

# Town of Thetford, Vermont Zoning Bylaw

Adopted September 26, 2011

Amended February 27, 2023

Amended January 22, 2024

**Effective February 12, 2024**

This bylaw was developed with support from a Bylaw Modernization Grant from the Vermont Agency of Commerce and Community Development and the Assistance of the Two Rivers-Ottawaquechee Regional Commission.

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## **Article I. Authority & Purpose**

### ***Section 1.01 Title***

In accordance with the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117, hereinafter referred to as the "Act," a Zoning Bylaw for the Town of Thetford, Vermont is hereby established.

### ***Section 1.02 Purpose***

It is the purpose of this Bylaw to protect the public health, safety, and general welfare; to carry out local goals and objectives in order to foster orderly community development; while preserving the natural resources and retaining the beauty and historic character of the Town; and to further the purposes established in Section 4302 of the Act. To these ends, the Bylaw has the specific objectives of ensuring that:

- Property owners enjoy unhampered use of their property, provided that such use does not affect the health or safety of their neighbors., or unduly impair the value of neighboring properties;
- the expense of providing essential Town services to all properties are minimized; and
- any development within the Town conforms to these objectives and purposes.

### ***Section 1.03 Applicability***

Except as provided for or exempted under this Bylaw, no person shall undertake land development, as defined herein, in the Town of Thetford until a zoning permit has been issued by the Zoning Administrator, as provided for in the Act [§§4448, 4449].

### ***Section 1.04 Exemptions***

No zoning permit shall be required for the following activities:

- (A) Accepted agricultural practices (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act[§4413(d)]. Written notification, including a sketch plan showing structure setback distances from road rights--or--way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
- (B) Accepted management silviculture (forestry) practices as defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
- (C) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Town Plan.
- (D) Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting activities such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.
- (E) In accordance with the Act [§4412(8)(A)], 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. This exemption does not apply to historic landmarks and structures listed on the state or national register of historic places that are protected by this Bylaw.
- (F) Telecommunications facilities, as defined in 30 V.S.A. § 248a, to the extent jurisdiction is assumed by the Vermont Public Service Board according to the provisions of that section.
  - (G) Solar collectors, clotheslines.
  - (H) Normal maintenance and repairs of an existing structure that do not result in expansion or a change of use.
  - (I) Interior alterations or repairs to a structure that do not result in expansion or addition of one or more bedrooms or a change in use.
  - (J) Residential entry stairs (excluding decks and porches), handicap access ramps and walkways.
  - (K) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 5.02.
  - (L) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snowmobile trails) that do not require the installation of structures or parking areas.
  - (M) Accessory buildings with less than 64 square feet of floor area and less than eight (8) feet in height and associated with residential uses and which are not located within required setback areas.
  - (N) Home Offices (see Section 5.03).
  - (O) Fences and walls, conforming to the requirements of Section 3.01, that are more than ten feet from a lot line and do not exceed ten feet in height; or are less than ten feet from a lot line and do not exceed six feet in height.
  - (P) Temporary uses, such as auctions, that last no more than a few days.
  - (Q) Any use having no impact or de minimus impact as determined by the Zoning Administrator. De minimus structures or uses not specifically mentioned in this Bylaw that are incidental and customary to the use on the lot, in conformance with the purposes of the district and so temporary or minimal in their impact on the public that regulation of them is not required to protect health, safety, welfare or environment. The Zoning Administrator is empowered to make such determinations when needed, and appeals of these decisions shall be made to the DRB.
  - (R) Accessory dwelling units located within single family residential structures, so long as the building footprint (excepting steps/new entryway) and number of bedrooms is not increased. This exemption does not apply in flood hazard areas.

### ***Section 1.05 Limitations on Regulation of Public Facilities***

In accordance with the Act [§4413(a)], the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (A) state- or community-owned and operated institutions and facilities;
- (B) public and private schools and other educational institutions certified by the state department of education;
- (C) churches and other places of worship, convents, and parish houses;
- (D) public and private hospitals;
- (E) regional solid waste management facilities certified under 10 V.S.A. chapter 159;
- (F) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

***Section 1.06 Interpretation***

In the interpretation and application of this Bylaw, the provisions of this Bylaw shall be held to be minimum requirements adopted for the purposes set forth in Section 1.02.

***Section 1.07 Amendments***

This Bylaw may be amended in accordance with the requirements and procedures established in 24 V.S.A., Chapter 117.

***Section 1.08 Conflict With Other Regulations***

If this Bylaw is more restrictive with respect to the use of structures or land than other statute, ordinance, regulation, rule, easement or agreement, then the provisions of this Bylaw shall apply.

***Section 1.09 Effective Date***

This Bylaw shall take effect in accordance with procedures specified in Section 4442 of the Act.

***Section 1.10 Severability***

If any provision of this Bylaw or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Bylaw.

| <b>Table 1.1 Municipal Permits &amp; Approvals</b>         |  |                                 |  |
|--|--|---------------------------------|--|
| <b>Permit/Approval [authorization in 24 V.S.A. Ch 117]</b> | <b>Required for</b>  | <b>Issued by</b>                | <b>See</b>                                       |
| <b>Zoning Regulations</b>                                  |  |                                 |  |
| Zoning Permit [§4449]                                      | All land development, as defined in Section 8.02, including signs, conversions and changes of use, unless specifically exempted from this bylaw under Section 1.04.  | Zoning Administrator            | Article VII                                      |
| Site Plan Approval [§4416]                                 | All permitted uses as designated in Article II, excluding the following: <ul style="list-style-type: none"> <li>• one and two unit dwellings;</li> <li>• uses and structures that are accessory to one and two unit dwellings</li> <li>• home businesses subject to Section 5.03(B)</li> <li>• accessory dwelling units in accordance with Section 5.10</li> <li>• family child-care homes, subject to Section 5.11, that serve six or fewer children</li> <li>• signs</li> <li>• all uses exempted under Section 1.04.</li> </ul> | Development Review Board        | Section 6.05                                     |
| Conditional Use Approval [§4414(3)]                        | All uses classified as “conditional uses” in Article II, or as otherwise specified in Articles III, IV or V.   | Development Review Board        | Section 6.06                                     |
| Planned Unit Development (PUD) Approval [§4417]            | A method of land development for multi-unit development in which an area of land, consisting of one or more parcels, is developed as a single entity, where an alternative configuration may promote more desirable development design.  | Development Review Board        | Section 6.07                                     |
| Waiver Approval [§4414(8)]                                 | Requests for reduction in dimensional requirements for structures providing for disability accessibility, fire safety, and other requirements of law, or where energy conservation and renewable energy structures are a consideration.  | Development Review Board        | Section 6.08                                     |
| Variance Approval [§4469]                                  | Requests on appeal for a variance from the provisions of these regulations.  | Development Review Board        | Section 6.09                                     |
| Access Approval [§4412(3)]                                 | Development without frontage on a public road or public waters.  | Development Review Board        | Section 3.04                                     |
| Flood Hazard Area development approval [§4424(2)]          | Any development in a Special Flood Hazard Area.  | Development Review Board        | Flood Hazard Area Zoning Bylaw                   |
| Wireless Telecommunications Facilities [§ 4414(12)]        | Construction, alteration, and development, decommissioning and dismantling of Wireless Telecommunication Facilities.   | Development Review Board        | Wireless Telecommunication Facility Zoning Bylaw |
| <b>Other Municipal Approvals</b>                           |  |                                 |  |
| Subdivision Approval [§4418]                               | All subdivisions of land, as defined in the Thetford Subdivision Regulations, including boundary or lot line adjustments.  | Development Review Board        | Subdivision Regulations                          |
| Access (Curb-cut) Approval                                 | All development requiring access onto town highways. (Note that a permit is required from the Vermont Agency of Transportation for access onto state highways.)  | Selectboard & Road Commissioner | Local Ordinances                                 |
| Road Acceptance, Upgrade, Naming                           | The naming of roads, the upgrade of town roads, or town acceptance of private development roads.   | Selectboard                     | Local Ordinances                                 |
| Development within Town Highway Rights-of-Way              | Any development, upgrading of roads, and road maintenance within the public right-of way.  | Selectboard                     | Local Ordinances                                 |

## Article II. Zoning District Regulations

### ***Section 2.01 Zoning Districts and Overlay Districts: General***

For the purpose of this Bylaw, the Town as shown on the Zoning Districts map is divided into four types of zoning district, which are Village Residential, Neighborhood Residential, Community Business, and Rural Residential, and one overlay district, the Thetford Hill Historic Preservation Overlay District. The general purpose of these Districts is to encourage future growth that complements past patterns of development, preserving the rural character of Thetford and strengthening the identity of Thetford's villages. Appropriate development, according to the Town Plan and to these Bylaws, is determined by assessing the proposed usage against the General and Specific Use Provisions and the General Standards for Development Review for both Permitted and Conditional uses. These include requirements for open space protection; wetlands, wildlife, forest resource and agricultural land protection; and protection from the impact of increased traffic from proposed development.

