



**DEVELOPMENT AND LAND USE REGULATIONS FOR THE
TOWN OF JAY, VERMONT**

ADOPTED: May 22, 2023

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DEVELOPMENT & LAND USE REGULATIONS FOR THE TOWN OF JAY, VERMONT

The Town of Jay has created a Planning Commission and has adopted and has in effect a municipal plan, herein referred to as the Town Plan, under Vermont Municipal and Regional Planning and Development Act hereafter referred to as the “Act”. In accordance with the Act there are hereby established Zoning regulations for the Town of Jay which are set forth in the text and maps that constitute these regulations. These regulations shall be known and cited as “the Town of Jay Development and Land Use Regulations.”

ARTICLE 1: PURPOSES

101: Location of Future Growth

The intent of the Town is to encourage future land development in order to provide a balanced community, to benefit to the citizens of Jay, without dramatically increasing tax burdens to pay for additional Town services, while providing for the future growth and orderly development of the Town with specific growth centers identified in the Town Plan.

102: Rate of Future Growth

The intent of the Town is to encourage a rate and character of land development that will preserve scenic, rural, and recreational values that are and will be important to the future economic health of the Town, while providing a sound and environmentally responsible economic base for the Town’s future.

103: The Natural Environment

The intent of the Town is to conserve its rural character, its air and water quality, and its productive lands in a manner consistent with the purpose set forth herein and the Town Plan.

104: General Purpose

It is the purpose of the Town of Jay Development and Land Use Regulations, herein after referred to as “Regulations” to implement the Town Plan, which is incorporated, herein by this reference. In addition, the Regulations are intended to achieve those purposes set forth in 24 VSA, Sections 4302 and 4401 which are hereby incorporated by this reference (see Appendix), accordingly. In order to implement the forgoing purposes, these Regulations provide for the review by the Town Planning Commission or Zoning Board of Adjustment of the potential impacts of development upon the natural, scenic and economic resources of the Town, in accordance with, and to implement the purposes of the Act, in order to secure for the Town a future that is fiscally stable and economically productive, while conserving its valuable scenic and natural resources for the generations yet to come.

105: Authorization

The Administrative Officer, the Zoning Board of Adjustment and Planning Commission of the Town are authorized to carry out the provisions of these Regulations, pursuant to 24 VSA, Chapter 117.

ARTICLE 2: EXISTING USES & LOTS

201: Non-conforming Uses & Structures

Any non-conforming use or structure of land, provided it is located outside of the Special Flood Hazard Area, may continue even though it does not conform to the requirements of this Regulation; however, those non-conforming uses or non-conforming structures may not be extended, enlarged or changed to another non-conforming use without the owner obtaining a permit under these Regulations. Additionally,

a non-conforming use or a non-conforming structure that has been discontinued for a period of twelve (12) contiguous months or more shall be considered to be abandoned and shall require a permit to reinstate the non-conforming use or non-conforming structure. All currently existing land uses which are listed as Conditional Uses in this Regulation shall be considered approved to have a Permit for such use. Any change of use requires a new permit application.

202: Existing Small Lots

Existing lots that are smaller than the dimensions required by these Regulations may be developed under the conditions specified by 24 VSA, Section 4412(2).

- 202.01 Any lot that is legally subdivided, is in separate, and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of these Regulations may be developed for the purposes permitted in the district in which it is located, even though the lot no longer conforms to minimum lot size requirements of the new regulation or interim regulation. Any lot that is less than one-eighth acre in area; or has a width or depth dimension of less than 40 feet may not be developed.
- 202.02 If an existing 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 if all of the following apply:
- A. The lots are conveyed in their preexisting, nonconforming configuration.
 - B. On the effective date of any regulation, 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.
 - 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 VSA, Chapter 64.

203: Uses Not Requiring a Permit

The following uses or developments may be commenced and maintained without a permit under these Regulations, provided they are located outside of the Special Flood Hazard Area and the structures, as constructed, reconstructed or altered comply with the requirements following:

- 203.01 The construction and maintenance of accessory uses or structures not exceeding 64 square feet in the floor area or structures less than 8 inches above average grade plane, ie; patios, walk ways, floating decks not attached to a structure or driveways. Exception; in the instance of a driveway where a curb cut is required in a roadway.
- 203.02 The reconstruction of an existing structure for the same use and of the same or smaller dimensions as existed immediately prior to reconstruction.
- 203.03 The interior alteration of an existing structure when such alteration will be used only for the same use as the existing structure.

204: Limitations on Municipal Regulations

Nothing in these Regulations shall be interpreted to regulate anything that a Municipality is prohibited from regulating pursuant to 24 VT Stat. Ann. Section 4413, which is attached hereto

205: Telecommunications and Power Generation

These regulations shall comply with the requirements set forth in 24 Vt Stat. Ann. Section § 4412(8) which currently provides as follows:

- A. Communications antennae and facilities. No permit shall be required for placement of antennae used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and any mast support does not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.
- B. If an antenna structure is less than 20 feet in height and its primary function is to transmit or receive communication signals for commercial, industrial, institutional, nonprofit or public purposes, it shall not be regulated if it is located on a structure located within the boundaries of a downhill ski area. "Downhill ski area" means an area with trails for downhill skiing served by one or more ski lifts and any other areas within the boundaries of the ski area and open to the public for winter sports.
- C. 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 Utility Commission according to the provisions of that section.
- D. The town may regulate communications towers, antennae and related facilities provided that such regulations do not have the purpose or effect of being inconsistent with §4412(8)(A) through (C).
- E. De minimis telecommunications impacts. An officer or entity designated by the town shall review telecommunications facilities applications, and upon determining that a particular application will impose no impact or de minimis impact upon any criteria established in the Regulations, shall approve the application.
- F. Solar power generation structures are allowed so long as the structure meets the set back and height requirements as defined by district.

ARTICLE 3: LOCATION OF & DEVELOPMENT WITHIN ZONING DISTRICTS

301: Zoning Map & Districts

- 301.01 The official zoning map for the Town of Jay shall be located in the office of the Jay Town Clerk. The official zoning map shall be the sole and final authority as to what land and water in the Town is incorporated in each Zoning District.
- 301.02 The Town of Jay shall be divided into the following Districts that shall be depicted on the Town of Jay Zoning Map:
 - CR Conservation - Recreation District
 - VC Village Center District
 - RDI Rural District I
 - RDII Rural District II
 - REC Recreation District
 - HD High Density District
- 301.03 District Boundaries: District boundaries shown within the lines of roads, streams and transportation rights-of-ways shall be deemed to follow the centerlines. The abandonment of roads shall not affect the location of district boundaries. When the Administrative Officer

cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he or she shall refuse action, and the Planning Commission shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this Regulation.

301.04 District Objectives and Land Use Controls: Article 3, Sections 302-307 provide the objectives of each of the districts hereby established and the provisions of this Regulation that apply respectively in each district. Any use designated as a "Permitted Use" relating to a particular district may be commenced in such district pursuant to Article 7, Section 704 of this Regulation. Any use designated as a "Conditional Use" in the table relating to a particular district may be commenced in such a district pursuant to Article 7, Section 706 of this Regulation. Any change of use shall require a zoning permit, unless the proposed use is expressly exempt under these bylaws and located outside of the Special Flood Hazard Area.

302: Village Center District

302.01 This District will provide the commercial growth center for the Town, concentrating those intense uses of land and facilities where public utilities are provided efficiently and cost effectively.

Permitted Uses

- 1. Agriculture*
- 2. Residential**

Permitted Uses (Subject to Site Plan Review)

- 1. Bakeries
- 2. Commercial/Retail Facilities
- 3. Financial Institutions
- 4. Lodging Facilities
- 5. Post Office
- 6. Professional Services
- 7. Restaurants
- 8. Signs
- 9. Driveway install

Conditional Uses

- 1. Accessory Use Structures
- 2. Bars
- 3. Campgrounds
- 4. Church (see Sec. 204)
- 5. Clinic Services
- 6. Dance Halls/Night Clubs
- 7. Essential Services
- 8. Mobile Vendor/Food Truck, (sited for more than seven consecutive days)
- 9. Funeral Homes
- 10. Gas Stations
- 11. Light Industry
- 12. Major Industry
- 13. Mobile Home Parks
- 14. Outdoor Recreational Facility
- 15. Planned Unit Developments
- 16. Ponds
- 17. Public Facilities (see Sec. 204)
- 18. Recreational Facilities,
- 19. Indoor and Outdoor
- 20. Temporary Structures/Uses
- 21. Wholesale Facilities

*This Regulation shall not regulate required agricultural and accepted silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.

**See section 302.05 below

302.02 Area and Dimensional Requirements

- 1. Minimum lot size: 1/2 acre
- 2. Frontage 100 feet
- 3. Front Yard Setback 50 feet
- 4. Side yard setback 25 feet
- 5. Rear yard setback 25 feet
- 6. Building Height not to exceed 35 feet

302.03 Commercial/Retail Uses: Each commercial/retail use shall not exceed 10,000 square feet in gross floor area.

302.04 Parking: The following parking requirements shall supersede those requirements found in Article 4, Section 403.11 of the Regulation:

- 1. Retail uses: 1 parking space per 500 square feet of floor space
- 2. Lodging facilities: 1 parking space per room or sufficient parking demonstrated at site plan review.

302.05 Mixed Use: Within the Village Center District mixed use developments are allowed. Such development shall include at least one commercial use that shall be the primary use of the building. Commercial use shall be facing the road and on the ground floor. Residential dwelling units and / or offices above or behind the commercial uses are permitted.

303: Rural District I

303.01 This District, being the largest, will provide most of the residential uses in the Town and will include those commercial and light industrial uses which can be designated and located to preserve and not adversely affect the scenic, natural and rural character of the District. In addition, that portion of the Town within Rural District I, adjacent to Route 242, will provide those tourist-oriented uses which will be designated, screened and located to preserve, enhance and not adversely affect the scenic and natural values or the enjoyment and safety of vehicles and persons on / or using Route 242.

Permitted Uses

- 1. Agriculture*
- 2. Dwelling, Single Family
- 3. Dwelling, Two-Family
- 4. Accessory Dwelling
- 5. Accessory Use

Permitted Uses (Subject to Site Plan Review)

- 1. Signs
- 2. Driveway install
- 3. Professional Services

Conditional Uses

- 1. Bar
- 2. Cemetery
- 3. Church (see Sec. 204)
- 4. Commercial Retail Facility
- 5. Dance Hall/Night Club
- 6. Dwelling, Multi-Family
- 7. Essential Services
- 8. Mobile Vendor/Food Truck (sited for more than seven consecutive days)
- 9. Financial Institution

- 10. Financial Institution
- 11. Light Industrial
- 12. Lodging
- 13. Mobile Home Park
- 14. Planned Unit Development
- 15. Pond
- 16. Public Facility (see Sec. 204)
- 17. Recreational Facility, Outdoor
- 18. Restaurant

* This Regulation shall not regulate required agricultural and accepted silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, pursuant to 10 V.S.A. Section 1021(f) and 10 V.S.A. Section 1259(f) of 6 V.S.A. Section 4810.

303.02 Area and Dimensional Requirements

- 1. Minimum lot size: 3 acres
- 2. Frontage 250 feet
- 3. Front Yard Setback 65 feet
- 4. Side yard setback 40 feet
- 5. Rear yard setback 40 feet
- 6. Building Height not to exceed 35 feet

304: Rural District II

304.01 This District is comprised those lands that lie above 2,500 feet in elevation and that consequently constitute an area whose resources are more susceptible to adverse effects of land development; those lands are also subject to special regulation under 10 V.S.A. Chapter 151 (Act 250)

Permitted Uses

- 1. Agriculture*
- 2. Forestry*
- 3. Dwelling, Single Family
- 4. Dwelling, Two-Family
- 5. Accessory Dwelling
- 6. Accessory Use

Permitted Uses (Subject to Site Plan Review)

- 1. Signs**
- 2. Driveway install

Conditional Uses

- 1. Mobile Vendor/Food Truck, (sited for more than seven consecutive days)
- 2. Earth Resource Removal
- 3. Essential Services
- 4. Recreational Facility

* This Regulation shall not regulate required agricultural and accepted silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, pursuant to 10 V.S.A. Section 1021(f) and 10 V.S.A. Section 1259(f) of 6 V.S.A. Section 4810.

304.02 Area and Dimensional Requirements

- 1. Minimum lot size: 10 acres
- 2. Frontage 250 feet

- | | |
|----------------------------------|---------|
| 3. Front Yard Setback | 75 feet |
| 4. Side yard setback | 50 feet |
| 5. Rear yard setback | 50 feet |
| 6. Building Height not to exceed | 35 feet |

305: Recreation District

305.01 This District will provide a high-density recreation, vacation, residential and commercial growth center currently oriented around and supported by the Jay Peak Recreation Area and its facilities.

Permitted Uses

1. Dwelling, Single Family
2. Dwelling, Two-Family
3. Accessory Dwelling
4. Accessory Use

Permitted Uses (Subject to Site Plan Review)

1. Signs
2. Driveway install
3. Professional Services

Conditional Uses

1. Building height over 35' maximum*
2. Commercial/Retail Facility
3. Mobile Vendor/Food Truck, (sited for more than seven consecutive days)
4. Light Industrial Facility
5. Earth Resource Removal
6. Lodging
7. Recreational Facility, Indoor
8. Recreational Facility, Outdoor
9. Planned Unit Development
10. Ponds
11. Public Facility (see Article 2, Section 204)

305.02 Area and Dimensional Requirements

- | | |
|-----------------------|----------|
| 1. Minimum lot size | 1.5 acre |
| 2. Frontage | 200 feet |
| 3. Front Yard Setback | 65 feet |
| 4. Side yard setback | 40 feet |
| 5. Rear yard setback | 40 feet |

*Requires a waiver

306: High Density District

306.01 This District includes lands that have already been subdivided into pre-existing lots, primarily for residential use.

specified in the initial application will require a new permit specifying any additional parking capacity.

- 402.04 The proposed development will not result in increased levels of noise, or light, or odor, any of which would disturb or diminish the reasonable enjoyment of the current and anticipated uses of other properties or be adverse to the public health and safety, or adversely affect the utilization of renewable energy resources.
- 402.05 The proposed development minimizes, to the extent found by the Board or Commission reasonable and practicable under the circumstances, the reduction of the productive potential of agricultural and forestry soils through the use of cluster planning and the provision of minimal coverage of land by Impermeable surfaces, and preserves existing natural features including wetlands, ponds, streams, and groundwater supplies.
- 402.06 The proposed development and its location, size, and character are consistent with the characteristics as designated in these Regulations of the District in which the development will be located, and are also consistent with the Town Plan. ¹
- 402.07 The proposed development conforms to the Specific Standards found in 403.01- 403.20 of these Regulations.

