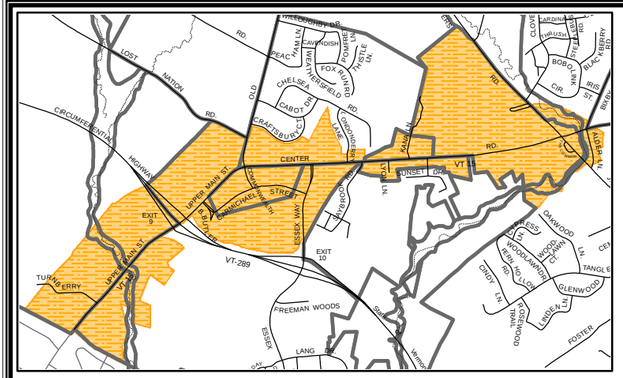
E. A small southwest I1 quadrant exists southerly of the Susie Wilson B1 district (see XIII-A). It is bounded on the south by the HP-DC (see VII-A) and the O1 district (see VI-A) following VT Route 15, bounded on the east and north by the B1 district and on the west by the Colchester town line.

XIV. Resource Preservation District - Industrial (RPD-I)

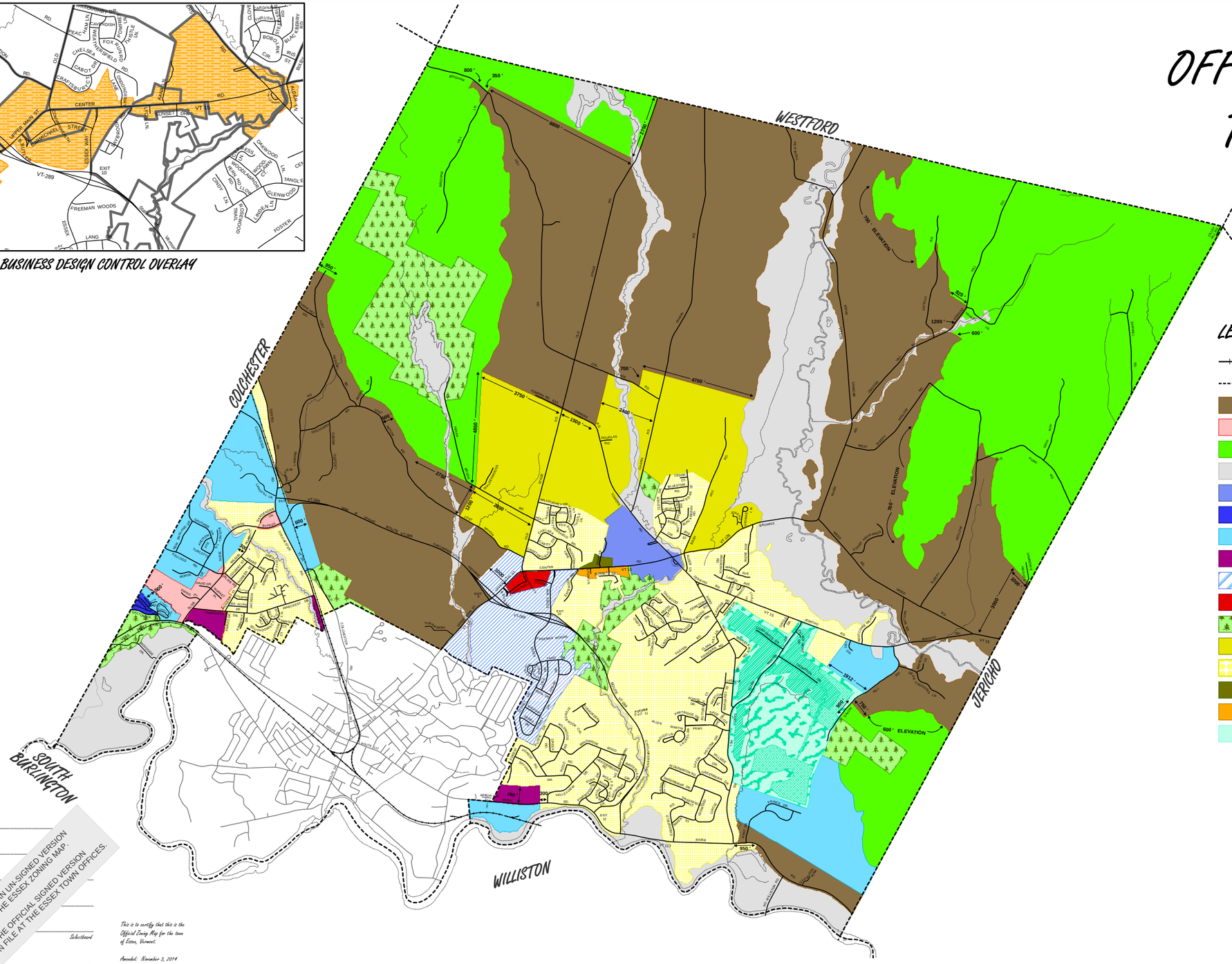
In the southeast quadrant, this large district follows the property lines of the Saxon Hill Forest to the south and west and in the north to the property boundary on VT Route 15 east of Allen Martin Drive as shown on tax maps 8 and 72. The eastern boundary is Saxon Hill Road and the Saxon Hill Forest property line.