The general purpose of each district shall be as follows:

- (A) **Village Residential** – The purpose of the Village Residential District is to comprise relatively dense areas of settlement with the following characteristics:
- Networks of streets and utilities that make efficient use of land;
  - Neighborhoods with resources such as schools, shops and libraries within walking distance of residences;
  - Relatively dense housing, noting that villages' lots "grandfathered" before zoning were often smaller than the current minimum of 20,000 square feet;
  - Mixed-use development, compatible in scale and lot coverage with existing development, supporting commercial and public services for residents.
- (B) **Neighborhood Residential** – Neighborhood Residential land use areas are districts of settlement that are close to Village Residential areas. Their purpose is primarily residential, with a minimum lot size of 20,000 square feet. A second purpose is to encourage Home Occupations (Home Office, Home Business, and Home Industry) and Commercial Service(s), in accordance with Tables 2.1 and 2.2 (Section 2.04). The NR District is intended to serve as a residential and commercial 'bridge' between Village and Rural Residential Zoning Districts.
- (C) **Community Business** – The purpose of the Community Business district is to share the characteristics of the Village Residential district, with an emphasis on commercial development, compatible in scale and lot coverage with existing development, ranging from small to medium in size.
- (D) **Rural Residential** – The purpose of the Rural Residential district is to maintain an area of low average density that is compatible with clusters of high-density, remaining primarily a district of open space, farms, residences and woodlands, with scattered commercial uses that are either home-based or dependent on natural resources. This area is characterized by development that has
- Particular sensitivity to agriculture and natural resources;
  - Minimal sprawl, as the term is defined in Section 8.02.
- (E) **Thetford Hill Historic Preservation Overlay** – The purpose of this district is to ensure the protection, enhancement and renovation of significant architectural and historic resources in Thetford Hill. The District shall preserve such property, districts, buildings, and sites in the Town having special historical associations or significance or of special architectural merit or significance. While not all buildings are of equal historic significance, all buildings and lands support and contribute to any given district.

### ***Section 2.02 Establishment of Zoning Districts and Overlay Districts***

The boundaries of the zoning districts and overlay district specified in Section 2.01 are established as shown on the Zoning Districts map of the Town of Thetford. The zoning districts and boundaries and overlay districts and boundaries are hereby adopted and established as shown on said Zoning Districts

map, which map together with all notations, references, data, district boundaries, and other information thereon, are made a part of this Bylaw by reference. The official Zoning Districts map shall remain on file in the office of the Town Clerk but a copy of the map is also attached as an appendix.

### ***Section 2.03 Interpretation of District Boundaries***

Whenever any uncertainty exists as to the boundary of any zoning district as shown on the Zoning Districts map, the following rules shall apply:

- (A) Where zoning district boundary lines are indicated as following rights-of-way, they shall be construed as following the centerlines of such rights-of-way.
- (B) Where zoning district boundary lines are indicated as approximately parallel to the centerlines of roads or highways, they shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Districts map.
- (C) Where zoning district boundary lines are indicated as following lot or property lines, they shall be construed as following such lot or property lines.
- (D) Where zoning district boundary lines are indicated as following political boundary lines, they shall be construed as following such political boundary lines.

Where zoning district boundary lines are indicated as following stream courses or rivers, they shall be construed as following the centerline of such stream course or river, except in those instances where the limit of the jurisdiction of the Town does not extend to the centerline of such stream course or river.

### ***Section 2.04 Uses and Standards***

#### **(A) Use Types**

Permitted uses are allowed with approval of the Zoning Administrator in accordance with Section 7.03.

Conditional uses are permitted with the approval of the Development Review Board (DRB) in accordance with Section 6.06.

#### **(B) Use Categories**

For the purpose of establishing permitted and conditional uses within the zoning districts, the following categories of use are designated and defined:

**1 & 2 Unit Dwelling:** Any use of land or structures comprising one or two residential units in a primary structure. Examples: house, cabin, mobile home, duplex, 1 unit dwelling with 1 accessory dwelling unit in accordance with Section 5.10.

**3 & 4-unit Dwelling:** Any use of land or structures comprising three or four residential units in a primary structure. Examples: include triplexes and quads.

**5+ Unit Dwelling:** Any use of land or structures comprising five or more residential units in a primary structure. Examples include apartment houses and attached townhouses.

**Home Business:** Any use of land or structures for the purpose of conducting a business at a residence in accordance with Section 5.03(B).

**Home Industry:** Any use of land or structures for the purpose of conducting a business at a residence in accordance with Section 5.03(C).

**Village Commercial:** Any use of land or structures for the primary purpose of buying or selling goods where the goods are primarily contained inside a primary structure. Such uses include, but are not

limited to, the following: retail shops, general store with or without gas pumps, art gallery.

**Roadside Commercial:** Any use of land or structures for the purpose of buying or selling goods that are commonly displayed or sold outside a primary structure. Such uses include, but are not limited to, the following: gasoline station, mobile home sales lot, automobile dealership.

**Commercial Service:** Any use of land or structures for the purpose of providing a service. Such uses include, but are not limited to, the following: real estate offices, hairdressers, repair shops, banks, law firms, engineering and software companies.

**Community Service:** Any use of land or structures for the purpose of providing space for community gatherings or conducting educational or religious services. Such uses include, but are not limited to, the following: churches, community centers, service clubs, membership clubs, day care centers.

**Cultural:** Any use of land or structures for the purpose of providing cultural activities. Such uses include, but are not limited to, the following: theaters, libraries, museums and fairgrounds.

**Essential Service:** Any use of land or structures for the purpose of providing an essential service including, but not limited to, Post Office, utility substation, Fire Station, Ambulance Station and Police Station.

**Light Industrial:** The processing, assembly, distribution or packaging of natural or man-made products where such activity results in no substantial off-site impacts, such as, but not limited to noise, vibration, air pollution, fire hazard or noxious emission. All such activity and storage of raw or finished products are enclosed in a building or are screened from the abutting properties and public rights of way. Such uses include, but are not limited to, the following: cabinetry or woodworking shop, electronics high-tech manufacturing or assembly, machine shop, blacksmith shop, food processing, sewing, printing, research and testing laboratory, and similar uses.

**Outdoor Recreation:** Any use of land or structures for the provision of outdoor recreational services where the primary use is outside. Such uses include, but are not limited to, the following: downhill or cross-country ski area, tennis court, youth camp, hunting lodge, shooting range and miniature or standard golf course.

**Municipal:** Any use of land or structures that is owned or operated by the town. Such uses include, but are not limited to, the following: municipal buildings, public parks, recycling center, and highway department garage.

**Rural Industrial:** Any use of land or structure for the provision of a commercial activity that primarily processes material extracted on site or material that is a raw agricultural or forest product. Such uses include, but are not limited to, the following: quarry, gravel or sand pit, sawmill, slaughterhouse, and biofuels or wood pellet production.

**Contractor's Yard:** A business where equipment and materials are stored on-site and the primary business activity is done off-site. Such uses include, but are not limited to, the following: trucking business, landscaping business, building contractor, site contractor, septic pumping.

**FORMULAIC CHAIN BUSINESS:** A type of retail store, rental establishment, restaurant, hotel, or motel which, along with fifty (50) or more other business locations within or outside the United States, regardless of ownership of those businesses, maintains two (2) or more of the following features: standardized array of merchandise or standardized menu, standardized façade, standardized decor and color scheme, uniform apparel, standardized signage, or a trademark or service mark. This definition closely aligns with the current Thetford Town Plan Goals, Policies and Recommendations, which emphasize encouraging future development of a size and scale compatible with existing structures and the preservation of the municipality's historic nature and distinctive community character.