403: Specific Standards

- 403.01 Roads: All roads and vehicle rights of way to be constructed or maintained within and for a proposed development shall conform to the State of Vermont Road Standards as adopted by the Selectboard of the Town. To the extent practicable, existing trees and stone walls within 50 feet of the edge of the right-of-way shall not be disturbed by the proposed development.
- 403.02 Minimum Lot Sizes: No lot in a respective District shall be created having less than the minimum required lot area, and providing further that the Planning Commission may increase the density and allow smaller lot sizes, under the conditions provided in ARTICLE 5 of these Regulations. All non-conforming lots in common ownership shall be combined.
- 403.03 Frontage and Set-Back: Any lot created through the subdivision process shall have no less than the minimum required frontage for the district in which such lot is located on all adjoining public highways or access to a public road or waters by way of a right-of-way of not less than 50 feet in width, and any structure (including all projections) on a lot shall comply with the minimum set-back requirements in the respective districts. For those lots fronting on a public right-of-way, the front yard setback shall be measured from the centerline of the traveled portion of the public right-of-way.

For those lots that have approved access to a public right-of-way the front yard setback shall be measured from the property boundary closest and most parallel to the public right-of-way. Side and rear yard setbacks shall be measured at the points of least distance between the structure and the nearest respective side or rear boundary of the lot (see Appendix).

Provided, however, that the minimum requirements may be reduced by the Commission under the conditions set forth in ARTICLE 5 of these Regulations. Areas required under this section (403.03) to satisfy setback requirements for one structure shall not be used to satisfy the same requirements for another structure.

- 403.04 Height of Buildings: No building may be constructed such that its building height exceeds 35 feet as measured from the highest grade point of the building envelope, except as otherwise allowed in the High-Density District and Recreation District, by the Zoning Board of Adjustment when reviewing an application for a waiver.
- 403.05 Shorelines: No structure or use may be created or maintained within 50 feet of the mean high water

¹ The character of the area does not apply to small multi-unit housing developments (i.e. four units or fewer).

mark of any stream, pond or river, except as otherwise allowed by the Board of Adjustment in a permit for a conditional use issued under these Regulations. Human made ponds must comply with the 50 foot setback requirement with regard to public boundaries.

- 403.06 Location of Driveways: All driveways are to be located at least 75 feet from a street line intersection for all users. The Road Commissioner shall be contacted prior to development of any driveways. Any parcel abutting Route 242, Route 105 or a Class 1 town highway require a curb cut permit from the State.
- 403.07 Reclamation after Mining: Any development involving extraction, of earth resources, including sand and gravel, shall not be permitted unless the Zoning Board of Adjustment approves a plan for the reclamation of the land affected. Such plan shall be made a part of any permit application for the development.
- 403.08 Storage Containers/Conex: Temporary permits may be issued by the Zoning Board of Adjustment for a period not exceeding two years, for uses incidental to; construction projects, or permitted business operations provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.
- A. Portable or temporary storage container/conex located at a property require a zoning permit.
 - B. Portable and temporary storage container/conex shall not be visible along Routes 242 & 105.
 - C. Portable or temporary structure incidental to an existing permitted business.
- 403.09 Abandonment of Structures: Within two years after any building or structure has been destroyed, demolished, or abandoned, all structural materials shall be removed from the site and the excavation thus remaining shall be covered or filled to the normal grade by the owner. If an owner wishes to propose an alternative disposition, application shall be made to the Board of Adjustment. Structures and other buildings that are deemed unfit for human habitation or that present a danger due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such buildings unsafe or unsanitary, or dangerous or detrimental to the health safety or otherwise inimical to the welfare of the residents of, or visitors to this Town are to be prevented and prohibited within the Town. Buildings found to be in such condition and liable to collapse or presenting other hazardous conditions dangerous to the public health and safety or that might result in serious accident or loss of life shall after certification of such danger will be treated as a violation of this bylaw and subject to penalties as provided by V.S.A. 24 §and §4454. An extension shall be requested from the P&Z Board, for any insurance delays.
- 403.10 Burned Buildings: No owner or occupant of land in any District shall permit fire damaged or other ruins to be left, but within two years shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure. An extension shall be requested from the P&Z board, for any insurance delays.
- 403.11 Off-Street Parking: Off-street parking shall be provided as follows:
- A. Residential use – no fewer than three spaces per dwelling.
 - B. Other uses - as required by the Planning Commission or Board of Adjustment pursuant to 402.03, but in no case less than three spaces.
 - C. For purposes of computation the area of an off-street parking space shall be at least 300 square feet, having dimensions that provide adequate access from the public highway, adequate area for entry and exit from the parking space, and adequate room for approach to any vehicle.
 - D. Commercial Village Center District according to 302.4
- 403.12 Signs: No sign may be installed, affixed or changed without a zoning permit. Signs in all Districts

shall be subjected to site plan review and considered as a permitted use when meeting the following minimum requirements:

A. General Requirements:

1. Signs affixed to a building may not extend above the roof or parapet of the building.
2. Maximum height of a freestanding sign, including its support structure may not exceed 20 feet above finished grade.
3. Signs may be illuminated by external spot/flood lights shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be focused upon the sign only. Animated, flashing or intermittently lighted signs are prohibited. Signs illuminated whether internally or externally with Neon, Argon, Krypton or other gaseous substances excited by high voltage current are prohibited.
4. Signs shall not project over public rights-of-way.
5. All signs shall be constructed of durable materials, and must be maintained in good condition and repair at all times. Any sign destroyed or severely damaged by wind, weather, rot, vandalism or other causes must be removed or repaired within 120 days of damage. Any replacement sign must conform to this 403.12.
6. Additional on-site directional signs in residential or commercial districts, signs for parking, entrance and exit, deliveries, etc., will be considered by the Administrative Officer upon application for a use permit.
7. No owner or occupant of property may display or allow to be displayed any sign for a business, including a home business, which is not actively being conducted on the site.
8. All signs must either be attached to a building or freestanding having its own structure.
9. All signs must be approved by the Administrative Officer before being erected or affixed to the building.

B. Signs for Home Occupations: One sign not exceeding 12 square feet is permitted to announce the name, address, profession or home occupation of the occupant of the premises on which said sign is located. The sign may be freestanding or attached to the structure, but only one sign is allowed.

C. School, Church, and Public Buildings: A bulletin board not exceeding 24 square feet is permitted in connection with a church, school, or similar public structure. The sign may be freestanding or attached to the structure but only one sign is allowed.

D. Commercial Properties:

1. A temporary sign not exceeding 24 square feet is permitted on property being developed, leased and/or sold. One such freestanding sign is permitted per plot and may be used to advertise and/or list the construction company or developer. Such sign shall be removed promptly when it has served its function.
2. Two signs are permitted per business or industrial site, i.e. one freestanding and one attached to the building may be either projecting or affixed flat to the face of the building.
3. Free standing signs may have no more than two faces with a maximum square footage of 50 square feet per face.
4. Multiple businesses on the same property must be serviced by the same freestanding sign.

5. Non-projecting signs attached to buildings shall not exceed 50 square feet. Projecting signs attached to buildings shall not exceed 25 square feet per face if double sided or 25 square feet if single sided. The area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all elements of the matter displayed. Frames and structural members bearing advertising matter shall be included in computation of surface area.

403.13 Travel Trailers: No Travel trailer may be occupied on any property for more than 30 cumulative days in any given year unless such travel trailer is connected to a state permitted sewage disposal system. A travel trailer occupied on any property for more than 30 cumulative days in any given year shall be required to obtain a permit as a single-family structure.

403.14 Scenic Corridor - Development on Lands with Frontage on Route 242 & 105: Development on lands with frontage on Route 242 outside of the Village Center District such as might be reasonably visible from the 'highway' shall be screened, located, and designed such as to minimize any adverse impact on the now existing scenic appearance of our scenic views from Route 242 & 105.

403.15 Public Events: All public events in the Town of Jay must register with the Jay Town Clerk at least 30 days prior to the event to ensure safety, security, parking and sanitation.

403.16 Open storage: All places of outdoor storage of household appliances, junk and junk vehicles shall be located outside of the Special Flood Hazard Area and effectively screened from public view from the main traveled way of a highway by a fence or vegetation at least six feet high. Failure to provide screening as required herein shall be considered a violation of these Regulations

- A. Any fence shall be of sound construction, such as solid vertical boards, stockade type construction or chain link with privacy screening. Fencing shall be maintained in good repair and effectively screen the outdoor area from public view from the main traveled way of a highway. Such fencing shall not be used for advertising signs or other displays which are visible from the main traveled way of a highway.
- B. Any vegetation used for screening shall be of sufficient density to effectively screen the area from view.
- C. It shall be considered a violation of these regulations to discard or abandon junk, or store 4 or more junk motor vehicles in a place where any such item is visible from the traveled way of a highway or town road or visible to an abutting landowner from the portion of the abutter's land used on a regular basis. Any such items placed, discarded or abandoned shall be declared a public nuisance.
- D. For safety reasons, the owner of any outdoor storage of junk motor vehicle or household appliance must secure the same to disallow unauthorized entry by other persons, especially children. Any doors large enough for a child to crawl through on any household appliance must be removed. Junk motor vehicles doors must either be removed chained or locked shut.
- E. Junk and/or junk motor vehicles shall be effectively screened from the view from any abutting property owner's regularly year-round used land. Failure to remove or screen the items from view shall be a violation.
- F. The Administrative Officer may contact a towing service to remove an abandoned motor vehicle from public or private property based upon personal observation by the officer that the vehicle is abandoned, as defined in 23 VSA §2151
- G. Property owners must hold the title or be able to show proof of ownership of any Junk Motor Vehicles stored on their property.

- H. Household Appliances, Junk and Junk Motor Vehicles shall be stored in such a manner as to prevent hazardous liquids; such as, but not limited to, battery acid, used motor oil and gasoline; and other hazardous materials from leaching into the soil and ground water.

403.17 Salvage yards: A person who wishes to operate a salvage yard/junk yard within the Town is required to obtain a Certificate of Approval for the salvage yard's location from the Zoning Board and obtain a Certificate of Registration from the Secretary of Natural Resources or Secretary's designee to operate, establish or maintain a salvage yard. Any salvage yard operating without the necessary permit and approvals as herein specified is declared to be a public nuisance and a violation of these regulations.

- A. Certificate of Approved Location (COAL). Application for a certificate of approved location shall be made in writing to the Zoning Board of the Town and final approval given by the Selectboard.

1. The application shall be accompanied by a certificate from the Zoning Administrator that the proposed location is not within an established district restricted against such uses.
2. The application shall contain a description of the land to be included within the salvage yard, which description shall be by reference to so-called permanent boundary markers.
3. The certificate of approved location is valid for 5 years.

- B. Salvage yards shall be screened from view by means of either a solid fence at least 8 feet in height or a natural vegetative buffer no less than 5 feet in width.

1. Any fence shall be of sound construction, such as solid vertical boards, stockade type construction or chain link with privacy screening. Fencing shall be maintained in good repair and effectively screen the outdoor area from public view. Such fencing shall not be used for advertising signs or other displays which are visible from the main traveled way of a highway.
2. Any vegetation used for screening shall be of sufficient density to effectively screen the area from view.

- C. Salvage shall be stored in such a manner as to prevent hazardous liquids; such as, but not limited to, battery acid, used motor oil and gasoline; and other hazardous materials from leaching into the soil and ground water.

403.18 Residential care home or group home: A residential care or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property.

403.19 Home occupations: These Regulations shall not infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

403.20 Child care facility: A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the state of Vermont for child care. A family child care home serving fewer six full-time and four part-time children shall

be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirement.

403.21 Accessory Dwelling Units: An accessory dwelling unit that is located within or appurtenant to an owner-occupied, single-family dwelling shall be a permitted use, provided there is compliance with all the following:

- A. The property has sufficient wastewater capacity;
- B. The unit does not exceed 50 percent or 1500 square feet, whichever is the largest of the total habitable floor area of the single-family dwelling;
- C. Applicable setback, coverage, and parking requirements specified in the bylaws are met; and
- D. The structure is located outside of the Special Flood Hazard Area.

403.22 Fire Lane Maintenance: Fire lane markings shall be maintained at the expense of the property owner as often as is deemed necessary to clearly identify the designated area as a fire lane. The owner, manager or person in charge of any property upon which designated fire lanes have been established shall be responsible for, and not allow, vehicles or other objects to park in such fire lanes. At each entrance to property where fire lanes have been designated, signs shall be posted, in a clear, conspicuous location and shall clearly state "Vehicles parked in Fire Lanes may be impounded or towed at the owner's expense." They shall also state the name, telephone number and address of the towing company where the vehicle may be redeemed.

403.23 Food Truck/Mobile Vendor:

A. Specific types of Mobile Vendor/Food Trucks:

1. Permanent: Mobile Vendor/Food Truck adapted to be permanent shall fall under 403.21
2. Semi-Permanent: A Mobile Vendor/Food Truck which is parked/situated at a location and remain in place for an entire season or longer.
3. Traveling Mobile Vendor/Food Truck: A Mobile Vendor/Food Truck which shall be temporarily parked/situated at a location and will be moved on a regular basis.

B. Permits for operating a Mobile Vendor/Food Truck:

1. Change of Use Permit: Any of the above specific types will require an initial change of use permit to be submitted by the property owner at which the Mobile Vendor/Food Truck shall be situated.
 - a. Permanent or Semi-permanent Mobile Vendor/Food Truck shall require ONLY an initial change of use permit and fee.
 - b. Traveling Mobile Vendor/Food Truck shall require an initial change of use permit for each location at which the vendor shall operate plus shall be required to pay an additional annual renewal fee as detailed in the Town of Jay permit fees.
2. Mobile Vendor/Food Truck Permit: All Mobile Vendor/Food Truck are required to obtain a Mobile Vendor/Food Truck Permit from the Zoning Administrator. The permit application shall list the requirements that must be satisfied by the vendor in order to receive the permit.

C. All types of Mobile Vendor/Food Truck shall be required to meet the specific set back requirements for the district in which they are located/operating.

1. All types of Mobile Vendor/Food Truck shall be required to provide copies of all federal, state and local zoning permits/licenses necessary for the vendor to conduct business as set forth in the Permit Application including, but not limited to:

- a. Vermont State Health permits to operate a food establishment
- b. State of Vermont sales and use tax certificates
- c. Meals and Rooms Tax Certificates

D. EXEMPTIONS:

- 1. Any person who sells or offers for sale goods, wares, merchandise produced or grown or made on his/her own land and sold on site. This exemption shall not apply to a person who conducts such sales from a permanent structure designed as a place of business for such sales. Section 403.21 would apply.
- 2. Any religious, charitable, educational or service organization desiring to conduct sales or an event for a period not to exceed three consecutive days.
- 3. Any persons involved in bona fide yard sale on their own property.
- 4. Activities or events conducted by the Town of Jay.