OFFICIAL ZONING MAP
TOWN OF ESSEX
VERMONT

2014



BUSINESS DESIGN CONTROL OVERLAY



LEGEND

- RAILROAD
- SURFACE WATER
- (AR) AGRICULTURAL - RESIDENTIAL
- (B1) RETAIL - BUSINESS
- (C1) CONSERVATION
- (C2) FLOODPLAIN
- (CTR) CENTER
- (HP-DC) HISTORIC PRESERVATION - DESIGN CONTROL
- (I1) INDUSTRIAL
- (MXD) MIXED USE
- (MXD-PUD) MIXED USE - PLANNED UNIT DEVELOPMENT
- (MXDC) MIXED USE COMMERCIAL
- (O1) OPEN RECREATION
- (R1) LOW DENSITY RESIDENTIAL
- (R2) MEDIUM DENSITY RESIDENTIAL
- (R3) HIGH DENSITY RESIDENTIAL
- (RB) RESIDENTIAL - BUSINESS
- (RPD-I) RESOURCE PRESERVATION DISTRICT - INDUSTRIAL
  - (RPD-I) 60% (represents only a portion of the 60% - see the Forestdale Technology Park Official 60/40 map)
  - (RPD-I) 25%
  - (RPD-I) 15%

For the RPD-I districts
Refer to the Forestdale Technology Park
Official 60 / 40 map, effective Nov 8, 2001
for specific delineations

0 — 1 Miles

Sources:
Zoning district boundaries from Zoning maps and town ordinances.
Linework from 1:1250 town digital parcel maps, and road centerlines.
Road Centerlines and attributes from 2000 VT Agency of Transportation General Highway Map. Surface Waters - Stream centerlines from Agency of Natural Resources with additions from 1:1250 2005 orthophotos.
Political Boundaries - 1:24000 USGS topographic quadrangles, modified with town parcel map. All data is NAD83, Vermont State Plane coordinate system.
Last revision: November 7, 2014 by Town of Essex G. I. S. Office.

MAX Q. LEVY, Chair

BRAD M. LUCK, Vice Chair

ANDY WATTS, Clerk

MICHAEL FUAGEMAN

IRENE A. WREINER

Selectboard

Attest: _____

Town Clerk

THIS IS AN UN-SIGNED VERSION OF THE ESSEX ZONING MAP. THE OFFICIAL SIGNED VERSION IS ON FILE AT THE ESSEX TOWN OFFICES.

This is to certify that this is the Official Zoning Map for the town of Essex, Vermont.

Amended: November 3, 2014
Effective: November 24, 2014