Table 2.1 shows the allowable uses for each zoning district. Table 2.2 shows the specific standards for each zoning district. The side and back yard setbacks of 15 feet ensure spacing between structures on adjacent lots adequate for fire protection. The front yard setback, measured from the centerline of the traveled way, is necessary for highway maintenance (drainage and snow removal) while allowing landowners maximum lot development potential.

| <b>Table 2.1: Uses by District</b>   |                            |                                 |                          |                           |  |
|--|----------------------------|---------------------------------|--------------------------|---------------------------|--|
|  | <b>Village Residential</b> | <b>Neighborhood Residential</b> | <b>Rural Residential</b> | <b>Community Business</b> |  |
| Minimum Lot Size (in square feet)  | 20,000                     | 20,000                          | 80,000                   | 20,000                    |  |
| <b>Categories of Uses</b>  |                            |                                 |                          |                           |  |
| 1 & 2 Unit Dwelling  | Permitted                  | Permitted                       | Permitted                | Permitted                 |  |
| Home Business [Section 5.03(B)]  | Permitted                  | Permitted                       | Permitted                | Permitted                 |  |
| Cultural   | Conditional use            | Conditional use                 | Permitted*               | Conditional use           |  |
| 3 & 4 Unit Dwelling  | Permitted*                 | Permitted*                      | Permitted*               | Conditional use           |  |
| 5+ Unit Dwelling   | Permitted*                 | Permitted*                      | Conditional use          | Conditional use           |  |
| Home Industry [Section 5.03(C)]  | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Community Service  | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Essential Service  | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Contractor's Yard  | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Outdoor Recreation   | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Municipal  | Conditional use†           | Conditional use†                | Conditional use†         | Conditional use†          |  |
| Village Commercial   | Conditional use            | Conditional use                 | Not allowed              | Conditional use           |  |
| Roadside Commercial  | Conditional use            | Not allowed                     | Not allowed              | Conditional use           |  |
| Formulaic Chain Business   | Prohibited                 | Prohibited                      | Prohibited               | Prohibited                |  |
| Commercial Service   | Conditional use            | Conditional use                 | Not allowed              | Conditional use           |  |
| Light Industrial   | Not allowed                | Not allowed                     | Not allowed              | Conditional use           |  |
| Rural Industrial   | Not allowed                | Not allowed                     | Conditional use          | Not allowed               |  |
| <b>Uncategorized Uses</b>  |                            |                                 |                          |                           |  |
| Accessory dwelling unit as defined in Section 8.02   | Permitted                  | Permitted                       | Permitted                | Permitted                 |  |
| Adaptive Reuse subject to Section 5.15   | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Church, place of worship subject to Section 5.01   | Permitted*†                | Permitted*†                     | Permitted*†              | Permitted*†               |  |
| Accessory use or structure as defined in Section 8.02  | Permitted*                 | Permitted*                      | Permitted*               | Permitted*                |  |
| Farmers' market  | Permitted*                 | Permitted*                      | Permitted*               | Permitted*                |  |
| Restaurant, deli, take-away prepared food  | Permitted*                 | Permitted*                      | Conditional use          | Conditional use           |  |
| Bed & Breakfast  | Conditional use            | Conditional use                 | Conditional use          | Permitted*                |  |
| Motel and hotel  | Conditional use            | Not allowed                     | Not allowed              | Permitted*                |  |
| Cemetery   | Not allowed                | Conditional use                 | Permitted*               | Not allowed               |  |
| Auction yard   | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| School, public or private  | Conditional use†           | Conditional use†                | Conditional use†         | Conditional use†          |  |
| Facility subject to Wireless Telecommunications Facility Bylaw   | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Health care facility   | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Veterinary clinic  | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Off-street parking subject to Section 3.03   | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Planned Unit Development subject to Section 6.07   | Conditional use            | Conditional use                 | Conditional use          | Conditional use           |  |
| Kennel   | Not allowed                | Not allowed                     | Conditional use          | Not allowed               |  |
| Junkyard subject to Section 5.05   | Not allowed                | Not allowed                     | Conditional use          | Not allowed               |  |
| Landfill subject to Section 5.06   | Not allowed                | Not allowed                     | Conditional use          | Not allowed               |  |
| Mobile home park subject to Section 5.07   | Not allowed                | Conditional use†                | Conditional use†         | Not allowed               |  |
| Travel trailer camp subject to Section 5.09  | Not allowed                | Not allowed                     | Conditional use          | Not allowed               |  |
| * These permitted uses require site plan review. See Sections 6.03 – 6.05 for review standards and exceptions to the site plan review requirement. |                            |                                 |                          |                           |  |
| † These uses are subject to limited regulations. See Section 1.05.   |                            |                                 |                          |                           |  |

| <b>Table 2.2 Standards by District</b>                   |   |   |  |
|--|---|---|--|
|  | <b>Village Residential &amp; Neighborhood Residential</b>   | <b>Community Business</b>                       | <b>Rural Residential</b>                       |
| Maximum Density  | One principal structure per 20,000 square feet.   | One principal structure per 20,000 square feet. | One principal structure per 80,000 square feet |
| Minimum Lot Size   | 20,000 square feet  | 20,000 square feet                              | 80,000 square feet                             |
| Minimum Mean Depth in Linear Feet                        | 100 feet  |   |  |
| Minimum Width at Building Line In Linear Feet            | 100 feet  |   |  |
| Minimum Depth of Rear Yard in Linear Feet                | 15 feet   |   |  |
| Minimum Depth of Side Yard in Linear Feet                | 15 feet   |   |  |
| Minimum Building Setback from Centerline of Traveled Way | 40 feet   |   |  |
| Maximum Building Height in Linear Feet                   | See Section 3.02  |   |  |
| Minimum Off--Street Parking Space                        | One space for each dwelling unit. For all other uses, refer to Section 3.03.  |   |  |
| Special Provisions and Requirements                      | All dwelling units without a basement, including mobile homes, shall be completely enclosed from grade level to the base of the structure with a skirting of spark--arresting material. |   |  |

**(C) Thetford Hill Historic Preservation Overlay District Special Provisions and Requirements**

1. All uses within the Historic Preservation Overlay District are to be treated as conditional uses.
2. In accordance with the Act [§4414(1)(F)(ii)], with respect to external appearances and other than normal maintenance, no structure within a designated historic district may be rehabilitated, substantially altered, restored, moved, demolished or changed and no new structure within the historic district may be erected without approval of the plans by the DRB.
3. The DRB shall request a report from the Thetford Hill Historic Preservation Committee ("Committee"), for recommendations concerning the plans. The Committee shall make its recommendations in accordance with the review criteria in Section 6.12. The DRB may set a reasonable deadline for completion of the report from the Committee, after which the DRB shall proceed with its review.
4. A permit may be issued by the DRB when it is satisfied that the proposed plan will not visually and physically impair the historic or architectural significance of the structure or surrounding area.
5. Exception: If a structure for which a demolition request has been filed has been damaged in excess of seventy percent of its assessed value due to flood, fire, wind, or other natural act, a permit for the sole purpose of demolition may be approved by the Administrator without processing the request through the DRB.

## **Article III. General Provisions**

### ***Section 3.01 Fences, Walls, and Hedges***

Fences, walls, or hedges used for any purpose shall conform to the following:

- (A) For the purpose of minimizing traffic hazards along streets by maintaining visibility for converging vehicles, fences, walls, and hedges higher than three feet above street level shall not be permitted within 25 feet of the centerline of any traveled way except as a conditional use approved by the DRB.
- (B) In addition to any approval and permit under this Bylaw, no permanent fence or retaining wall shall be constructed or erected within any public right-of-way unless authorized by the Selectboard.
- (C) Fences erected on public easement or across drainage courses shall be so constructed that drainage shall not be obstructed and, in the event of necessity for removal of such fence for maintenance or other purpose, removal and/or replacement of such fence or other improvement shall be the responsibility of the property owner.
- (D) Fences and walls that exceed ten feet in height must be authorized as a conditional use by the DRB. Fences and walls that are more than ten feet from a lot line and that do not exceed ten feet in height and that comply with (A) above are exempt uses that do not require a permit. Fences, walls, and hedges on or within ten feet of lot lines that do not exceed six feet in height are exempt uses that do not require a permit. Fences, walls, and hedges on or within ten feet of lot lines may exceed six feet in height only when authorized as a conditional use by the DRB.

### ***Section 3.02 Structures over 35 Feet***

All structures over 35 feet in height will be conditional use and must be set back from all property lines a distance at least equal to their height.

### ***Section 3.03 Off-street Parking***

The regulation in this section is intended to guide the determination of adequate off-street parking requirements on a project-by-project basis without building excessive and wasteful parking areas. For safety reasons it is often best to park automobiles outside of public rights of way.

These principles form the basis for the determination of adequate off-street parking:

- Alternatives to individual automobile usage are strongly encouraged. Alternatives include, but are not limited to walking, bicycling, public transportation and carpooling.
- Affordable housing is strongly encouraged. Parking space requirements should be based on the transportation modes used by residents and the cost to build parking.
- Shared parking spaces in mixed-use areas are strongly encouraged. This means that when different uses in the same area need parking spaces at different times of the day, duplication of parking areas is to be avoided.
- Parking space requirements should not be based on peak usage estimates. Occasional overflow parking may be accommodated within public rights of way.