ARTICLE 5: PLANNED UNIT DEVELOPMENTS

501: Purpose:

It is the purpose of ARTICLE 5 to advance one or more of the following goals and objectives:

- A. Enable and encourage flexibility and innovation in the design and development of land in such a manner as to promote the most appropriate and efficient use of land.
- B. Encourage compact pedestrian-oriented development.
- C. Promote a mix of residential uses and non-residential uses or both especially in the Village Center District or in other districts as deemed appropriate by the Planning Commission.
- D. Facilitate the adequate and economical provision of streets and utilities.
- E. Advance the goals of the Town Plan.
- F. Encourage the development of affordable housing.
- G. Conserve agricultural lands, forests, open space and other valuable natural resources.
- H. Preserve the rural and scenic qualities of the Town of Jay, all pursuant to 4417 of the Vermont Municipal and Recreational Planning and Development Act (VSA Chapter 117) herein referred to as the Act.

502: Application and Procedure

An application may involve a single or multiple landowners on a single parcel or a combination of properties. An application for a permit for a planned unit development shall be reviewed by the Planning Commission using the subdivision review process. The proposed Planned Unit Development shall include a proposed plan of the subdivision meeting the application requirements of Article 7 Section 712 of these Regulations, and the review and approval of the plan for the subdivision shall be done in accordance with the standards of ARTICLE 4 and Article 5, section 504 of these Regulations.

503: Modification of Requirements

The Planning Commission is hereby authorized pursuant to 24 V.S.A. 4417 to modify the requirements on any subdivision or development project governed by the provisions of Article 5, which are imposed by Article 4, Sections 403.02 through 403.04 of these Regulations, to the effect that the density of dwelling units on the lot may be increased to an amount in excess of the number otherwise permitted under these Regulations, if the Planning Commission finds that such modification will achieve the purpose of this article and those purposes set forth in 4417 of the Act by clustering the development, and will comply with other

applicable Standards in ARTICLE 4 of these Regulations as deemed necessary and relevant by the Planning Commission.

504: Additional Specific Standards

In addition to the General and Specific Standards provided by other Articles of these Regulations, the following Specific Standards shall be complied with by any development, unless the applicant demonstrates to the Planning Commission, and the Commission so finds that one or more of the standards do not apply to the applicants proposal.

504.01 Residential Density: Planned Unit Developments with single family dwellings shall not exceed a density of one dwelling per acre.

504.02 Streets:

- A. Topography: Streets shall be logically related to the topography so as to produce useable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets.
- B. Access: Year round access shall be provided for fire, ambulance, and police vehicles to within 60 feet of all principal structures. All new streets shall comply with the Town highway specifications.
- C. Access Roads: All access roads and dwellings need to be approved by the Road Commissioner. If the access road to the proposed project is a private road, the Commission may require the developer to improve the access road to Class 3 municipal highway construction standards in accordance with the Town Highway Ordinance. Such improvement shall provide no implied obligation on the municipality to accept ownership and the responsibility for future maintenance of said road. If the access road to the subdivision is a Class 4 Town road, the Commission may require its upgrading at the developer's expense and subdivision approval may be conditional upon approval of the road class change by the legislative body.
- D. Curbs and Sidewalks: Curbs and sidewalks, may be required on at least one side of all streets and construction must conform to specifications provided by the Highway Superintendent.

504.03 Shade Trees: Selected shade trees in the right-of-way will be preserved when so indicated by the Road Commissioner.

504.04 Stone Walls: Stone walls within the right-of-way will be retained if practicable.

504.05 Open Space and Recreation Areas

- A. The Planning Commission will determine the amount, location, degree of public access and use of some or all of the open space in the proposed development.
- B. The Planning Commission will require as one of the criterion for approval that each development contain adequate provision for the recreation needs of its residents not otherwise provided for.
- C. The dedication or transfer of ownership of property located outside of the proposed development to the Town may be considered by the Planning Commission as adequate fulfillment of providing for the recreation needs of Town residents and in meeting the rural preservation goals of this Article.

504.06 Utilities: The dedication or transfer of ownership of public infrastructure such as sewer and water facilities or dedicated capacity thereof to the Town may be considered by the Planning Commission as adequate fulfillment of providing for the economic provision of utilities goals of this Article.

504.07 Operations and Management of Common Ownership

- A. The Planning Commission may require the establishment of an organization trust,

homeowners association, or similar entity to provide for the ongoing operations, maintenance and management of commonly held property and infrastructure.

- B. The Planning Commission may require the payment of fees for the ongoing operations, maintenance and management of commonly held property and infrastructure if the Town will perform said operations, maintenance and management.

504.08 Applicable Lands: ARTICLE 5 only applies to development projects involving a land size of 25 acres or greater in all districts and must be approved by the Board of Adjustment.

ARTICLE 6: FLOOD HAZARD AREA REGULATIONS

601: Purpose

- A. Protect the safety and welfare of the inhabitants of Jay;
- B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;
- C. Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor,
- D. Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Jay, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

602: Base Flood Elevations & Floodway Limits

- 602.01 Where available. i.e.; zones A1-A30, AE, and AH, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.
- 602.02 In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State or Federal agencies.

603: Application of the Flood Hazard Regulations

- 603.01 These Regulations shall apply to development in the Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 VSA, Section 753, which are hereby adopted reference and declared to be part of these Regulations. The location of the boundary shall be determined by the Administrative Officer. If the applicant disagrees with the determination made by the Administrative Officer, a Letter of Map Amendment from FEMA shall constitute proof.
- 603.02 Definitions used in this section are as applicable to the National Flood Insurance Program and as contained in 44 CFR 59.1.
- 603.03 Summary Table: Development Review in Hazard Areas.

The hazard areas below are not appropriate for development that increases the elevation of the base flood.

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

604: Permitting Procedures

- 604.01 A permit is required from the Administrative Officer for all development in all areas defined in Sec. 603.01. Development that requires conditional use approval, non-conforming use approval, or a variance from the Board of Adjustment under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the Administrative Officer.
- 604.02 Prior to issuing a permit, a copy of the application shall be submitted to the Vermont Department of Environmental Conservation in accordance with 24 V.S.A. 4424(D). A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.
- 604.03 Adjacent communities and the Vermont Department of Environmental Conservation shall be notified at least 15 days prior to issuing a permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.
- 604.04 Any permit issued will require that all necessary permits from state or federal agencies have been received before work may begin.
- 604.05 Permitted Development: For the purposes of review under these regulations, the following development activities in the Special Flood Hazard Area where outside of the Floodway, and meeting the Development Standards in Sec. 605, require only an administrative permit from the Administrative Officer:
- A. Non-substantial improvements;
 - B. Accessory structures;
 - C. Development related to on-site septic or water supply systems;
 - D. Building utilities;
 - E. At-grade parking for existing buildings; and,
 - F. Recreational vehicles

- 604.06 Prohibited Development in Special Flood Hazard Area
- A. Storage or junk yards;
 - B. New fill except as necessary to elevate structures above the base flood elevation;
 - C. Accessory structures in the floodway;
 - D. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
 - E. All development not exempted, permitted, or conditionally permitted
- 604.07 Conditional Use Review: Conditional use review and approval by the Board of Adjustment is required prior to the issuance of a permit for the following proposed development:
- A. New structures
 - B. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
 - C. New or replacement storage tanks for existing structures;
 - D. Improvements to existing structures in the floodway;
 - E. Grading, excavation; or the creation of a pond;
 - F. Improvements to existing roads;
 - G. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
 - H. Public utilities;
- 604.08 Exempted Activities: The following are exempt from regulation under this bylaw:
- A. The removal of a building or other structure in whole or in part;
 - B. Maintenance of existing roads and storm water drainage;
 - C. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
 - D. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices (RAP). Prior to the construction of farm structures the farmer must notify the Administrative Officer in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.
- 604.09 Application Submission Requirements
- A. In addition to the Sec. 712, all applications for development in the Special Flood Hazard Area shall include:
 - 1. A site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
 - 2. 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 Administrative Officer and attached to the permit before work can begin; and
 - 3. Copies of the application sufficient for the file, the State National Flood Insurance Program Coordinator, and additional parties, such as the Board of Adjustment, the VT DEC Stream Alteration Engineer and adjacent communities, if affected.
- 604.10 Upon receiving an application for a conditional use permit under the regulations, the Zoning Board

of Adjustment, prior to rendering a decision thereon shall:

- A. Obtain from the applicant:
 - 1. The elevation (relation to mean sea level) of the lowest floor, including basement, of new buildings or buildings to be substantially improved.
 - 2. Where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be flood proofed.
 - 3. Plans drawn to scale showing the existing and proposed land contours, buildings, structures, streams, roads and other pertinent physical features.
 - 4. Such other information deemed necessary by the Zoning Board of Adjustment for determining the suitability of the site for the proposed development.
- 604.11 In reviewing each application, the Zoning Board of Adjustment shall consider:
- A. The evaluation of the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources in accordance with 24 V.S.A. §4424.
 - B. The availability of alternative locations not subject to flooding for the proposed use.
 - C. The susceptibility of the proposed improvement to flood damage.
 - D. The safety of access to the property in times of flood or ordinary and emergency vehicles.
 - E. The potential for damage to the property caused by erosion.
 - F. The danger that materials may be swept onto other lands and cause damage to others.
 - G. Such other factors as are relevant to the purposes of this regulation.
- 604.12 The Zoning Board of Adjustment may grant a conditional use permit for development provided the development standards of 605 are met or exceeded.

605: Development Standards

- 605.01 Encroachment or development above grade and less than one foot above the base flood elevation are prohibited within the floodway unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will not:
- A. result in any increase in flood levels (0.00 feet) during the occurrence of the base flood.
 - B. increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- 605.02 Public utilities in the floodway may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
- 605.03 All development and structures – anywhere in the Special Flood Hazard Area -- shall be:
- A. Reasonably safe from flooding;
 - B. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - C. Constructed with materials resistant to flood damage;
 - D. Constructed by methods and practices than minimize flood damage;
 - E. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and are located so as to prevent water from entering or accumulating within the components during conditions of flooding;

- F. Adequately drained to reduce exposure to flood hazards;
 - G. Located so as to minimize conflict with changes in channel location over time and the need to interfere with such changes; and
 - H. Required to locate any fuel storage tanks (as needed to serve an existing one in the Special Flood Hazard Area) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, in securely anchored as certified by a qualified professional.
- 605.04 In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
- 605.05 The flood carrying and sediment transport capacity within any altered or relocated portion of a watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.
- 605.06 New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- 605.07 On-site waste disposal systems shall be located to avoid impairment to them and contamination from them during flooding.
- 605.08 New and replacement manufactured homes shall be elevated or placed on a permanent foundation so the lowest floor is at or above the base flood elevation.
- 605.09 New or existing residential structures to be substantially improved for residential purposes shall be located such that the lowest floor is at least at or above the base flood elevation, and this must be documented, in as-built condition, with a FEMA elevation certificate.
- 605.10 New or existing non-residential structures to be substantially improved shall either:
- A. Meet the requirements of subsection 605.09 or;
 - B. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that at or above the base flood elevation the structure is watertight with walls substantially impermeable 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 registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- 605.11 Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- 605.12 Fully enclosed areas that are above grade, below the lowest floor, below the base flood elevation, that are subject to flooding shall:
- A. be solely used for parking of vehicles, storage, or building access, and such condition shall be clearly 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. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following

minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

605.13 Recreational vehicles shall either

- A. be on the site for fewer than 180 consecutive days;
- B. be fully licensed and ready for highway use; or
- C. meet all standards of Section 60.3(b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of Section 60.3(c)(6).

605.14 Small accessory structures of 500 square feet or less that represent a minimal investment need not be elevated to the base flood elevation, provided the structures are placed on the building site so as to offer the minimum resistance to the flow of flood waters and meet the requirements of Subsection 605.12.)

606: Duties / Responsibilities of Administrative Officer

The Administrative officer shall maintain a record of:

- A. All permits issued for development in areas of special flood hazard.
- B. The elevation, in relation to mean sea level, or the lowest floor, including basement, of all new or substantially improved buildings.
- C. The elevation, in relation to mean sea level, to which buildings have been flood proofed.
- D. All flood proofing certifications required under this regulation.
- E. All variance actions, including justification for their issuance.

607: Substantial Improvement and Substantial Damage Determinations, Post-Flood Procedures

607.01. When a proposal for the renovation, rehabilitation, restoration, or repair of a structure located within any flood hazard overlay district is reviewed, the Administrative Officer shall make a substantial improvement determination.

607.02. In the event of damage to a structure located within any flood hazard overlay district from flooding, or other causes (such as, but not limited to fire, wind, or snow), the Administrative Officer shall make a substantial damage determination based on the damage sustained by the structure regardless of intended repair at that time.

607.03. Substantial improvement or substantial damage determinations shall be made in accordance with current FEMA guidelines² or a procedure established by the Zoning Board of Adjustment in accordance with 24 V.S.A. §1972 and 24 V.S.A. §4461 and shall be used to determine the appropriate development standards for repair and rebuilding.

607.04. A substantial improvement or substantial damage determination can be appealed by an applicant or property owner to the Zoning Board of Adjustment in accordance with Section 718 of this bylaw. In the consideration of an appeal of the Administrative Officer’s determination, the Zoning Board of Adjustment shall consider additional documentation provided by the applicant which may include:

- A. A recent building appraisal (within the past calendar year, or as determined to still be

² FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference: <https://www.fema.gov/media-library/assets/documents/18562>

- applicable) completed by a licensed and qualified real estate appraiser that documents the structure's market value (excluding land value) prior to the damage or improvement; or
- B. A project/repair cost estimate provided by a qualified contractor, professional engineer or licensed architect. The material and labor cost estimate shall include a detailed accounting of the proposed improvements, additions, reconstruction or rehabilitation work, repairs or associated construction and development; or
 - C. In the case of substantial damage, an estimate of structure damage provided or reviewed by a local official from FEMA's Substantial Damage Estimator software.

608: Variances to the Development Standards

- 608.01 Variances to development in any flood hazard overlay areas shall be granted in writing by the Zoning Board of Adjustment only in accordance with the provisions of Section 717 of this bylaw, 24 VSA 4469 and in accordance with 44 CFR, 60.6, of the National Flood Insurance Program regulations.
- 608.02 Any variance issued in the Flood Hazard Area shall not increase flood heights and shall inform the applicant in writing over the signature of the Chair of the Zoning Board of Adjustment that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

609: Violations

Violations of these Flood Hazard Regulations will be addressed in accordance with Sections 720 and 721 of this bylaw. Additionally,

- A. A copy of the notice of violation will be mailed to the State National Flood Insurance Program (NFIP) Coordinator at the VT Agency of Natural Resources, in accordance with 24 V.S.A. §4424 ; and
- B. If any appeals have been resolved, but the violation remains, the Administrator Officer shall submit a declaration to the Administrator of the National Flood Insurance Program requesting of denial of flood insurance to the violator.
- C. Violations of Required Agricultural Practices shall be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Sec. 4812.