A parking plan shall be included with each application for uses, other than a one- or two-unit dwelling, for which more than two off-street parking spaces are proposed. Each parking plan shall be reviewed by the DRB under the criteria in this section and the criteria for conditional uses. Off-street parking areas, whether open or enclosed, shall be subject to such conditions that may be imposed by the DRB during site plan approval or conditional use approval. Each off-street parking space shall not be less than 10

feet wide and 20 feet in length if spaces are to be unpaved and not be less than 9 feet wide and 18 feet in length if spaces are to be paved.

The number of required parking spaces shall be determined by the DRB as a condition of approval. The following are initial guidelines for off-street parking requirements. Where the principles listed above would justify it, the DRB may waive or vary from them.

- (A) Residential: 1 space per dwelling unit
- (B) Hotel, Motel, etc.: 1 space per unit
- (C) Dormitory, Hospital, etc.: 1 space per each two beds.
- (D) Public assembly buildings: 1 space per each five seats, or if no seats, 1 space for each 200 square feet of floor area.
- (E) Business, professional, and medical offices: 1 space for each 200 square feet of floor area.
- (F) Commercial, business, and unspecified uses: 1 space for every motor vehicle used in business, plus 1 space for each 200 square feet of floor area.
- (G) Restaurant: 1 space for each three seats.
- (H) Industrial, wholesale, storage, etc. uses: 1 space for every motor vehicle used in the business plus 1 space for each two employees.
- (I) Outdoor recreation: as required by the DRB.

### ***Section 3.04 Required Frontage on, or Access to Public Roads***

Land development requires that lots have frontage on, or access to, a public road. The DRB may approve land development on lots with access to such a road by a permanent easement or right of way at least 30 feet in width.

### ***Section 3.05 Division of Lots***

A zoning permit is required for the creation of a lot. No lot shall hereafter be divided into two or more lots unless all lots resulting from each such division conform to all the applicable regulations of the zoning district in which the property is located. A town line or road, present on the most recent edition of the Vermont General Highway Map – Town of Thetford as prepared by the Vermont Agency of Transportation constitutes a dividing line between lots within the Town of Thetford. Each lot shall be subject to all applicable regulations of the zoning district in which the property is located.

### ***Section 3.06 Lots in Multiple Districts***

A lot located in two or more districts shall have the portion of land in each district governed by the rules of that district, provided that there is sufficient acreage in such district to allow for a conforming lot. When lots only have a complying portion in one (1) district, the entire lot shall be treated as being in that district. Lots without conforming dimensions in any district will be treated as being in the district with the majority of the lot acreage.

### ***Section 3.07 Use of Lot***

#### **(A) Mixed Uses**

1. If all of a development's proposed uses are permitted within the district, then the mixed use will be a permitted use.
2. If any of the uses in a proposed mixed-use development is a Conditional Use within the district then those uses will be reviewed as Conditional Uses.

**(B) Multiple Residential Buildings on a Lot**

1. A one or two--unit residential building on a lot is a permitted use.
2. Except in the instance of an accessory dwelling unit, subject to Section 5.10, all applications for more than one residential building on a single lot will be subject to Planned Unit Development procedures and standards.

***Section 3.08 Open Space Requirements*****(A) Location of Required Open Spaces**

All yards, courts, and other open spaces allocated to a building or group of buildings shall be located on the same lot as such building or group of buildings unless otherwise specifically provided for herein.

**(B) Maintenance of Required Open Spaces**

The maintenance of yards, courts, and other space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, courts, or other open spaces or minimum lot area allocated to any building shall by virtue of change of ownership or for any other reason, be used to satisfy yard, court, other open space, or minimum lot area requirements for any building.

**(C) Reduction of Required Open Spaces**

No spaces allocated to a building or group of buildings for the purpose of complying with the yard, frontage, or other open space requirements of this Bylaw shall thereafter, for any reason, be used to satisfy the open space requirements of any other building or group of buildings.

**(D) Required Open Space for Existing Buildings**

No yards or other required open space now or hereafter provided for a building existing on the effective date of this Bylaw shall subsequently be reduced below, or further reduced below if already less than, the minimum yard requirements of this Bylaw for equivalent new construction.

***Section 3.09 Wetland Buffer Requirements*****(A) Purpose**

The intent of these requirements is to minimize adverse impacts caused by human activity on mapped and unmapped wetlands in the town of Thetford and to ensure the continuing well--being and functionality of these sensitive ecological areas.

The specific intent of these requirements is to prevent development in wetland areas by establishing vegetated buffer zones. Such buffer zones are important not only because they are essential to the maintenance of healthy ecological functions, including flood control and water quality protection, but because they allow for the preservation of complex ecosystems that in turn provide habitat for wildlife and native plant species.

Landowners wishing to develop in the vicinity of wetlands are advised to refer to state and federal regulations in addition to these local regulations.

**(B) Mapped Class Two Wetlands**

As required by State Wetland Rules, a naturally vegetated buffer strip shall be maintained around wetlands. The buffer strip shall be at least 50 feet in uniform width and shall apply to

1. Class Two wetlands, which are identified on the Vermont Significant Wetlands Inventory (VSWI) maps,
2. any wetlands that are contiguous to Class Two wetlands, and
3. any wetlands that are identified by the state of Vermont as functionally significant.

Class Two wetlands are also regulated by the state in accordance with Vermont Act 250.

Except for accepted agricultural and silvicultural practices in accordance with the Act[§4413(d)], no significant disturbance will be permitted within the wetland or its buffer zone. For the purposes of these requirements, silviculture shall be defined as the practice of applied forest ecology, which entails the art and science of tending a forest; the application of the knowledge of silvics in the treatment of a forest; the theory and practice of controlling forest establishment, composition and growth. Silvicultural practices consist of various treatments applied to forests to maintain and/or enhance their utility for any purpose. A forestry plan will be considered approved if the County Forester has indicated in writing that the plan meets the state standards for forestry plans. For the purposes of these requirements, significant disturbance includes but is not limited to the following activities: digging, excavating, draining, filling, alteration of natural grade, mowing, the replacement of native vegetation with non--native vegetation, cutting trees outside of an approved forestry plan treatment, burning of any materials, dumping of any materials, storage of any materials, placing of structures, and, except for occasional maintenance, passage of motorized vehicles over unfrozen ground. Single--track footpaths are allowed. Treatment to control invasive plants outside of the work plan of an approved forestry plan shall conform to state guidelines.

#### **(C) Unmapped Wetlands**

Many actual wetlands are not indicated on the VSWI maps, and therefore not covered by state wetlands rules, but are nonetheless functionally significant and ecologically equivalent to Class Two wetlands. The omission of these wetlands from the VSWI maps is an historic artifact that in no way reflects their need for protection.

Therefore, any development that may be proposed near areas not yet identified as wetlands on the Vermont Significant Inventory Maps but that have vegetation, soils and hydrology indicative of wetlands may trigger review by either the Zoning Administrator (ZA) or the Development Review Board (DRB).

Information available to the ZA and DRB indicating the presence of a wetland would include an assessment by the Thetford Conservation Commission and/or a town wetlands inventory that includes wetlands not shown on the VSWI, and information provided by the landowner. The ZA may then require a wetland boundary delineation from a qualified consultant or the Vermont Department of Environmental Conservation (DEC). If the delineated area in question is in fact a wetland, then that area will be treated under this bylaw the same as if it were identified on the VSWI maps.

### ***Section 3.10 On--site Water and Sewage Systems***

For development that will include a wastewater or potable water supply system, no construction may be initiated under a zoning permit unless and until a wastewater or potable water supply permit is issued by the Agency of Natural Resources under 10 V.S.A. chapter 64.

### ***Section 3.11 Existing Small Lots***

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located. If a lot not conforming to the

minimum lot size requirements in the district in which it is located is or subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot(s) shall not be deemed merged and shall be considered separate lots.

### ***Section 3.12 Lot Size Averaging***

Lot size averaging during a subdivision is permitted to allow flexibility of design and to encourage a mix of lot sizes and living situations in Town. Under lot size averaging, a landowner has the ability to create a lot that is smaller in acreage than otherwise permitted, provided that land at least equal in area to the difference between the proposed lot and the minimum lot size is restricted from development elsewhere on the original parcel, so as to maintain the overall density for the parent lot as specified in the Bylaw. The area equal to the difference between the proposed lot and the minimum lot size shall be restricted permanently through the grant of a conservation easement to the Town or to a conservation organization approved by the DRB. When lot size averaging is used, minimum road frontage and front, rear, and side setbacks will be established at the discretion of the DRB.

### ***Section 3.13 Driveways and Private Roads***

#### **(A) Purpose**

These standards are to help ensure safe year-round access to developments by emergency and service vehicles. Standards are based on three (3) main criteria: width, steepness and length, in that order of importance.