610: Warning of Disclaimer of Liability

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

ARTICLE 7: ADMINISTRATION

701: Appointment and powers of Administrative Officer (§ 4448).

- 701.01 An administrative officer, who may hold any other office in the municipality other than membership in the board of adjustment, shall be nominated by the planning commission and appointed by the legislative body for a term of three years promptly after the adoption of the first Regulations or when a vacancy exists. The compensation of the administrative officer shall be fixed under 24 V.S.A. §§932 - 933, and the officer shall be subject to the personnel rules of the municipality adopted under 24 V.S.A. §§1121 - 1122. The administrative officer shall administer the Regulations literally and shall not have the power to permit any land development that is not in conformance with those Regulations. An administrative officer may be removed for cause at any

time by the legislative body after consultation with the planning commission.

- 701.02 The planning commission may nominate and the legislative body may appoint an acting administrative officer who shall have the same duties and responsibilities as the administrative officer in the administrative officer's absence. If an acting administrative officer position is established, or, for municipalities that establish the position of assistant administrative officer, there shall be clear policies regarding the authority of the administrative officer in relation to the acting or assistant officer.
- 701.03 The administrative officer should provide an applicant with forms or direct them to the website where they can obtain any municipal permit or other municipal authorization required under this chapter, or under other laws or ordinances that relate to the regulation by municipalities of land development. If other municipal permits or authorizations are required, the administrative officer should coordinate a unified effort on behalf of the municipality in administering its development review programs. The administrative officer should inform any person applying for municipal permits or authorizations that the person should contact the online Permit Navigator employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.
- 701.04 If the administrative officer fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision, inquiring further of the applicant, or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day.

702: Planning Commission

- 702.01 The Planning Commission shall consist of not less than three (3) nor more than nine (9) voting members appointed by the Selectboard in accordance with 24 V.S.A. §§4321 - 4323. At least a majority of members shall be residents of the municipality. Any member of the Planning Commission may be removed at any time by a unanimous vote of the Legislative Body.
- 702.02 The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.
- 702.03 The Planning Commission shall have the following duties regarding this Regulation, in accordance with 24 V.S.A. §4325 and §4441:
- A. to prepare proposed amendments to this Regulation, and consider proposed amendments submitted by others, including amendments supported by a petition signed by at least five percent of the voters of the Town of Jay.
 - B. to prepare and approve written reports on any proposed amendment to this Regulation; and
 - C. to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Selectboard.
 - D. to hear and act upon applications for subdivisions of land, as described in Article 7, section 710 of this Regulation; and planned unit developments, as described in Article 5 of this Regulation.

703: Zoning Board of Adjustment

- 703.01 The Zoning Board of Adjustment shall consist of not fewer than three (3) nor more than nine (9) members appointed by the Selectboard for specified terms in accordance with 24 V.S.A. [§4460(b) and (c)]. Vacancies shall be filled by the Selectboard for the unexpired terms and upon the expiration of such terms. Any member of the Zoning Board of Adjustment may be removed for cause by the Selectboard upon written charges and after public hearing.

- 703.02 The Zoning Board of Adjustment shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.
- 703.03 The Zoning Board of Adjustment shall have all powers and duties as set forth in 24 V.S.A. Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
- A. appeals from any decision, act or failure to act by the Administrative Officer, as described in Article 7, section 715 of this Regulation, and any associated variance requests, as described in Article 7, section 718 of these Regulations;
 - B. applications for conditional use approval, as described in Article 7, section 711 of these Regulations;
 - C. site plan approval, as described in Article 7, section 709 of these Regulations; and
 - D. rights-of-way or easements for development of non-frontage lots, as described in Article 4, section 403 of these Regulations.

704: Application for Permit

- 704.01 Except as otherwise provided in Article 2, sections 203 and 204 of these Regulations, no development may be commenced without a permit therefore issued by the Administrative Officer. No zoning permit shall be issued except in conformance with this Regulation. Permits for development requiring approval by either the Planning Commission or the Zoning Board of Adjustment shall be issued by the Administrative Officer only after such approvals have been granted.
- 704.02 The permit application form adopted by the Commission and Board shall be obtained from the Administrative Officer. In the case of a subdivision, approval must be granted by the Zoning Board of Adjustment prior to the issuing of the application by the Administrative Officer. The permit shall be posted in a public place and on the property for which the permit was issued. [See 24 VSA, §4449 (b).]
- 704.03 The Selectboard of the Town of Jay is hereby authorized to adopt application fees and charges to be payable by applicants hereunder.

705: Notice of Filing of Application

A notice of the filing for all development review applications, and the date, time and place of the hearing thereon, shall be posted by the Administrative Officer in the Town Clerk's office and in addition as required by 24 VSA, Section 4464.

706: Notice of Hearing

A notice of the filing of an application for a permit for a conditional use, or subdivision, and notices of times, dates and places of hearings on the application shall be delivered by the applicant, not more than five days after the applicant's filing of the application, to abutting property owners, those owners of the property directly across any town or state highway from the proposed development, and those owners who have annually informed the Zoning Administrator in writing that they wish to receive copies of such notice. All notification posting and recording fees are to be paid by the applicant.

707: Information to be furnished by an Applicant for PERMITTED USE as defined in 301.04 of these regulations

- 707.01 An applicant for a permitted use shall, with his or her application furnish the following information in duplicate to the Administrative Officer, shown where applicable on a site plan at a uniform specified scale and showing compass direction, to the fullest extent applicable to the particular development applied for:

- A. Name and address of the owner of record of the land for which the application is made, and the names and addresses of all adjoining landowners.
- B. Description of all existing and proposed uses.
- C. Exterior boundaries and lot lines and location of existing and proposed topographical features, elevations, uses, structures roads, driveways, parking areas, landscaping and site improvements, utilities, and other improvements, together with dimensions of any proposed structure, all certified by the applicant.
- D. Location and design of existing and proposed water supply, sewage treatment and disposal, and surface water drainage systems, certified by the applicant.

707.02 When the above information is furnished to the Administrative Officer by the applicant in form and detail complying with this section and sufficient enough for the Administrative Officer to make a determination as to the application's completeness, together with the fee set by the Board of Selectmen, the application shall be considered complete for action by administrative officer.

708: Waivers

708.01 Through the conditional use review process, the Zoning Board of Adjustment may grant waivers to dimensional requirements Waivers from the dimensional standards may be granted to allow:

- A. Mitigation through design, screening;
- B. Waivers for structures providing for disability accessibility, fire safety, and other requirements of law; and
- C. Provide for energy conservation and renewable energy structures.

708.02 The request for a waiver shall require a publicly noticed hearing and in the same manner as a Conditional Use Review. In evaluating the request, the Zoning Board of Adjustment will apply the following review standards:

- A. The project is designed in such a way that the applicable standards are modified as little as practicable in order to serve the aforementioned purposes.
- B. The waiver shall not create an undue adverse impact on the use of adjoining properties or any public interest, including existing or planned community facilities.
- C. The waiver shall be in conformance with the Town Plan and the goals set forth in the Planning Act (Section 4302).

709: Site Plan Review

No zoning permit shall be issued by the Administrative Officer for any permitted use or structure previously identified as requiring site plan review until the Zoning Board of Adjustment grants site plan approval after public notice and hearing and in accordance with 24 V.S.A. §4416. In reviewing site plans, the Zoning Board of Adjustment may impose appropriate safeguards with respect to the following:

- A. The adequacy of parking
- B. Traffic access and circulation for pedestrians and vehicles
- C. Landscaping and screening
- D. The protection of the utilization of renewable energy resources
- E. Exterior lighting
- F. Size, location, and design of signs
- G. Erosion and sedimentation control
- H. Snow removal

710: Subdivisions of Land

- 710.01 Applications for subdivisions of land shall be submitted in accordance with Article 7, section 712 of these Regulations and this section and subjected to Site Plan Review by the Planning Commission after public notice and hearing. The warning period for the public hearing shall not be less than 15 days.
- 710.02 Any application for subdivision of land shall be accompanied by a plat of sufficient scale and clarity to portray existing conditions and proposed development. The plat shall include all lot lines and boundary dimensions, names of roads abutting the property, location and size of existing improvements identified as “existing,” location and size of proposed improvements identified as “proposed,” setback dimensions of proposed and existing structures, location of existing and proposed driveways and culverts, location of existing and proposed wells and/or septic systems and location of waterways, wetlands, and floodplains. In addition, a topographic survey may be required.
- 710.03 The approved subdivision may not be officially filed until all appeal periods have expired and/or all appeals are concluded, and filed in the towns land records, prior to transfer of title or sale of property.
- 710.04 A final plat on Mylar must be submitted to the Administrative Officer and filed in the towns land records within 180 days, or prior to the transfer of title or sale of property.
- 710.05 **Boundary Line Adjustment:** Boundary Line Adjustment is the transfer of property by deed to a respective owner or owners of contiguous property for the purpose of adjusting a boundary line and not for the purpose of creating an additional lot or parcel. Boundary line adjustments shall be issued a Zoning Permit by the Zoning Administrator as follows:

For contiguous parcels owned by the same individual or entity:

- A. A survey, prepared by a Vermont licensed surveyor shall be provided identifying the dimensions of all Lots to be created or altered and the location of any road, highway, waterway, right-of-way or easement; and
- B. All resulting Lots shall satisfy all requirements of the districts in which they lie; and
- C. The Boundary Line adjustment permit shall only be deemed officially approved upon submission of a final plat on Mylar; and
- D. A final plat on Mylar shall be submitted to the Administrative Office to be filed in the Town’s land records within 180 days, or before any transfer of property.

For contiguous conforming parcels owned by separate individuals or entities:

- A. A survey, prepared by a Vermont licensed surveyor shall be provided identifying the dimensions of all Lots to be created or altered and the location of any road, highway, waterway, right-of-way or easement; and
- B. All resulting Lots shall satisfy all requirements of the districts in which they lie; and
- C. The Boundary Line adjust permit shall be deemed officially approved only upon submission of a final plat on Mylar; and

- D. A final plat on Mylar shall be submitted to the Administrative Office to be filed in the Town's land records within 180 days, or before any transfer of property.

For contiguous non-conforming parcels owned by the separate individuals or entities:

- A. A survey, prepared by a Vermont licensed surveyor shall be provided identifying the dimensions of all Lots to be created or altered and the location of any road, highway, waterway, right-of-way or easement; and
- B. All resulting Lots shall satisfy all requirements of the districts in which they lie; and
- C. If a Lot is non-conforming, the boundary line adjustment shall not increase the degree of nonconformity; and
- D. The amount of any adjustment shall be less than the minimum lot Size of a parcel within the district the property is contained; and
- E. If the boundary adjustment crosses two districts the amount of adjustment shall be less than the smaller of the two minimum lot sizes; and
- F. If a Lot is non-conforming, the boundary line adjustment shall not increase the degree of nonconformity; and
- G. The Boundary Line adjustment permit shall be deemed officially approved only upon submission of a final plat on Mylar; and
- H. A final plat on Mylar shall be submitted to the Administrative Office to be filed in the Town's land records within 180 days or before any transfer of property.

711: Conditional Uses

711.01 After public notice and hearing, the Zoning Board of Adjustment shall determine if a proposed conditional use has the potential to have an undue adverse effect on the following:

- A. The capacity of existing or planned community facilities.
- B. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- C. Traffic on roads and highways in the vicinity
- D. Regulations in effect with special reference to this zoning Regulation, and;
- E. The utilization of renewable energy resources.

711.02 In permitting a conditional use, the Zoning Board of Adjustment may impose, in addition to the regulations and standards expressly specified by this Regulation, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood, or the municipality as a whole. These conditions may include the following:

- A. Increasing the required lot size or yard dimensions in order to protect adjacent properties.
- B. Limiting the coverage or height of buildings because of obstruction of view or reduction of light or air to nearby properties.
- C. Controlling the location and number of vehicular access points to the property.

- D. Increasing road width.
- E. Increasing the number of off-street parking or loading spaces required.
- F. Limiting the number, location, and size of signs.
- G. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property of a character in keeping with the surrounding area.
- H. Specifying a specific time limit for construction, alteration, or enlargement of a structure to house a conditional use.

712: Information to be furnished by an Applicant for SITE PLAN REVIEW, CONDITIONAL USE REVIEW, or SUBDIVISION REVIEW

712.01 An applicant requiring site plan or conditional use review shall, with his or her application, furnish the following information in duplicate to the Administrative Officer for the Planning Commission or Zoning Board of Adjustment as the case may be. Information shall be shown where applicable on a site plan at a uniform specified scale and showing compass direction, to the fullest extent applicable to the particular development applied:

- A. Name and address of the owner of record of the land for which the application is made and of all adjoining lands.
- B. Description of existing and proposed uses.
- C. Exterior and interior boundaries and lot lines and locations, dimensions and elevations of existing and proposed uses and structures (including description of exteriors and architects details), roads, driveways, parking areas, landscaping and site improvements, utilities, and other improvements, in recordable form, certified by the applicant or by a registered surveyor.
- D. Location of existing and proposed easements, deed restrictions and the like.
- E. Measures to be taken during construction to minimize erosion, sedimentation, dust, etc.
- F. Information regarding the impact of the proposed development on traffic, parking, school, police and fire, and other public services, information regarding the anticipated public revenue from and other public benefits of the proposed development, and the proposed construction sequence and time schedule for completion of the proposed development, and projected uses for other adjacent lands of the applicant.
- G. Provision for useable parking spaces.
- H. Ownership and location of abutting properties and the location of structures, roads, other improvements and natural and improved surface water drainage systems on those properties if within 500 feet of the boundary of the development.
- I. For properties on a state highway, a copy of the access permit issued in accordance with V.S.A. 19, Section 1111.
- J. For proposed subdivisions greater than 50 lots or 5 acres, (which is lesser), base flood elevation data.³

712.02 An applicant requiring subdivision review shall, with his or her application, furnish the following information in duplicate to the Administrative Officer for the Planning Commission or Zoning Board of Adjustment as the case may be. Information shall be shown where applicable at a uniform specified scale and showing compass direction, to the fullest extent applicable to the particular development applied:

- A. Name and address of the owner of record of the land for which the application is made and of all adjoining lands.
- B. Exterior and interior boundaries and lot lines and locations, dimensions and elevations of

³ Per 44 CFR 60.3(b)(3)

existing structures, roads, driveways, parking areas in recordable form by a registered surveyor.