#### **(B) Standards**

**Width:** All driveways and private roads shall have a twelve foot (12') road surface with shoulders wide enough to maintain this width year round. It may be necessary to have a slightly wider surface on turns and corners to allow room for large, long wheel-based emergency vehicles. Over head obstructions i.e., brush, tree limbs, wires, etc., must be kept clear to a height of at least 10 feet over the entire width of the traveled surface.

**Steepness:** Driveways shall have a grade of 15% or less as measured over any 100 foot section. If a driveway is less than 100 feet, then the slope shall be calculated over the entire length.

**Length:** On driveways or private roads of one thousand feet (1000') or longer there shall be a turn out or turn around wide enough for two vehicles to meet and pass at every 500 feet.

**Bridges:** Any bridge must have a design rating of H12, which is a standard used by the VT Agency of Transportation. Bridges must be inspected and the approval must be signed, with a seal, by a structural engineer licensed by the State of Vermont.

**Curb Cuts or Access Points:** On town roads access points will need approval from the Road Foreman and the Selectboard. State roads require VT Agency of Transportation approval.

### ***Section 3.14 Drive-in and Drive-through Facilities***

Any use or facility that has drive-in or drive-through service shall be a conditional use in the Community Business and Village Residential districts and shall be prohibited in the Rural Residential district.

## **Article IV. Nonconformities**

### ***Section 4.01 Continuation and Expansion***

Any lawful non-conforming use in existence at the time of the passage of this Bylaw may continue and may be expanded as a conditional use allowed by the DRB pursuant to the provisions of Section 6.06 provided that all other zoning requirements are met; that there is no reasonable alternative to the increase in intensity desired; and that the use is expanded by not more than 25% in overall intensity (the base being the level of use in 1989) including, but not limited to, such matters as the following: traffic generated, number of employees, number of shifts, volume of water use, volume of sewage effluent, gross floor area, and noise.

### ***Section 4.02 Change of Use***

An existing non-conforming use may be changed to another non-conforming use if said proposed use is of equal or greater conformity relative to said existing use and the permitted uses in the district in which it is located. Any change in a non-conforming use to one of equal or greater conformity may be permitted upon review and approval by the DRB pursuant to the provisions of Section 6.06 and provided that all other zoning requirements are met.

### ***Section 4.03 Use Superseded by a Conforming Use***

If a non-conforming use is superseded by a permitted use or a conditional use, the use on that lot shall thereafter conform to the regulations of the district and the non-conforming use shall not be resumed.

### ***Section 4.04 Resumption After Discontinuance***

A non-conforming use which has ceased to exist for a period of 12 consecutive months may not again be initiated. However, a use will not be considered to have ceased if a disruption is due to substantial damage (to 50% or more of value) from fire or other casualty and if restoration or reconstruction has commenced within one year of the casualty so long as there is a zoning permit for said improvement and it does not result in a new or increased violation. The Zoning Administrator may grant one extension for a second year to allow for delays caused by probate, permitting, insurance claims or other extenuating circumstances.

### ***Section 4.05 Nonconforming Buildings and Structures***

#### **(A) Continuance**

Any lawful non-conforming building or structure in existence at the time of passage of this Bylaw may continue unchanged, but may not be altered or expanded in any way which will result in a new or increased violation, except as provided herein. Non-conforming structures which are substantially damaged or destroyed (and not repaired as under Part C); deemed uninhabitable by the Health Officer, or deemed a fire danger by the Fire Chief; or which, due to deterioration or disrepair, lack any major structural element customary to that building type, such as a roof, windows, water supply, etc., shall be considered abandoned for the purposes of this Bylaw. Any repair or replacement of abandoned structures shall constitute new development as if no structure exists.

#### **(B) Setbacks for Existing Structures**

Where an existing structure is non-conforming with respect to the front, side, or rear yard requirements, additions to, or replacements of that structure and the construction of accessory buildings may be permitted in the setback area as a conditional use subject to the provisions of Section 6.06 and to the following requirements:

1. The proposed replacement, addition or accessory building cannot reasonably be located outside the setback area; and
2. The expansion in any setback shall be the least intrusive it can reasonably be.

**(C) Restoration and Reconstruction**

Nothing herein shall prevent the substantial restoration or reconstruction within one year of a building substantially damaged (to 50% or more of value) by fire or other casualty so long as a zoning permit has been granted for said improvement and it does not result in a new or increased violation.

**(D) Temporary Uses and Structures**

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

## **Article V. Specific Use Provisions**

### ***Section 5.01 Churches and Places of Formal Worship***

In any district where churches are permitted, the following additional requirements shall be met:

- (A) For each 75 seats or fraction thereof, the site shall contain at least one-half acre of land.
- (B) Each principal building shall be located at least 25 feet from all property lines.

### ***Section 5.02 Extraction of Soil, Sand, or Gravel***

Any new soil, sand, or gravel extraction operation or extension thereof in any district, except where incidental to construction of a building or of the roadway to a building on the same premises, shall be a conditional use, allowed only when the following requirements and conditions have been met:

- (A) A performance bond or other security acceptable to the Selectboard has been posted with the Town to ensure that the site will be reshaped in conformance with a site restoration plan after the extraction operation has ceased or has been abandoned. Said performance bond or other security shall be in an amount sufficient to permit the Town to rehabilitate the site in conformance with a site restoration plan in the event that the person operating or responsible for such sand or gravel extraction operation or extension fails to carry out such site restoration plan. Failure to continue active operation for a consecutive 12-month period shall be deemed to constitute abandonment.
- (B) The following maps and information have been submitted to the DRB as part of the conditional use approval process:
  - 1. A description of the ownership of the proposed site and the abutting properties; the equipment and facilities to be used; estimated tonnage of removal and truck trips per year, and any other pertinent information regarding the intended operation.
  - 2. A map of the site at a suitable scale showing existing topographic features and natural drainage ways.
  - 3. A site restoration plan for reshaping and final grading of the land after the operation has ceased showing final contours (at two foot intervals) and drainage ways.
- (C) Any additional conditions and requirements may be imposed by the DRB as it may find necessary for the public safety and welfare.

In granting conditional use approval, the DRB may consider and impose conditions with regard to the following factors as it deems relevant:

- 1. depth of excavation or quarrying;
- 2. slopes created by removal
- 3. effects on surface drainage on and off-site;
- 4. storage of equipment and stockpiling of materials on-site;
- 5. hours of operation for blasting, trucking, and processing operations; effects on adjacent properties due to noise, dust, or vibration;
- 6. effects on traffic and road conditions, including potential physical damage to public highways;
- 7. creation of nuisances or safety hazards;
- 8. temporary and permanent erosion control;
- 9. effect on ground and surface water quality, and drinking water supplies; effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;

10. retention of top soil on site and effect on agricultural land; and
11. public safety and general welfare.

### ***Section 5.03 Home Based Businesses***

In accordance with the Act §4412(4) no provision of these regulations shall 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 area in which the dwelling is located. To this end, the following categories of home--based businesses are allowed in accordance with the associated standards.

#### **(A) Home Office – no permit required.**

No permit shall be required for a person using a portion of a dwelling unit for a home business providing it meets the following standards:

1. The home office is used by residents of the dwelling unit and no more than one non--resident employee at any one time.
2. The home office is confined entirely to an area within the dwelling unit that occupies less than 50% of the floor area of the dwelling unit.
3. The home office does not involve the conduct of business with more than occasional on--site visits from clients or customers.
4. The home office does not involve the outside display or outside storage of goods, or signs related to the business other than a single unlit sign less than 3 square feet.

#### **(B) Home Business – permit required.**

A business operated in a home by its residents but which fails to meet one or more of the standards set forth in subsection (A) may be permitted with the approval of the Zoning Administrator in accordance with Section 7.03 and in accordance with the following provisions:

1. The home business occupies an area less than 50% of the floor area of a dwelling unit in either the dwelling unit or an accessory structure located on the same lot.
2. The home business is conducted by residents of the dwelling unit and involves not more than four non--resident employees at any one time.
3. The home business does not involve the storage or display of goods or equipment visible from the highway or from adjacent properties.
4. The home business does not change the character of the property or surrounding area.
5. Retail sales are not conducted, with the exception of the sale of goods and/or crafts created on the premises or retail sales that are incidental to the home business.
6. The aggregate of all home businesses in a single dwelling unit does not exceed restrictions (1) through (5).
7. The wholesaling of machinery or large items such as furniture, requiring occasional storage on the premises, other than inside the primary residence or accessory structure, is not a home business.
8. The zoning permit clearly states that the use is limited to a home business, approved in accordance with the above provisions, which is accessory to the residential use and shall be retained in common ownership and management. Any proposed expansion of the home business beyond that permitted will require a separate zoning permit for a home industry under this section, or other use as appropriate and is not guaranteed.

9. The home business meets the general conditions of Article III.
10. Off-street parking conforms with the standards of Section 3.03.

**(C) Home Industry – Conditional Use approval required.**

Home industries (as distinguished from Home Businesses) may be permitted in designated zoning districts, may include retail sales, and are subject to conditional use approval of the Development Review Board under Section 6.06 and the following provisions:

1. The owner and operator of the home industry resides on the lot.
2. The home industry occupies less than 50% of the floor area of a principal dwelling; or occupies an accessory structure located on the same lot as the principal dwelling, with the total area for retail uses not exceeding 100% of the finished floor area of the principal dwelling.
3. The home industry involves not more than five non-resident employees, at any one time.
4. The home industry does not involve the storage or display of goods or equipment visible from the highway or from adjacent properties unless specifically allowed in the permit. Exceptions may be made for goods compatible with the neighborhood such as nursery plants and shrubs.
5. The home industry does not change the character of the property or surrounding area.
6. The home industry conforms to all performance standards under Article III. Storage of hazardous waste or materials shall comply with the Vermont Hazardous Waste Management Regulations.
7. The home industry will not generate traffic, including but not limited to delivery truck traffic, in excess of volumes suitable for the neighborhood and all roads providing access to the site.
8. The aggregate of all home industries in a single dwelling shall not exceed restrictions (1) through (7).
9. The permit for a home industry shall clearly state that the industry is a home based business which is accessory to the principal residential use, and shall be retained in common ownership and management. A home industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state regulations pertaining to such use, including density, dimensional, and other requirements for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion.
10. Off-street parking conforms with the standards of Section 3.03.

### ***Section 5.04 Junkyards***

In any district where junkyards are permitted, the following shall apply:

- (A) Per V.S.A Title 24, Ch. 61, § 2242, A person shall not operate, establish or maintain a junkyard unless he:
  1. Holds a certificate of approval for the location of the junkyard from the Selectboard; and
  2. Holds a license to operate, establish or maintain a junkyard from the Agency of Natural Resources.
- (B) All junkyards shall comply with relevant provisions of Vermont Statutes, and shall not be in view of any primary highway.
- (C) A person shall not establish, operate, or maintain a junkyard which is within 1000 feet from:
  1. The nearest edge of the right-of-way of an interstate or primary highway system.
  2. Any residential area.

Screening requirements shall be as follows:

- Junkyards shall be screened by a fence or vegetation which effectively screens it from view from the highway and have a gate which shall be closed except when the yard is in operation.
- Fences and artificial means used for screening purposes as hereinafter provided shall be maintained neatly and in good repair. They shall not be used for advertising signs or other displays which are visible from the main traveled way of a highway.
- All junk stored or deposited in a junkyard shall be kept outside of setback areas and within the enclosure except while being transported to or from the junkyard. All work on the junk shall be accomplished within the enclosure.

### ***Section 5.05 Solid Waste Facilities***

#### **(A) General**

1. All solid waste facilities, including landfills, transfer stations and recycling centers, within the Town of Thetford shall comply with all relevant Vermont statutes and regulations, as well as with Thetford town ordinances and bylaws and the bylaws of the Greater Upper Valley Solid Waste District.
2. For the purposes of this section, the term "landfill" shall be synonymous with "local district landfill". (See the definitions section of this Bylaw.)
3. Landfills other than local district landfills are considered inappropriate in a small residential town such as Thetford, and are therefore prohibited in all zoning districts.
4. Any solid waste facility located within the Town of Thetford shall be a conditional use.

#### **(B) Special Provisions and Requirements**

1. Solid waste facilities may only be located within the town's rural residential district.
2. In deciding whether or not to issue a conditional use permit for a solid waste facility, the Development Review Board may regulate only the following, as provided in Title 24, §4413:  
*Location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the facility's intended functional use.*
3. No landfill shall locate its area of operation within 500 feet of any pre-existing residence or within 1000 feet of any residential area. For this purpose, a residential area shall be the whole of any area zoned Village Residential or Community Business, or any other area containing ten or more residences within one-quarter mile. The DRB shall establish the boundaries of such an area.
4. No landfill shall locate its area of operation within 300 feet of any lake, pond, river, stream, or wetland.
5. No landfill shall be located within 1000 feet of the source or recharge area of any public water supply system.
6. All landfills shall have a minimum vertical separation from the high seasonal water table of six (6) feet and a minimum vertical separation from bedrock of ten (10) feet.
7. All landfill operations must adhere to a setback requirement of 300 feet from the property lines.
8. All landfills shall be screened from view from any abutting properties and roads. The screens must be maintained in good working order, which includes both their function and appearance.
9. All landfills must shield the surrounding area from unreasonable noise pollution created by entering and departing traffic and by the landfill's operating equipment. Sound suppressing devices on

equipment must be kept in good working order at all times or the conditional use permit may be revoked.

### ***Section 5.06 Mobile Home Parks***

#### **(A) Purpose**

These regulations address issues relevant to mobile home parks: the need for affordable housing, the desire expressed in the Town Plan for clustered housing units and the interest in preserving the look and feel of the town's rural residential districts.

Mobile Home Parks may be permitted in the Neighborhood Residential and Rural Residential District, subject to conditional use approval by the DRB under Section 6.06. Such a park must also be constructed and operated in accordance with 10 V.S.A., chapter 153 and adhere to the town of Thetford's regulations pertaining to such matters as roads, setbacks and wetlands, etc.

#### **(B) Site Requirements**

1. A minimum of 8,000 square feet lot area shall be provided for each mobile home.
2. All buildings that are not physically connected to a mobile home but are on the same lot must be at least 10 feet apart.
3. All mobile homes must be at least 30 feet apart.
4. A minimum of 30 percent of total land area in any mobile home park shall be set aside for common recreational use.
5. Any increase in the number of units, or any or proposed alterations that will affect park area, design, layout or common facilities are subject to conditional use review in accordance with the above provisions.
6. Changes or alterations to individual mobile homes (e.g., the addition of a porch, deck or accessory structure serving the residents of the dwelling) shall be allowed in the same manner as changes or alterations to a single unit dwelling.
7. At least one off--street parking space shall be provided for each mobile home. The space need not be paved.

#### **(C) Application Requirements**

1. The site plan presented for DRB review must include a map that shows the location of all proposed mobile home sites, common open spaces and any central facilities. The plan must also include a statement describing the services and facilities that will be provided by the owner to the residents of the park.
2. The applicant must provide fire--safety plans for the review of the Fire Chief that provide a map of access roads, water supplies and underground utilities.
3. An operations and management plan, demonstrating how the facilities will be maintained throughout the life of the park shall be presented to the DRB, along with landscaping plan that incorporates shade trees and other vegetation compatible with the neighborhood.

### ***Section 5.07 Travel Trailers and Campers***

#### **(A) Storage**

An unoccupied travel trailer (camper) may be parked or stored in the yard of a lot, provided that said travel trailer shall comply with the yard requirements for accessory buildings of the district in which it is located.

#### **(B) Occupancy**

An owner may allow non-paying guests to park a travel trailer (camper) on his or her property and occupy it for a period not to exceed 15 consecutive days, or 30 calendar days in one year, provided it is not connected to a water system, a septic system or other utilities unless permitted as a one-unit dwelling in accordance with this Bylaw.

### ***Section 5.08 Travel Trailer Campgrounds***

Travel trailer campgrounds shall be a conditional use in the Rural Residential district.

The following regulations shall apply to all travel trailer camps:

- (A) Such camp shall provide for individual trailers, access driveways, and parking.
- (B) Such camp shall have an area of not less than three acres
- (C) Each trailer lot shall be 4,500 square feet in area, at least 50 feet in width and have a compacted gravel surface of at least twenty feet in width.
- (D) All access driveways within such a camp must have a compacted gravel surface at least twenty (20) feet in width.
- (E) A water supply source must be approved by the Vermont Agency of Natural Resources and each trailer lot shall have an attachment for water supply.
- (F) Said camp shall have provision for public toilet and sewage disposal in compliance with regulations of the Vermont Agency of Natural Resources.
- (G) Individual trailers or service buildings shall comply with all yard requirements of the Rural Residential district.

### ***Section 5.09 Bed & Breakfast***

An owner-occupied dwelling may be used as a bed and breakfast if such dwelling is located on a conforming lot.

### ***Section 5.10 Accessory Dwelling Units***

#### **(A) Purpose**

The purpose for Accessory Dwelling Units (ADU) is to allow to allow the creation of a subordinate dwelling unit within, attached to or near a primary dwelling or business.