- C. Location of existing and proposed easements, deed restrictions and the like.
- D. For properties on a state highway, a copy of the access permit issued in accordance with V.S.A. 19, Section 1111.
- E. For proposed subdivisions greater than 50 lots or 5 acres, (which is lesser), base flood elevation data.⁴

712.03 When the applicant has furnished the above information to the Administrative Officer for the Planning Commission or the Zoning Board of Adjustment, as the case may be, by the applicant, in form and detail sufficient for that body to make the necessary findings pursuant to Article 7, Section 713, together with the fee set by the Board of Selectmen, the application shall be complete for public hearing, and action by the Commission or Board. The Zoning Board of Adjustment or Planning Commission may at its election, hold one or more preliminary hearings in order to facilitate the collection of the above information. However, a permit may only be issued after consideration of all of the Information described in this section, and upon the findings required by Article 7, Section 713.

713: Finding to be made for Any Permit

- 713.01 A permit for a permitted use shall be issued only if the Administrative Officer finds, and files in the public records of the Town the written findings, that the development will meet the Specific Standards of Article 4, Sections 403.01 through 403.08 of these Regulations.
- 713.02 Permits requiring Board review shall be issued only if the Planning Commission or Board of Adjustment, as the case may be, finds and files in the public records of the Town its written findings, that the development will meet the General and Specific Standards of ARTICLE 4 of these Regulations and of ARTICLE 5 of these Regulations with respect to Planned Unit Developments.
- 713.03 All approved subdivisions must be accompanied by a registered surveyor's Mylar of the original parcel and approved changes for recording by the Town Clerk.

714: Authorization of Conditions

The Zoning Board of Adjustment or Planning Commission, as the case may be, may impose reasonable conditions upon the applicant and his or her successors and assigns in order to assure the compliance with terms and the achievement of the purposes of these Regulations and the Town Plan. Such conditions may include, without limitation:

- A. A maximum number of new lots or dwelling units to be created by the developer per year, in order to meet the provisions of Article 4, section 402 of this Regulation, and, if the development is of part of a parcel, provisions, affecting the development of the rest of the parcel (provided, however, that if no such condition is imposed, it is understood that the owner may develop and subdivide the balance of the parcel to the density and for the uses prescribed by this Regulation for the District in which the balance of the parcel is located).
- B. Performance bonds to ensure performance of the conditions of a permit.
- C. The payment for reasonable analyses and reports required for an adequate review of a development under these Regulations.
- D. In areas identified by the Board or Commission to have a potential for erosion, runoff, pollution, flooding, increased traffic, adverse impact on scenic quality, degradation of unique

⁴ Per 44 CFR 60.3(b)(3)

natural areas, impact on other properties or on the use of public facilities, or reduction of agricultural potential, methods to limit, locate, landscape or screen development in order to meet the provisions of ARTICLE 4 of these Regulations.

715: Independent Technical Review

The Zoning Board of Adjustment (ZBA) and Administrative Officer (AO), may retain independent consultant(s) to conduct technical review as enabled in 24 VSA §4440(d). The role of the consultants is to assist in completing an accurate, objective, and science-based review of any and all development proposals requiring a permit or written approval.

A. The procedure in engaging, assigning, and supervising consultant(s) shall be as follows:

1. The fee charged by the consultant(s) shall be paid for by the applicant. The Town shall provide the estimated total amount to the applicant, and the applicant shall remit such sum to the Town prior to the issuance of any permit or approval by the Town;

2. The consultant(s) shall be qualified individuals, which can be proven by possession of a professional license, or, if the professional service is not recognized by the State of Vermont through licensure, the consultant(s) shall be in good standing within their profession. The consultant(s) shall operate on an hourly, other time-measured basis, or mutually accepted unit of work basis. Furthermore, the consultant(s) shall specify time spent on specific projects in documenting work product.

B. The standards by which the consultant(s) shall review the development proposal(s) along with an estimate to complete such shall be mutually agreed upon between the Town and the applicant prior to the consultant being hired.

716: Appeals of decisions of the Administrative Officer

A. An interested person may appeal any decision or act taken by the Administrative Officer with respect to these development regulations by filing a notice of appeal in writing with the Zoning Board of Adjustment. Such appeal shall specify the relief sought and why it is felt that such relief is warranted. Such an appeal may include a request for a variance. Any such notice of appeal or request for a variance must be filed within fifteen days of the date of such decision or act, and a copy of the notice of appeal shall be filed with such officer. Failure to file an appeal within 15 days of the Administrative Officer's action shall result in the forfeiture of appeal rights. Appeals shall be filed and adjusted in accordance with 24 VSA, Sections 4465 through 4470.

B. The Zoning Board of Adjustment shall set a date and place for a public hearing of an appeal in accordance with the provisions of 24 V.S.A. Section 4468.

717: Appeals of decisions of the Zoning Board of Adjustment

717.01 In accordance with 24 V.S.A. §4471, an interested person who has offered oral or written testimony in a hearing of the Planning Commission or Zoning Board of Adjustment may appeal a decision within 30 days of such decision, to the Vermont Environmental Court.

717.02 The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Administrative Officer of the Town of Jay, who shall supply a list of interested persons (including the applicant, if the applicant is not the appellant), to the appellant within five (5) working days.

717.03 Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then

parties to the appeal, upon motion they shall be granted leave by the court to intervene.

718: Variances

The Zoning Board of Adjustment shall hear and decide requests for variances in accordance with 24 V.S.A. §4469(a) and appeal procedures under §810 of this bylaw. In granting a variance, the Zoning Board of Adjustment may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Zoning Board of Adjustment may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

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

719: Enforcement

719.01 The enforcement of the Jay Land Use and Development Regulations shall be carried out in accordance with 24 VSA, Sections 4451 and 4452 by the Administrative Officer or Acting Administrative Officer.

719.02 The Administrative Officer or Acting Administrative Officer may inspect any development, and shall, take such steps of enforcement as are authorized by 24 VSA, Sections 4451 and 4452 of the Act which are attached hereto for reference, if he or she finds default, violation, or non-compliance with the applicable law, the terms of a permit, the description or undertakings in the application, or the standards provided herein.

720: Penalties

Any violation of these regulations after the effective date thereof shall be punished as provided by VSA Title 24 §4451 and §4454.

ARTICLE 8: DEFINITIONS

801: General Definitions

For the purpose of these Regulations, certain terms or words shall be defined as below. Words in the present tense include the future; the singular number includes the plural, and vice-versa. The word “person” includes a partnership, corporation, or other entity including; federal, state and local entities. The word “building” includes the word “structure.” The word “shall” is mandatory. All definitions contained in the State Planning Act, Section 4303, are applicable to these Regulations.

802: Specific Definitions

Abandon: means to leave without claimed ownership for 30 days or more.

Abandoned building(s) and structures: Any building or structure shall be deemed abandoned when it has not been used for at least one year. Abandoned structures must either be maintained or demolished. There is no time limit on how long a structure may remain abandoned provided it is maintained in the judgement of the Administrative Officer. A maintained structure is; habitable with intact exterior walls, intact windows and an intact roof.

Abandoned Vehicle: means a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner of the real property or person in control of the property for more than 48 hours and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner of the real property or person in control of the property for any period of time if the vehicles does not have a valid registration plate or the public vehicle identification number has been removed, destroyed or altered.

Abutting Property Owner: means any person or persons that owns, leases, or in any other way uses or controls the real property abutting any portion of the property of another, without regard to right-of-way.

Accessory Building(s) and Structures: Any **building or structure**,) detached from and clearly incidental and subordinate to principal building or structure or use on the same lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

Accessory Dwelling: A distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with the following:

- A. The property has sufficient wastewater capacity.
- B. Applicable setback, coverage, and parking requirements specified in the bylaws are met.
- C. The unit does not exceed 50 percent of the total habitable floor area of the single-family dwelling; or 1,500 square feet, whichever are greater and
- D. The structure is located outside of the Special Flood Hazard Area.

Accessory Use: A use which is customarily incidental and subordinate to the principal use of a lot, is located on the same lot as the principal use, and is clearly and customarily related to the principal use.

Acre: 43,560 square feet

Addition: A structure added to the original structure at some time after the completion of the original; or an extension or increase in floor area or height of a building or structure.

Administrative Officer: The person appointed as Administrative Officer [to include any Interim Administrative Officer(s)], who shall administer these Regulations literally pursuant to the authority set forth I Title 24, Chapter 117 of the Vermont Statutes Annotated.

Adverse Impact: A condition that creates, imposes, aggravates, contributes to, or leads to inadequate, impractical, unsafe or unhealthy conditions on a site proposed for development or on an off-tract property, facilities or the community.

Agriculture: The science, art, and business of cultivating soil, producing crops, and raising livestock; farming. In addition, the definition of farming in 10 V.S.A. §6001(22) includes "the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm." Structures which are customarily accessory to agricultural uses and are located on the same parcel as an agricultural use, with the exception of residential dwellings, shall be included in this definition. (See FARM STRUCTURE, REQUIRED AGRICULTURAL PRACTICES.)

Air Contaminant: Dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

Alteration: Any relocation, structural change, rearrangement, or addition to a building or structure, excluding normal maintenance and repair activities. Alterations shall include any construction that changes the number of dwelling units, or increases the size of a building or structure, including its height, width, length, footprint, or gross floor area. It shall also include any increase in the number of bedrooms or bathrooms including relocation of, or addition to, an existing building.

Applicant: A person or party (submitting an application for development) that has legal title to and control of the disposition of the property in question, or an owner in equity acting with the consent of the holder of legal title. Joint owners of property must provide evidence of mutual agreement to or co-sign an application for a Zoning permit.

Appropriate Municipal Panel: Is defined as a Planning Commission, the Zoning Board of Adjustment, Development Review Board, or a Legislative Body performing development review.

Area of Shallow Flooding: A designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: The floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of these regulations, this term is synonymous in meaning with the phrase "Special Flood Hazard Area." This area is usually labelled 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.

Authorized Agent: A person or group of persons who have been duly authorized in writing by an applicant or sub-divider to act on his/her behalf.

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

Automobile Service Station (Gas Station): Any building, structure or area of land used for the retail sale of automobile fuels, oils and accessories, where repair service, if any, is incidental.

Awning: A hood, cover or porte-cocheres often comprised of fabric, metal, or glass that is designed and intended to provide for protection from the elements or as a decorative appurtenance, and which projects from a wall or roof of a structure over a window, walk, door, landing, public right-of-way or the like, and that may include a type which can be retracted, folded, or collapsed against the face of a supporting building.

An awning with symbols, logo(s) or lettering (excluding the street address) are considered a sign for the purposes of this ordinance.

Bakery: An establishment that sells baked goods that are prepared on the premises, and may include a seating area for dining, either within or immediately outside of the establishment.

Bar (Tavern): Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises, or portion thereof, as accessory to the principal use.

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

Base Flood Elevation: 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.

Base Lodge: A building located adjacent to or near ski trails containing accessory facilities for ski area operations which is generally open to the public only during such time as is necessary to support recreational skiing activities.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast: A single-family dwelling unit in which the resident owner or permanent dwelling occupant provides short-term lodging and meals to transient paying guests and/or staff.

Berm: A mound of earth, or the act of pushing earth into a mound.

Boundary Line Adjustment: Boundary Line Adjustment is the transfer of property by deed to a respective owner or owners of contiguous property for the purpose of adjusting a boundary line and not for the purpose of creating an additional lot or parcel.

Buffering: The use of landscaping (other than grass on flat terrain) or the use of landscaping along with berms, stone/decorative walls, or decorative fences that at least partially and periodically obstruct the view.

Buildable Area: That portion of a building site, exclusive of the required yard areas, on which a structure may be erected or building improvements undertaken.

Building: Any structure having walls and/or a roof and intended for shelter, housing or enclosure supported by columns or walls including a gas or liquid storage tank and intended for any individual, animal, process, equipment, storage of goods or materials of any kind.

Building Height: The vertical distance measured from the highest grade point of the building envelope to the highest point of the roof. The distance measured is exclusive of chimneys, lightning rods and non-commercial antennae.

Burned, Abandoned or Dilapidated Structure: Any building or structure that is unstable, collapsing, dangerous, or, if residential in nature, uninhabitable, including the debris associated with such structures.

Businesses and Trades allied to the Construction Industry: Activities necessary for the operation and support of building construction, including excavation services, trades and building materials and property maintenance.

Camp, Private/Seasonal: A dwelling unit that lacks one or more of the basic amenities or utilities required for all-year, all-weather occupancy, such as running water.

Campground: A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by transients using recreational vehicles, motor homes, mobile trailers, cabins or tents for dwelling, lodging or sleeping purposes and in advertised as such to the public for use in a temporary, seasonal, educational or recreational manner.

Camping Unit: Any tent, trailer, cabin, lean-to, recreation vehicle or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes.

Cannabis Cultivation: Cannabis cultivation falls under Light Industrial as a Conditional Use in Rural District 1 and Rural District 2. With adequate screening for security and public safety, must meet any nuisance limitations/precautions to guard against smell complaints with all district setbacks being met for the Light Industrial category.

Caterer: Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served exclusively for consumption off-premises.

Cemetery: Property used for interment of the remains of the deceased.

Change of Use: Changing the original purpose of a building to a different use, with or without structural alteration. This includes, but may not be limited to, the conversion of camps or accessory dwellings to single family dwellings, or the conversion of a single-family dwelling to a two-family or multi-family dwelling as determined by 24 V.S.A. § 4414 Permitted and Conditional Uses.

Clearing: The removal of existing vegetation, e.g., as part of site preparation for the installation of driveways, septic systems, building sites and construction or yard areas.

Clubhouse and/or Fraternal Structure: Building catering exclusively to club members and their guests generally used for recreational purposes and not operated primarily for profit.

Church (Place of Worship): A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting or organized religious services and accessory uses associated therewith.

Clinic Services: An establishment where patients are admitted for examination and treatment by one or more physicians, dentist, psychologists or social workers and where patients are not usually lodged overnight.

Commercial/Retail Facility: Commercial, Restaurant and Retail Store are including amenities and attractions that is open and accessible to the general public or is in a public space within a Hotel/Lodge. Commercial/Retail Space does not include convention/ballroom, lobby, back of house, office or accessory uses private to Hotel/Lodge guests. An establishment engaged in selling goods, merchandise and services to the general public.

Communication Tower/Antenna, Commercial: Any device erected and designed to transmit or receive any type of radio, television, telephone or electromagnetic signals for commercial, industrial, or governmental purposes. Includes; towers, accessory structures and equipment. Must be unlighted and less than two hundred (200) feet in height.