#### **(B) Determination by the Zoning Administrator**

Determination by the Zoning Administrator Pursuant to § 4412 (E) of the Act, a single accessory dwelling unit that is located within, or attached to, or detached from a primary dwelling or a business on a lot shall be a permitted use provided there is compliance with criteria 1 – 4 listed below.

1. The property has sufficient wastewater capacity.

2. The unit does not exceed 30 percent of the total habitable floor area of the primary dwelling or 900 square feet, whichever is greater. For the purposes of this regulation “habitable floor area” shall mean the “finished area” of the primary dwelling in the Listers’ records.
3. Applicable setback, coverage, and parking requirements specified in the bylaws are met.
4. The proposed ADU is not in a regulated flood hazard or fluvial erosion area. If the ADU is located in a regulated flood hazard or fluvial erosion area, it shall be subject to conditional use review by the DRB.

### ***Section 5.11 Child Care Facilities***

A “family child care home or facility” as used in this bylaw means a home or facility where the owner or operator is licensed or registered by the state for child care. A family child-care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child-care home serving no more than six full time children and four part time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but requires site plan approval based on the zoning requirements contained in Section 6.05 of this document. A family child-care facility serving more than six fulltime and four part time children shall be reviewed as a conditional use.

### ***Section 5.12 Room Rentals***

Rooms without separate cooking facilities in any owner-occupied dwelling unit may be rented to not more than three persons. Off-street parking shall be provided in accordance with Section 3.03.

### ***Section 5.13 Housing Conversion***

This section is about converting housing into multi-unit dwellings. For existing residential structures where the resulting number of bedrooms is not being increased and no/only minor changes are proposed to the building envelope, only a zoning permit is required.

In cases where additional bedrooms are being created, the conversion of a single dwelling unit or duplex into no more than four units within a single structure shall be treated with the same permitting requirements as if it were new construction in that district.

Notwithstanding other provisions of this bylaw, such permits shall require one parking space on site per unit unless the ZA determines there is adequate parking nearby.

***Example:*** Applicant wants to convert a single dwelling unit to a three-unit dwelling – Conversion shall be permitted as though it were the construction of a three-unit dwelling in that district. However, if there are no significant changes to the building and the number of bedrooms remains the same, then the conversion only requires a ZA permit.

***Section 5.14: Adaptive Reuse***

The DRB is authorized to allow as a conditional use a residential use that would not otherwise be permitted in that district in terms of number of units, provided that such approval is for a reuse of an existing, large structure that is at least 10 years old. As part of the conditional use approval the DRB must find that the reuse will not create an undue adverse effect in terms of lighting, noise, or visual impact as seen from the nearest public highway compared with other residential structures in the district.

## **Article VI. Development Review**

### ***Section 6.01 Authorization and Procedures***

The DRB shall consist of members appointed by the Selectboard for specified terms in accordance with the Act [§4460(b) and (c)]. The Selectboard also may appoint alternates, for specified terms, to serve on the DRB in situations when one or more members of the DRB are disqualified or are otherwise unable to serve. Any member of the DRB may be removed for cause by the Selectboard upon written charges and after public hearing.

### ***Section 6.02 Powers and Duties of the DRB***

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

- (A) hear and decide appeals where it is alleged that an error has been committed in any order, requirements, decision or determination made by the Zoning Administrator in connection with the enforcement of this Bylaw.
- (B) hear and grant requests for waivers and variances from the provisions of this Bylaw after a finding that special or unique conditions or circumstances exist and that a strict or literal enforcement of this Bylaw will result in unnecessary or undue hardship.
- (C) hear and decide if conditional uses shall be permitted under this Bylaw.
- (D) conduct site plan review where applicable.
- (E) review proposed subdivisions.
- (F) review land development or use within a historic district.
- (G) Conduct any other reviews as required by the Act.

### ***Section 6.03 Applicability of Development Review Procedures and Standards***

- (A) **Subdivision Review**, pursuant to the Thetford Subdivision Regulations, Article VI shall apply to all applications for subdivisions of land in Thetford.
- (B) **Site Plan Review**, pursuant to Section 6.05, Article VI shall apply to all conditional uses and to all permitted uses as designated in Article II, excluding the following:
  - one and two unit dwellings;
  - uses and structures that are accessory to one and two unit dwellings;
  - home businesses subject to Section 5.03(B);
  - accessory dwelling units, in accordance with Section 5.10;
  - family child-care homes, subject to Section 5.11, that serve six or fewer children;
  - signs;
  - all uses exempted under Section 1.04.
- (C) **Conditional Use Review**, pursuant to Section 6.06 shall apply to all conditional uses as designated in Article II or as otherwise specified in this Bylaw.
- (D) **Planned Unit Development (PUD) Review**, pursuant to Section 6.07, Article VI may be applied at the request of the applicant, or as required under Article II, to any size parcel in designated zoning districts. PUDs shall be reviewed concurrently with the Thetford Subdivision Regulations.

- (E) **Flood Hazard Review**, pursuant to the Thetford Flood Hazard Area Zoning Bylaw Article VI shall apply to all areas identified as areas of special flood hazard.

### ***Section 6.04 General Standards***

#### **(A) Protection of Significant Wildlife Habitat**

Lot boundaries and development envelopes shall be located and configured to minimize undue adverse impacts on significant wildlife habitat, including travel corridors, as identified in the Thetford Town Plan, by the Vermont Department of Fish & Wildlife, through site investigation, or in habitat inventories conducted by qualified wildlife experts. Methods for avoiding such adverse impacts include but are not be limited to the following:

1. Careful location of development envelopes;
2. Buffers of adequate size and depth;
3. Careful design of roads, driveways and utilities;
4. Concentration of buildings and associated building envelopes.

The DRB may require the applicant to submit a wildlife habitat assessment, prepared by Vermont Fish and Wildlife Department staff or a professional wildlife biologist or other qualified professional, that identifies the function and relative value of impacted habitat and makes recommendations for maintaining or enhancing those values and function. In connection with the hearing on an application, the DRB may also consult with Vermont Fish and Wildlife Department staff.

#### **(B) Protection of Forest Resources**

Lot boundaries and development envelopes shall be located and configured to minimize the fragmentation of forest resources, especially where forest land possesses unique or fragile features, including significant wildlife habitat, wildlife travel corridors, headwater streams, and aquifer recharge areas. Methods for avoiding such adverse impacts include but may not be limited to the following:

1. Configuration of lot lines to allow for ongoing forest management of the majority of the parcel;
2. Provision for forest management access in the final plan;
3. Layout of lot boundaries and development envelopes to avoid fragmentation of contiguous blocks of forest or sensitive ecological communities;
4. Creation of setbacks and buffers that are greater than the setbacks and buffers set forth elsewhere in this Zoning Bylaw.

#### **(C) Protection of Agricultural Land**

##### *1. Purpose*

Maintaining the viability of current farms and agricultural businesses and the potential for an increasingly diversified farming sector is a key goal of the Thetford Town Plan. Agriculture provides community-based employment, sustains the move to locally-sourced food and goods and retains the visual and historic character of the community. Therefore, development to which this section applies shall minimize adverse impact on agricultural lands.

##### *2. Applicability*

These standards apply according to Section 6.03. In addition, the Zoning Administrator and DRB should discuss adverse impacts on agricultural lands with landowners and should encourage them to minimize adverse impact using the methods described in subsection 3, below.

### 3. *Methods*

Methods to avoid or minimize adverse impact on agricultural lands include, but are not limited to, the following:

- a. location of lot boundaries;
- b. placement of the development envelop within a property;
- c. clustering of buildings;
- d. location and sharing of roads, driveways and utility corridors;
- e. vegetated buffers that isolate agricultural land from residential and commercial sites so that agriculture is not inhibited.

#### (D) **Riparian and Shoreline Setbacks**

##### 1. *Purpose*

This regulation is intended to (a) reduce the likelihood of fluvial erosion damage to structures and other investments by allowing streams the room to naturally change course; (b) encourage the establishment of heavy growth native vegetation and trees along Thetford's lakes and streams to filter excess nutrients and sediment in runoff, prevent soil erosion, shade the stream, improve wildlife habitat and fisheries, and maintain water quality; (c) slow down the siltation of Lake Fairlee and other lakes, that is a major threat to lakes, and lessen the amount of pollutants such as pet waste, pesticides, fertilizers and car oil that enter the lakes. (For definitions of the terms "top of bank", "top of slope", "stream order", "channel", etc., refer to Article VIII.)