Conditions: Those requirements, as denoted or assigned in conjunction with the approval of a zoning permit, which must be met prior to the issuance of a zoning permit.

Conditional Use: A use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in these Regulations and authorized by the approving agency.

Conformance with Plan: Means a proposed implementation tool, including a bylaw or bylaw by amendment that is in accord with the municipal plan in effect at the time of adoption, when the bylaw or bylaw amendment includes the following:

- A. Makes progress toward attaining, or at least does not interfere with, the goals and policies contained in the municipal plan.
- B. Provides for proposed future land uses, densities, and intensities of development contained in the municipal plan.
- C. Carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan.

Conex: A large, steel-reinforced reusable box (container, express) typically used for shipping cargo or used for storage.

Contiguous: A land area or parcel of land shall be contiguous although crossed, bisected or otherwise encumbered by town highways, roads, private right-of-way, road and utility line rights-of-way, easements, watercourses or other like encumbrances or easements. A parcel of land shall be considered contiguous to another parcel of land if it meets the other parcel of land at any point.

Construction Trailer, Office: A trailer or other structure used as a permitted temporary office in conjunction with a permitted construction project, not to exceed 365 days, and permitted renewable upon inspection by the Administrative Officer, not to exceed an additional 365 days. Such temporary structure must be removed after a period of 2 years from the date of the initial permit.

Dance Hall: An establishment dispensing liquor and meals and in which music, dancing, or entertainment is conducted. Also see: NIGHT CLUB.

Day Care Center: Any place operated as a business or service on a regular or continuous basis whether for compensation or not, which provides for the care, protection and supervision of children under the age of sixteen years (16) outside of their homes for periods of less than 24 hours a day for more than six (6) children.

Deck: An unroofed platform either freestanding or attached to a building, which is supported by pillars or posts. A deck is not considered part of the total habitable floor area.

Demolition: The razing of more than 50% of a structure.

Density: For purposes of this ordinance, density refers to the number of dwelling units per acre allowed in any district.

Development: The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. For purposes of the flood hazard regulation, “development” includes any human-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development Review: Administrative Officer, Planning Commission or Zoning Board of Adjustment review of applications, site plans and supporting documents for a development covered under these regulations.

- A. The Planning Commission or Zoning Board of Adjustment shall act to approve or disapprove any such site plan and supporting documents.
- B. The Planning Commission or Zoning Board of Adjustment may approve with appropriate conditions and safeguards.

District: A specific portion of the Town as established by the provisions of these Zoning Bylaws and Zoning Map.

Dwelling Unit or Dwelling, Single Family: One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease, and physically separated from any other rooms or dwelling units which may or may not be the same structure. A dwelling includes a mobile home, which is permanently connected to a water supply and an adequate sewage treatment and disposal facility. A dwelling does not include boarding houses, bed & breakfast establishments, hotels, motels, clubs, dormitories or any structures, whether or not also used for residence purposes, which offer housing and/or feeding to transients.

Dwelling, Accessory: An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

Dwelling, Two-Family: A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

Dwelling, Multi-Family: A residential building designed for or occupied by three or more families, living independently of each other in individual dwelling units, where the number of families in residence does not exceed the number of dwelling units provided.

Earth Resource Removal: The excavation or and removal of topsoil, rock, stone, ore, sand, gravel, soil, minerals, and similar earth resources materials from the surface or subsurface.

Easement: The authorization of a property owner for the use by another of any designated part of the property for a specified purpose.

Element: Component of a plan or bylaw.

Emergency Service: Police, firefighters, and emergency medical technicians, and other first responders to public safety crises.

Emergency Shelter: Any building, structure, residence or place for the temporary housing or care of individuals or families (including limited counseling) for a period not to exceed thirty (30) days. This term shall not be deemed to include day care facilities, day care homes, family care homes, group care homes, nursing, rest, or convalescent homes, halfway houses or similar facilities.

Emission: A release of air contaminants into the ambient air space.

Enforcement Officer means Town Health Officer, Zoning Administrator, Municipal Official or Law Enforcement Officer appointed by the Selectboard to enforce the provisions of this rule.

Enlargement: Any increase in the height or the footprint of a structure, e.g., through extensions or additions to any side.

Essential Services: The erection, construction, alteration or maintenance of underground, surface or overhead electrical, gas, steam, water, sewerage transmission and collection systems and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service.

Exterior Features: The architectural style, design, and general arrangement of the exterior of a structure, including the type and texture of building materials, and the type, arrangement, and style of all windows, doors, light fixtures, signs, or similar items found on or affixed to the exterior of a structure.

Events Facility: A designated outdoor site or facility used for the hosting of special events including fairs, festivals, exhibits, and concerts, and associated temporary or permanent access, parking, food, sanitation and waste management facilities. An events facility may include accessory structures for sanitary facilities, exhibit, and storage space.

Farm Structure: In accordance with the Act [§4495], a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, as "farming" is defined in 10. V.S.A. §6001(22). This definition includes such farm structures as barns, silos, fences and manure pits, but specifically excludes a dwelling for human habitation. (See also: AGRICULTURE, REQUIRED AGRICULTURAL PRACTICES.)

Fill: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

Financial Institution: Establishments such as banks and financial institutions, credit agencies, investment companies, brokers of and dealers in securities and commodities, security and commodity exchanges, insurance agents, lessors, lessees, buyers, sellers, agents, and developers of real estate.

Fire Lane: The area within any public right-of-way, easement of private property designated for fire trucks and other firefighting or emergency equipment to use, travel upon and/or park.

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

Frontage: Any lot line separating a parcel from either a public right-of-way or public waters.

Flood Hazard Boundary Map (FHBM): An official map of a community, issued by FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood Insurance Rate Map (FIRM): An official map of a community, on which FEMA has delineated both the, special hazard areas and the risk premium applicable to the community.

Flood Insurance Study: An examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations.

Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodplain (or Flood Prone Area): Any land area susceptible to being inundated by water from any source. (See also FLOOD.)

Floodway/Floodway, Regulatory in the Town of Jay: 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.

Flush Mounted Sign: A sign attached to and mounted parallel to the face of a building or structure, where architectural features, such as covered entry ways or other building elements except where otherwise prohibited, are clearly designed to accommodate a sign mounted parallel to the building face.

Fuel Distribution: The bulk storage of petroleum products in structures for subsequent use or resale and not directly available to the consuming public.

Funeral Home: A building that is used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

Gas Station: Any building, land area or other premises, or portion thereof used for the sale of vehicular fuels; including as an accessory use the sale and/or installation of lubricant, tires, batteries, and similar vehicle accessories; or as an accessory use, the sale of snack food, tobacco, drinks, newspapers, and similar convenience goods.

Glare: Stray, unshielded light striking the eye that may result in (a) nuisance or annoyance such as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; or (d) reduction of visual performance.

Golf Course: A use of land for golfing facilities, including structures, equipment and buildings that may also include driving ranges.

Grade, Finished: The final elevation of the average ground level adjoining a building at all exterior walls after development. Also known as GRADE PLANE, AVERAGE.

Grocery Store: A store offering predominantly food products, as well as other household goods, and oriented to the daily shopping needs of surrounding residential areas. Grocery stores are less than 15,000 square feet in size and operate less than 18 hours per day.

Ground Sign: A structure consisting of one (1) or more signs having its own supporting structure on/in the ground independent of any building.

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

Hazardous Materials: Includes all solvents, acids, chemical and petroleum products, toxic substances, radioactive materials and any other substance that might pose a risk to human safety, air quality or water resources.

He, His, Him, She and Her: These pronouns shall refer to any person regardless of gender and also to a corporation.

Health Care Facility: A building or part thereof, public or private, operated by physicians, surgeons, dentists, chiropractors, therapists, or other licensed health care professionals for the examination, maintenance and treatment of mental or physical conditions on an out-patient basis. This definition does not include a public or private hospital, or the professional office of a licensed health care provider located in his or her residence. (See Health Services)

Health Services: Health care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks and miscellaneous types of medical supplies and services.

Heavy Equipment Yard: A lot or portion of a lot or parcel used to store and maintain construction equipment and/or other materials (unrelated to construction) and facilities customarily used, but not limited to a contractor in the building or excavation trade.

Highway: means any highway as defined in 19 VSA §1(12).

Home Business: A business carried on in a portion of a residential property.

Home Occupation: Accessory use of a service character conducted within a minor portion of a dwelling or a dwelling or building accessory thereto, provided that such use is clearly incidental and subordinate to the use of the premises as a residence and does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

Horse Boarding and Riding Stables: Facilities used by the public for riding, grooming and/or boarding horses, and/or education or training of the public about horses or similar animals.

Household Appliance: means any range, stove, refrigerator washing machine, microwave oven, computer, clothes dryer, water pump, power tool, hot water heater and the like.

Improvement: Any physical addition to real property, or any part of such addition, including but not limited to any building, structure, parking facility, wall, fencing, or landscaping.

Informational Sign: A sign used strictly for the direction, safety or convenience of the public such as those indicating restrooms, parking restrictions or freight entrances. No sign with a commercial message legible from a position off the subject premises on which the sign is located shall be considered informational.

Junk means old or scrap copper, brass, iron, steel and other old or scrap or nonferrous material including, but not limited to: tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof. Any of the above items used and stored properly in a bona fide agricultural operation are exempt from this definition.

Junk/Salvage: Any scrap, waste, reclaimable material or debris, whether or not stored, for sale or used in conjunction with dismantling, processing, salvage, storage, disposal, or other use or disposition. Examples might include, Salvage includes, but is not limited to, unregistered or inoperable motor vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, machinery, brush, scrap wood and lumber. This definition shall not include normal household garbage.

Junk Motor Vehicle means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof or an unregistered motor home not connected to a water and/or sewer or any vehicle, other than an

on-premises utility vehicle, which can remain unregistered and uninsured for a period of 90 days from the date of discovery. Functional vehicles and equipment used for agriculture and construction operations are excluded from this definition.

Junk/Salvage Yard: An area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of scrap metal or other scrap or discarded goods, materials, machinery or four or more unregistered, inoperable motor vehicles or other type of junk. This definition shall not include a landfill designed and intended for the disposal of normal household garbage.

Kennel: A use of land for the commercial boarding, raising, grooming, or training of four (4) or more household pets that are not owned by the owner or occupant of the premises.

Land Development: (See DEVELOPMENT)

Landscape Plan: A component of a development plan on which is shown: proposed landscape species (such as number, spacing, size at time of planting, and planting details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

Legislative Body: Select Board of the Town of Jay.

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

Lighting Plan: A plan used for an approval process or construction indicating all site improvements related to lighting and the number, location, type of fixture, and manufacturer's data on all the proposed lighting, both pole- and building-mounted. Permitted for commercial use by zone with requirements and restrictions in the scenic corridor.

Light Industry: Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods or products, technology-based or related research and development facilities, provided these activities are conducted wholly within and enclosed building; and the indoor storage and warehousing of goods and materials incidental to the principal use. Light industry includes, but is not limited to, food processing, the manufacturing of value-added agricultural products, crafts, furniture and clothing, the fermentation and distillation of alcoholic beverages, broadcasting, photographic and motion picture studios, and machine shops. Light industry shall operate in such a manner as to minimize the external effects of the manufacturing process, including smoke, noise, soot, dirt, dust, glare, vibration, odor, electrical interference or heat that is detectable at the boundaries of the lot, or chemical wastes, etc., and shall not result in undue adverse impacts on the environment or on other properties.

Lodging Facility: A facility in which rental sleeping accommodations are provided and in which meals also may be supplied as part of the fee. Such facilities may include, but are not limited to, bed and breakfasts, hotels, dormitories and / or motels.

Lot: A plot or parcel of land occupied or capable of being occupied by at least one (1) principal building, any parcel of land the boundaries of which are described in a recorded deed or plat.

Lot Line, Rear: That lot line opposite and most distant from the street line.

Lot Line, Side: A lot line which is neither a street line nor a rear lot line.

Lot Width: The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, however, that width between the lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the 80% requirement shall not apply.

Lowest Floor: The floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR, 60.3.

Manufactured Home: (See MOBILE HOME.)

Major Industry: Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods or products, where these activities are conducted in such a manner that they require the use of public water and sewer and may possibly generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot.

Marquee: Any permanent roof-like structure or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

Marquee Sign: Any sign attached to, in any manner, or made part of a marquee.

Master Plan: A schematic plan, or set of plans, and narrative statement which is intended to establish and guide the general planning framework for proposed development within a Planned Unit Development, and which shall include a description and designation of existing and proposed land use activity areas, open space areas and circulation systems, in accordance with these regulations.

Maximum Coverage: Land coverage by structures not include parking lots, roadways, driveways, walkways and other related infrastructure.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Mean Water Mark: Average yearly water level of a stream, lake, pond or wetland.

Medical: This term shall mean a licensed medical doctor, doctor of osteopathic medicine, doctor of dental surgery, or doctor of medical dentistry.

Microbrewery: A facility for the production and packaging of beer or similar fermented malt beverages containing not less than one percent nor more than eight percent of alcohol by volume at 60 degrees Fahrenheit (if such a beverage has an alcohol content of more than six percent and not more than eight percent and has a terminal specific gravity of less than 1.009, it shall be deemed a spirit and not a malt beverage), for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year.

Mixed Use: A building or parcel containing two (2) or more principal uses, containing residential and non-residential uses, excluding any accessory uses, and which are otherwise allowed as permitted or conditional uses in the district in which the building or parcel is located.

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.

Mobile Home Park: Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for travel trailers.

Mobile Vendor/Food Truck: A mobile vendor/food unit or motorized vehicle, licensed and road-ready, that is used to sell food to the general public and operated by persons, principles, agents, corporations or other business entities who engage in a temporary or transient business in the Town of Jay either in one locality or in traveling from place to place selling food or merchandise from any vehicle, cart, stand or other assemblage of materials which is not permanently attached to a water supply source.

Motel: Building containing rooms which are rented as sleeping units for tourists. Includes hotel, lodge, inn, and similar establishments.

Motor Vehicle means any vehicle propelled or drawn by power other than muscular power, including trailers. Functional vehicles and equipment used for agriculture and construction operations are excluded from this definition.

New Construction: Structures commenced on or after the effective date of this bylaw. For purposes of flood hazard regulation, means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

Night Club: See DANCE HALL.

Non-conforming Lot or Parcel: A lot or parcel that does not conform to the present regulations covering dimensional requirements, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present regulations, including a lot or parcel improperly authorized as a result of error by the administrative officer.

Non-conforming Structure: A structure or part of a structure that does not conform to the present regulations but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present regulations, including a structure improperly authorized as a result of error by the administrative officer.

Non-conforming Use: Use of land that does not conform to the present regulations but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present regulations, including a use improperly authorized as a result of error by the administrative officer.

Notice: means written notice mailed by certified mail with return receipt requested.

Obstruction: Any natural or artificial condition including but not limited to real estate which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or so situated that the flow of the water might carry it downstream to the damage of life or property.

Office, Professional and Business: Office of any bank or financial institution, real estate, insurance, architectural, engineering, legal, medical or other recognized professions.

Off Premise Sign: A sign which directs attention to a business, profession, commodity, service, or entertainment that is not carried on, sold, or offered on the same premises.

On Premise Sign: A sign which directs attention to a business, profession, commodity, service, or entertainment carried on, sold, or offered on the same premises.

Open Burning: The burning of any type of combustible material where the products of combustion are emitted directly into the ambient air space without passing through a stack, chimney or other enclosure. Burning shall include ignition, permitting or causing ignition and suffering, allowing or maintaining burning.

Outdoor Event Tent (Commercial): An event tent constructed from commercial-grade materials that offers superior structural stability; a heavy-duty event tent made to withstand compromising elements like sunlight, rain, wind, snow, and crowds.

Outdoor Furnace: Any water heater, wood stove or similar individual hand-fed furnace designed to burn wood and used for the purpose of heating water or air where the furnace is located outside the structure serviced by the furnace and into which the hot water or heat is piped.

Outdoor Lighting: An illumination device located on the outside of a building or structure or used to illuminate a sign.

Outdoor Market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public, including “farmers” and “flea” markets.

Outdoor Tent/Canopy: A portable temporary shelter of canvas, skins, felt, matting, or other weather-proof material supported by one or more poles or a frame and often secured by ropes fastened to pegs in the ground.

Parking Area: A public or private area, designed and used for parking motor vehicles, including parking lots and garages.

Parking Facility: An off-street parking lot, garage or similar parking structure that is the principal use of a lot, to include park-and-ride facilities that serve only motor vehicles and no other forms of public transit.

Parking Space: A space for the parking of a licensed motor vehicle within a public or private parking area. One (1) parking space shall constitute an area at least nine (9') feet wide and eighteen (18') feet long, not including access driveway. The space must have direct access to a street, alley or approved right-of-way.

Parking Space, Handicap Accessible: A space in a garage or parking area of less than thirteen (13') feet wide and nineteen (19') feet long, reserved exclusively for an automobile registered with state-handicap license plates or displaying an official state issued handicap placard.

Permitted Use: Any use allowed in a zoning district under these regulations and subject to the restrictions applicable to that zoning district for which the Administrative Officer may issue a permit without public hearing or notice unless otherwise subject to the approval of the ZBA.

Person: An individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture or affiliated ownership. The word "person" also means any subdivision, agency or instrumentality of the State of Vermont, or any other state of the United States or of any interstate body.

Performance Bond: A bond duly issued by the developer-obligor (accompanied by security in the form of cash, certified check or U.S. Government bearer bonds deposited within the Town of Jay) in the full amount of the obligation/project.

Plan: A town or regional plan adopted under 24 V. S. A.

Planned Residential Development (PRD): A parcel of land controlled at the time of application by an individual, corporation, partnership or an association to be developed as a single entity for dwelling units. As such, the development plan may deviate from the standard lot sizes normally required under these regulations in order to achieve cluster development and preserve open space. Also known as a Residential Planned Unit Development.

Planned Unit Development: An area of minimum contiguous size, as specific herein, to be planned, developed, operated and maintained as a single entity and containing one or more residential clusters with one or more public, quasi-public, commercial or industrial areas in such ranges, ratios and proximities as specified herein.

Planning Commission: A planning commission for a town created in accordance with 24 VSA Chapter 117. Within these regulations, Planning Commission refers to the Town of Jay Planning Commission.

Plat: A map representing a tract of land, showing the boundaries and location of individual properties and streets.

Pond, Man-Made: A pond created as a result of damming a stream, or through the utilization of springs, for recreational or fire protection purposes. Dry Pond constructed for seasonal run off.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs employing "A" or "T"-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day to day operations of the business.

Post Office: A facility used for the collection, processing and distribution of letters and parcels to and from the general public on a walk-in basis.

Preliminary Layout: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Zoning Board of Adjustment for its consideration.

Principal Structure: A structure or building in which the main, primary or principle use of the property is conducted. Attached accessory dwellings, garages, porches or carports, or other structures which share a common wall and/or roof, or are connected by an enclosed breezeway, are considered to part of the principal structure.

Professional Office: An establishment engaged in rendering administrative support; management or consultation; or service to other business establishments or individuals on a fee or contractual basis, such as advertising and mailing; building maintenance; employment services; and research, development, and testing.

Projecting Sign: A sign projecting from the face of a building over either private or public property.

Public Announcement Banners and Signs: A temporary banner or sign announcing an auction, a campaign, drive or event of a civic, philanthropic or religious organization.

Public Assembly Use: Includes auditorium, theater, and public hall, school hall, meeting hall, church and temple. A delineated outdoor area used for similar purposes as an indoor auditorium, theatre or public hall.

Public Facility: Any property, with or without structures, owned by the Town of Jay for the conduct of town business, maintenance of town properties and / or roads, provision of municipal services, or for the enjoyment and recreation of the town's residents.

Public Nuisance: Shall mean any building, structure, item or part thereof that is structurally unsafe or hazardous, or which otherwise poses a threat to public health, safety, and/or welfare.

Real Estate Sign: A sign located on real estate or a building, advertising that the premises on which the sign is located is for sale, lease, or rent, along with identification of the owner or agent.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure-time activities and other customary and usual recreational activities. Includes facilities operated as a business and open to the public for a fee; facilities operated by a private organization and open only to bona fide members and guests; or any facilities open to the general public regardless of fees.

Recreational Facility, Indoor: A building or portion thereof designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

Recreational Facility, Outdoor: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities. Includes, but is not limited to, fields, trails, bodies of water or other land used for golf course, golf driving range, miniature golf, soccer field, field hockey, lacrosse, shooting/archery range, swimming pool, skating rink, tennis court, and riding stable.

Recreational Use: For the purposes of these regulations, this will include all those activities commonly considered to be recreational in nature, and will also include as examples, but not limited to the following: skiing, golf course, horseback riding, hunting and fishing, picnic areas, playing fields (such as baseball, soccer, etc.), shooting or archery ranges, snowmobile trails, swimming areas, tennis courts, walking and/or nature trails. This will also include buildings which are accessory to the above activities.

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) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Required Agricultural Practices (RAPs): Required practices for agriculture, including farm structures other than dwellings, as currently defined by the Commissioner of Vermont Department of Agriculture, Food and Markets in accordance with the Act [§4413(d)]. Also see AGRICULTURE, FARM STRUCTURE.

Residence: The general term implying a person's place of habitation, including permanent, part-time and seasonal, not including any other dwelling unit used on a temporary basis.

Restaurant: A commercial establishment where food and drink are prepared served and consumed by the general public, primarily within the principal building. This may also include take out restaurants.

Retail Sales: The delivery of goods and services by any business concerned with the sale, lease or rental of produce, products, equipment to the general public for personal or household use or consumption and the rendering of services incidental to the sale, lease or rental of such goods.

Ridgeline: The uppermost point of a ridge, hill, cliff, slope or face. It may coincide with the top (highest elevation) of a rock cliff or, where the bedrock is not exposed, the most obvious break in slope associated

with the underlying bedrock. The term does not include intermediate terraces, steps, or elevations along the face of a slope. A “prominent” ridgeline is a ridgeline characterized by an elevation, slope, orientation, and/or relationship to nearby property so as to be highly visible from distant vantage points.

Right-of-Way: (1) A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, or other similar uses. (2) Generally, the right of one to pass over the property of another.

Road Line: Right-of-way of a public road as dedicated by a deed of record. Where the width of the public road is not established, the road line shall be considered to be twenty-five (25) feet from the center line of the public road.

Rural Town: A town having fewer than 2,500 persons, as evidenced by the most recent census, or a town having 2,500 or more but fewer than 5,000 persons who have voted by Australian ballot.

Salon/Spa: An establishment where non-surgical cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation, including but not limited to day spas, tanning beds and chemical treatments.

Salvage Yard (also known as junk yard) means any place of outdoor storage or deposit for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility as defined in 24 VSA §2241 (12). “Salvage yard” also means any outdoor area used for operation of an automobile graveyard as defined in 24 VSA§ 2241. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs or a private transfer station or sanitary landfill licensed in compliance with the aforesaid Statutes.

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

Screen(ing): A method of visually shielding one structure, space or use from another structure space or use with vegetation, fencing, walls, berms, or other natural or man-made landscape elements.

Self-Storage Facility: A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

Setback, Front Yard: The distance between the street line and front yard line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building.

Setback, Rear Yard: The distance between the rear lot and rear line of the building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

Setback, Side Yard: The distance between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.

Shopping Center: A retail shopping area containing three (3) or more retail tenants in one or more buildings all situated on one lot.

Ski Facility/Service: Any facility or service that is incidental and subordinate to the use and operation of ski lifts, including, but not limited to ticket sales, ski rentals and sales, ski instruction, maintenance and administrative facilities, snowmaking equipment and structures, and eating facilities, which are located on the same lot as the primary use and are clearly related to the primary use. This definition specifically excludes lodging facilities (e.g. hotels and inns) and residential uses, which are defined separately for the purposes of these regulations.

Ski Lift: Facility for the transport of people within a ski area, including tows, chair lifts, gondolas, cable cars and similar facilities, and on-mountain accessory facilities such as warming huts.

Sign: Any device, structure, building or part thereof, designed for visual communication for the purpose to inform or attract the attention of persons not on the premises on which the device is located. A sign is a single display surface or device containing elements organized, related, and composed to form a unit. Where matter or information is displayed in a random manner or where the Zoning Board of Adjustment finds there is a reasonable doubt concerning the relationship of elements, each element shall be considered a single sign.

Significant Wildlife Habitat: Significant wildlife habitats are those natural features that are essential for the survival and/or reproduction of the native wildlife and surrounding areas. This includes, but is not limited to, (1) deer winter habitat (i.e. deeryards); (2) habitat for rare, threatened and endangered species (state or federally listed); (3) concentrated black bear feeding habitat (bear-scarred beech and oak stands); (4) wetlands that provide critical functions for sensitive or unusual wetland-dependent wildlife such as breeding/nesting habitat for wading birds, waterfowl, and otter and vernal pools; (4) wildlife travel corridors, typically characterized by undeveloped forested corridors, including forest cover reaching to road rights-of-way, which serve to link large tracks of un-fragmented forest habitat; (5) large areas of contiguous, un-fragmented forest; and (6) habitat identified by the Vermont Department of Fish and Wildlife as either significant wildlife habitat or necessary wildlife habitat.

Site Plan Review: Review of the spatial layout and proposed content of a parcel of land illustrated on a site plan in accordance with the authority, limitations and procedures set forth in the municipal development plan and 24 V.S.A. §4416.

Solar Energy/Solar Panel: Radiant energy emitted by the sun; a panel designed to absorb the sun's rays as a source of energy for generating electricity or heating.

Special Event: Any activity requiring the prior approval of the Town of Jay Select Board under town ordinances.

Stack: Any chimney, flue, conduit or duct arranged to conduct emissions to the ambient air.

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, 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, Outdoor: The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Strip Development: A linear development pattern along well-traveled roads and highways lacking depth, as measure from the highway; uses characterized by a high dependence on automobile traffic resulting in a succession of parking (or parking lots) and curb cuts; a predominance of commercial land uses (rather than residences, especially single family homes); a preponderance of single story structures and limited pedestrian accessibility or overall integration with neighboring properties.

Storage Container/Conex: A large, steel-reinforced reusable container used in place of a wood framed storage structure.

- A. All storage containers/conex shall require a permit.
- B. Storage Containers used as permanent storage structures: In residential applications there will be a one-time permit.
- C. In commercial applications permits will require annual renewals.

Structure: An assembly of materials for occupancy or use, including but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence, with the exception of structures located in the Special Flood Hazard area, a wall or fence on an operating farm. For the purpose of flood hazard regulation, a structure shall mean any walled and roof building, as well as manufactured home, and shall include gas or liquid storage tanks.

Subdivision: A transfer, including by deed, lease or otherwise, of an interest in less than all of a lot, except for a bona fide mortgage, easement, or boundary adjustment. A re-subdivision is also a subdivision. A transfer of the right to use part of a lot for agriculture or forestry uses is not a subdivision. However, any change of these uses to any other use is a subdivision. The creation of a condominium or townhouse regime, or similar transfers of less than all interests in an existing lot or structure, or the continuous rental of a building or portion thereof for short-term occupancy, is a subdivision for the purposes of these regulations. Land separated by a road creates a natural subdivision.

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 50 percent of the market value of the structure before the damage occurred.

Substantially Complete: The completion of a permitted building or structure to the extent that it may be safely occupied for its intended use.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the listed value of the structure either;

- A. Before the improvement or repair is started, or
- B. If the structure has been damaged, and is being restored, before the damage occurred.

The term does not, however include either;

Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Sites.

Swale: A shallow depression which directs the flow of water.

Telecommunications Facility, Wireless: (1) A parcel of land containing a tower, sending and receiving antennas attached to the tower, and a prefabricated or modular structure or cabinets containing electronic equipment; (2) A FCC-licensed facility designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from wireless communication devices and equipment.

Temporary: Unless otherwise defined or specifically extended by the Planning Commission, shall mean up to one hundred eighty (180) days.

Temporary Sign: A sign, including its supporting structure, for the purpose of advertising or promotional information intended to be maintained for a continuous period not to exceed sixty (60) days.

Theater: Facility used for the viewing of dramatic or musical productions, performing arts or motion pictures.

Trailer/Temporary/Box Structure: A non-registered vehicle standing on wheels without an independent mode of power, designed to be towed or hauled by another vehicle, and used for short-term including but not limited to, human occupancy, carrying materials, goods, or objects, or as a temporary office or recreational vehicle. Any such vehicle which remains on a property for greater than 6 months shall be construed to be a permanent structure and require a building permit.

Transfer of Development Rights: The removal of the right to develop or build, expressed in units per acre or coverage per acre, from land in one zoning district to land in another zoning district where such transfer is permitted.

Transfer Station/Recycling Center: A facility certified by the state that functions as a collection point for solid waste and recyclable material that will subsequently be transported to a state-approved landfill or disposal facility.

Travel Trailer: (See RECREATIONAL VEHICLE.)

Traveled Way: The portion of a highway designed for the movement of motor vehicles, shoulder, and roadside parking, rest, observation areas, auxiliary lanes and other area immediately adjacent and contiguous to the traveled portion of the highway.

Undevelopable Land: Land which is unsuitable for physical development, including the erection of structures, as specified in these regulations. Such land includes, but may not be limited to: specified flood hazard areas; land with slopes in excess of 20 percent; regulated wetland areas; critical habitat areas; and land within designated surface water, wetland, or habitat buffer areas. This definition shall not prohibit agricultural, forestry, open space and recreational uses which are exempt from or may otherwise be approved under these regulations.

Variance: A deviation from the physical dimensional requirements of these regulations ordinance as may be granted by the zoning board of assessment, pursuant to 24 V.S.A. § 4469, but not to include any land use or density changes.

Violation: The commencement or continuation of any land development or use that does not meet the requirements of this bylaw. A structure or other development without the elevation certificate, other

certifications, or other evidence of compliance required in 44 C.F.R. §60.3 is presumed to be in violation until such time as that documentation is provided.

Visitor Facility: A building or portion thereof designed to accommodate travelers by providing personal orientation, maps, brochures, and other tourist amenities.

Waiver: Relief granted from a specific standard or requirement as authorized by these regulations.

Wetlands: Those areas of the state that are inundated by surface or ground water with a frequency sufficient to support 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 where food or crops are grown in connection with farming activities. In addition, it is an area defined by the State of Vermont Wetlands Division and U.S. Army Corps of Engineers.

Wholesale Facility: An establishment or place of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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

Yurt: a portable, round tent covered with skins, felt or fabric and used as a dwelling. A yurt may be permanently built on a wooden platform; they may use materials such as steam-bent wooden framing or metal framing, canvas, Plexiglas dome, wire rope, or radiant insulation.

Zoning Bylaws: The Town of Jay Zoning Bylaws adopted by the Town pursuant to the Vermont Municipal and Regional Planning and Development Act, Title 24 VSA, Chapter 117 (the “Act”).

Zoning Map: The official Town of Jay map showing the various Districts that is held on file in the Town Clerk’s office.

Zoning Permit: A document signed by the Administrative Officer, as required by these regulations, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building, that acknowledges that such use, structure or building, as proposed, will comply with the provisions of these regulations or authorized variance or waiver there from.

ARTICLE 9: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE, AND SEVERABILITY

901: Amendments

These Regulations may be amended according to the requirements and procedures established in 24VSA, Sections 4441 & 4442

902: Interpretation

In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not the intention of these Regulations to repeal, annul or in any way to impair any regulations or permits previously adopted or issued, provided, however, that where these Regulations impose a greater restriction upon use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of these Regulations shall control.

903: Effective Date

This Regulation shall take effect in accordance with the voting and other procedures contained in 24 VSA, Section 4442.

904: Severability

These Regulations and their various parts, sentences, paragraphs, elements, clauses and sections are hereby declared to be severable. If any part, sentence, paragraph, element, clause or section is judged invalid or unenforceable, the remainder of these Regulations shall not be affected thereby.

905: Repeal

The Zoning Regulations adopted by the Town of Jay on March 4, 2003 is hereby repealed.

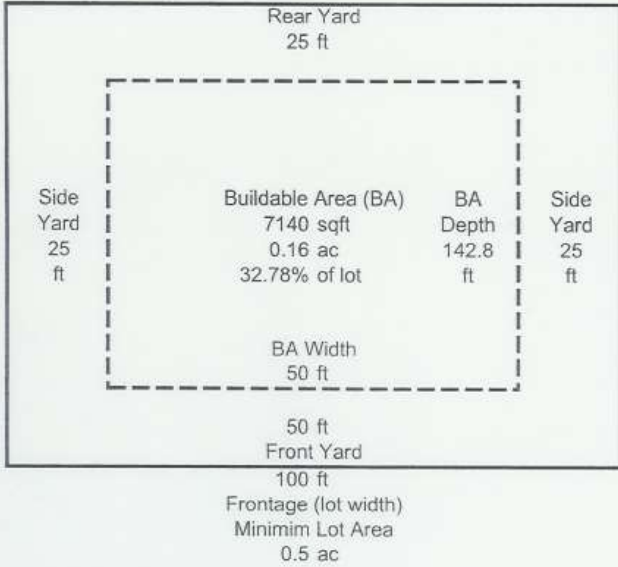
906: Zoning Violations

A use of land, structure, lot or parcel that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including one improperly authorized as a result of error by the administrative officer.

Zoning code **violations** may result due to the improper use of land or a building. Certain types of activities can only take place in designated "**zones**," which are defined by state, city, and municipal codes. Zoning ordinances are often subject to frequent change.

Jay Zoning Bylaw Minimum Lot Area and Dimensional Requirements Analysis

302 Village District

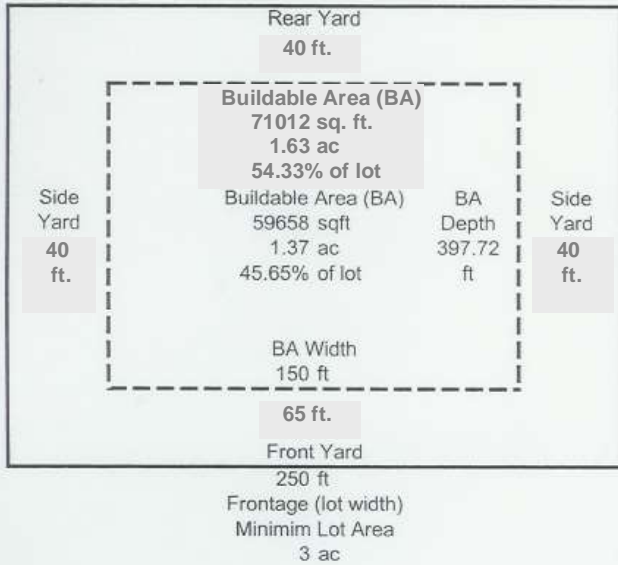


LOT AREA & SETBACKS	
Minimum lot size	0.5 ac
Frontage	100 ft
Front yard setback	50 ft
Side yard setback	25 ft
Rear yard setback	25 ft

COMMENTS:	
Height Max	35 ft.

Lot depth
217.8 ft

303 Rural District I



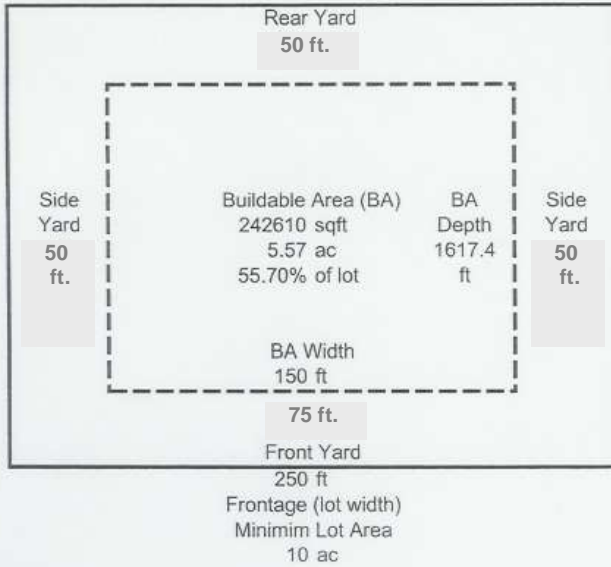
LOT AREA & SETBACKS	
Minimum lot size	3 ac
Frontage	250 ft
Front yard setback	65 ft.
Side yard setback	40 ft.
Rear yard setback	40 ft.

COMMENTS:	
Height Max	35 ft.

Lot depth
522.72 ft

Jay Zoning Bylaw Minimum Lot Area and Dimensional Requirements Analysis

304 Rural District II

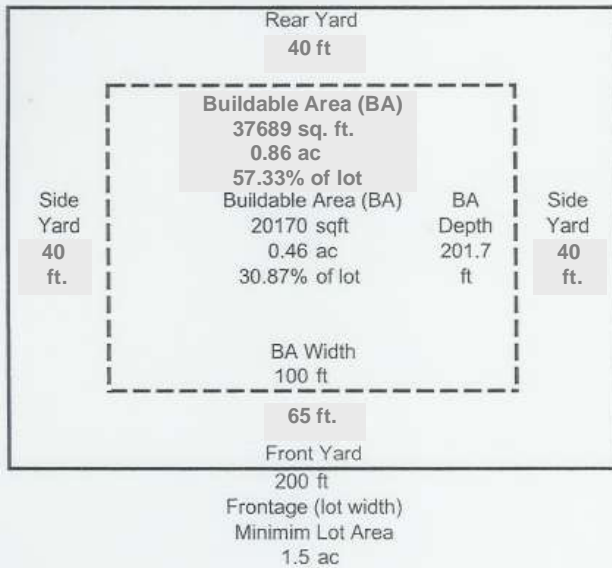


LOT AREA & SETBACKS	
Minimum lot size	10 ac
Frontage	250 ft
Front yard setback	75 ft
Side yard setback	50 ft
Rear yard setback	50 ft

Lot depth
1742.4 ft

COMMENTS:	
Height Max	35 ft.

305 Recreation District



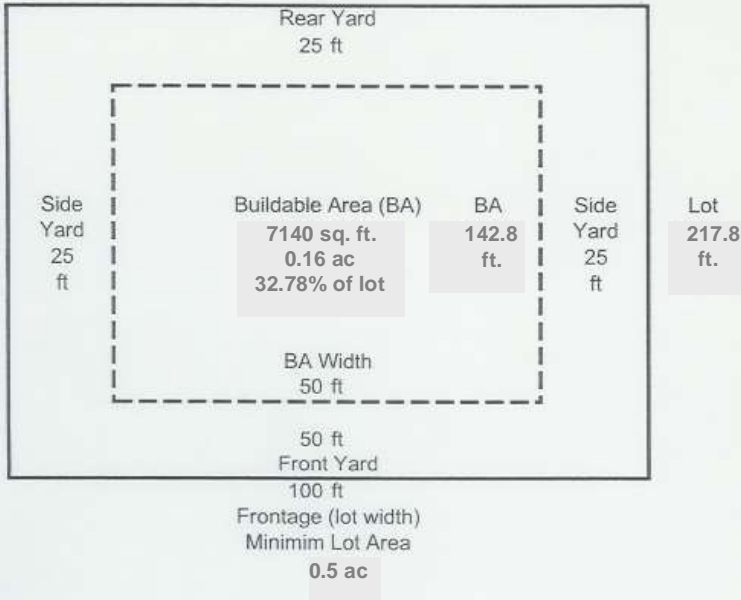
LOT AREA & SETBACKS	
Minimum lot size	1.5 ac
Frontage	200 ft
Front yard setback	65 ft.
Side yard setback	40 ft.
Rear yard setback	40 ft.

Lot depth
326.7 ft

COMMENTS:	
Height Max	35 ft.*
*Waiver may be granted	

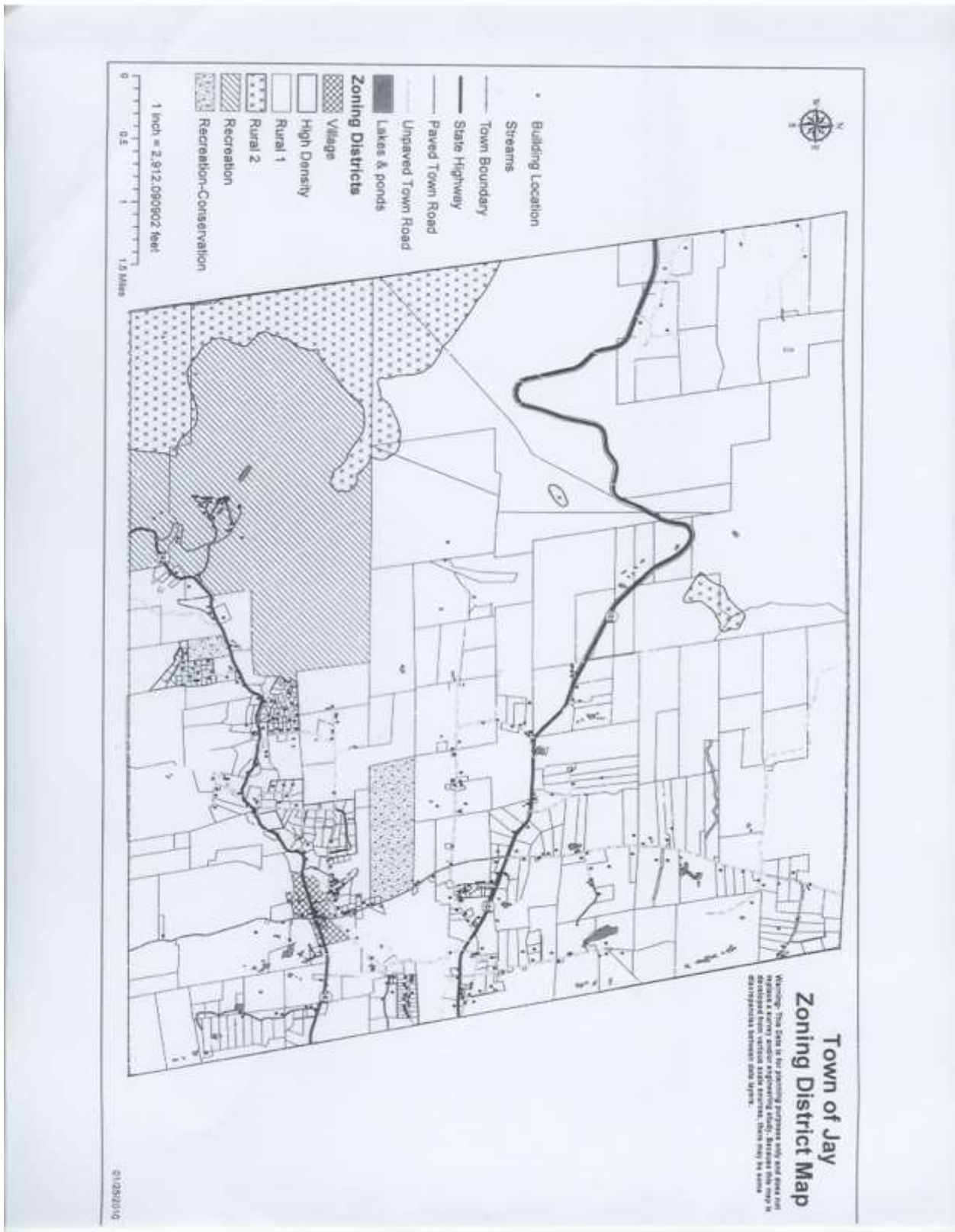
Jay Zoning Bylaw Minimum Lot Area and Dimensional Requirements Analysis

306 High Density District



LOT AREA & SETBACKS	
Minimum lot size	0.5 ac
Frontage	100 ft
Front yard setback	50 ft
Side yard setback	25 ft
Rear yard setback	25 ft

COMMENTS:	
Height Max	35 ft.*
*Waiver may be granted	



All maps can be found on the Town of Jay website: www.jayvt.com