##### 2. *Applicability*

These standards apply to lakes and streams on property undergoing development review according to Section 6.03. Accepted agricultural practices in accordance with the Act[§4413(d)] and accepted management practices for silviculture (forestry) in accordance with the Act [§4413(d)], are exempt from the regulation

Note the following state requirements and recommended practices current at the time of adoption:

- Projects encroaching beyond the shoreline into public waters such as docks, walls, boathouses, bridges, water intakes, cables, dredging, or fill, may require a Shoreland Encroachment Permit as issued under 29 V.S.A. Chapter 11.
- Septic systems near lakes should be more than 2 feet above the mean high water level.
- For shorelines with slopes of more than 15% a naturally vegetated buffer extending 30 ft above top of slope is recommended to prevent bank slides.
- Within the setback, impervious surfaces, lawns, mowing, destruction of native vegetation and cutting of trees should be kept to a minimum. Natural topography and drainage should be preserved as much as possible, so that runoff moves and infiltrates through natural systems. Paths should be constructed so they do not lead directly downslope towards the water, making a runoff channel. It is recommended that shorelines and setbacks be maintained in a naturally vegetated condition – trees shrubs, herbaceous plants and a leaf litter layer, wherever possible.
- Control of non-native, invasive plant species in setback zones shall be performed according to state guidelines. (Contact the Vermont Department of Environmental Conservation or visit <http://www.anr.state.vt.us/dec/>.)
- The exposure of soil during construction can allow substantial quantities of sediment to enter water. To prevent this from happening, the area of disturbance should be kept to a minimum and ground should not be disturbed to the water's edge; a 25 ft zone of undisturbed soil should be maintained, preferably with natural vegetation. This zone should be separated from the rest of the site by a silt fence. Exposed soil should be stabilized as soon as possible and covered with mulch or erosion control matting if not stabilized and seeded by winter.
- Shorelines and riparian areas provide very specialized ecological conditions for rare animals and plants and several plant natural community types that are considered rare and uncommon in the state. The setback should be increased to avoid development impacts to such rare species and communities, where they are documented.

in this subsection.

### 3. *Methods*

For streams with a floodplain, setback shall be measured from top of bank. For steep-sided streams where little or no floodplain is evident, setback shall be measured from top of slope. No structures shall be allowed within the setback distance as follows:

- a. For first order streams the setback shall be 50 feet.
- b. For second order streams, the setback shall be 75 feet.
- c. For third order streams and streams of higher order, the setback shall be three channel widths from the center of channel, except that for the Connecticut River the regulation in this subsection will not apply.
- d. For Lake Fairlee, Childs Pond, Mud Pond, Lake Abenaki, Norford Lake and the unnamed friary pond off Cream Street, the setback shall be 75 feet horizontal distance measured from the mean water level.
- e. In the setback zone, garbage and waste disposal, and the storage or handling of materials that are pollutants, buoyant, flammable, poisonous, explosive or injurious to human, animal and aquatic life shall be prohibited.

## ***Section 6.05 Site Plan Review***

### **(A) Purpose**

Site Plan review evaluates whether a project is functional and is safe and ensures that it adheres to the intended use on the identified site. Site Plan review evaluates projects and sites for consistency.

### **(B) Site Plan Requirements and Review Criteria**

In all instances where site plans are required, no development shall occur or be changed except in conformity with a site plan approved by the DRB. Such plan shall be drawn to scale, sufficient to permit the study of all elements of the plan, and shall include all elements called for in subsection (C) of this section. Where conditional use review is also required, the two processes shall be combined into a single conditional use review that also includes the standards for site plan review.

### **(C) Application Requirements**

Applicants for site plan approval shall submit all materials described in paragraphs 1 and 2, below. The Development Review Board may waive any of the application requirements that are not applicable to the proposed development. The applicant shall identify the specific requirements for which the waiver is requested and why they are not applicable.

#### 1. *Required Application Information*

- a. Name and address of owner(s) of record of the property; name, address and interest of the applicant, if different from the owner(s) of record; name and address of the person or firm preparing the application and plans; date of the application and related plans.
- b. A plan drawn to scale prepared by a licensed engineer, surveyor, land planner, or as otherwise approved by the Development Review Board showing the following:
  - north arrow and scale;
  - legal property boundaries for the property;

- existing and proposed features, to include topography, land use vegetation, natural areas and significant wildlife habitat, streams, floodplains and wetlands, and other fragile features (See Section 6.04 General Standards); zoning district boundaries; structures (building footprints), signs, walls and fences; historic sites; roads, driveways, easements and rights-of-way, utilities and fire hydrants; location and dimension of parking, loading and snow retention areas; access to neighboring properties and public roads; and, sidewalks, pathways and trails in the vicinity.
  - c. Site location map showing the location of the project in relation to nearby town highways, adjoining parcels and uses and zoning district boundaries.
  - d. Proposed landscaping and screening plan, including plant details (size, location, species).
  - e. Grading and drainage plan (showing areas of cut and fill and proposed drainage patterns and provision for stormwater management).
  - f. Proposed lighting plan, including the design and location, fixture type, mounting height, illumination levels and distribution, and color of all exterior lighting.
  - g. Preliminary building elevations for new or altered structures, including an indication of the exterior facade design, window treatment and roof and siding materials.
  - h. Phasing schedule for completion of all proposed development and site improvements.
  - i. Estimate of traffic to be generated by the project on a peak and daily basis, and the impact of such traffic on area roads.
  - j. Statement of compliance with all applicable zoning district standards, including overlay district standards and supplemental standards that may apply within a particular district or subject to a specific use.
2. *The DRB may require additional information* depending upon the scope and location of the proposed project, including but not limited to the following:
- a. Forest management, tree removal and vegetation management plans.
  - b. Stormwater management and erosion control plans.
  - c. Visual impact analysis.
  - d. Habitat impact assessment (identification of critical wildlife habitat, including wildlife travel corridors, analysis of potential impact and proposed mitigation measures).
  - e. Other information or studies reasonably necessary for the DRB to conduct a comprehensive review. To assist the DRB in its review of applications, the DRB may employ or contract with consultants whose services shall be paid for by the Applicant. If such a study is required, the applicant will be given an estimate of cost prior to engagement by the DRB. Any or all final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding.

#### (D) Review Process

Upon determination that review is required, and the application as submitted is complete for review by the Development Review Board, subject to requests for waivers of application requirements, the Zoning Administrator shall schedule a public hearing of the Development Review Board, warned in accordance with Section 7.08. Once the public hearing is opened, the DRB shall determine if the application is complete and decide whether any waivers of application requirements shall be granted. If not, or if the DRB requires additional information for the application, the public hearing may be recessed to another date certain for continuation of that hearing. Once all information required by the DRB has been submitted, all testimony heard, and any unclear items clarified and questions answered to the DRB's

satisfaction, the DRB shall close the hearing. The DRB may deliberate immediately thereafter or at a later time it finds convenient prior to issuing a decision to approve, approve with conditions, or disapprove an application within 45 days after the date the hearing was closed; and shall issue a written decision to include findings of fact, any conditions, and procedures for appeal. The application shall be deemed approved by the DRB on the 46th day in the event that the DRB fails to act within 45 days of the adjournment of the hearing.

**(E) Standards**

Conformance to all General Standards as detailed in Section 6.04 is required. The Development Review Board shall also consider and may impose appropriate safeguards, modifications and conditions relative to the following standards:

1. *Maximum safety of vehicular circulation* between the site and the street network.

Vehicular access and intersections with roads shall meet all applicable town and state design standards. The public highway accessed from the parking lot must have sufficient excess capacity both at access and egress points and at affected intersections to accommodate the added traffic without undue delay. The DRB may limit the number and size of curb cuts to a single access. In instances involving pre-existing curb cuts, the DRB may require the reduction, consolidation or elimination of curb cuts. In instances where deemed appropriate, the DRB may require shared access between adjoining properties or may limit access to a side street or secondary road.

2. *Adequacy of circulation, parking and loading facilities.*

With particular attention to safety, parking and loading facilities shall be provided per the requirements of Section 3.03 of these regulations, and in accordance with the following:

- a. Parking shall be located to the rear or interior side, (side not fronting on a public road), of buildings, unless otherwise permitted by the DRB due to site conditions which would prevent the reasonable use of the property if this standard were strictly enforced. Large, uninterrupted expanses of parking shall be avoided.
- b. Driveway connections to parking areas on adjacent properties or provision for future connection shall be required where feasible. In the event that such connections allow for shared parking between properties, the overall parking requirements may be reduced pursuant to Section 3.03.
- c. Adequate parking facilities which comply with The Americans with Disabilities Act.
- d. Clearances and turning radii shall be sufficient to accommodate all service and delivery vehicles and fire trucks and other emergency vehicles.
- e. Loading and delivery areas shall be adequate to meet the anticipated needs of the use in a manner that does not interfere with parking, internal circulation and landscaping.

3. *Landscaping.*

Landscaping should enhance the features and conditions unique to each site, and should include a combination of shade trees (deciduous and/or coniferous), deciduous and evergreen shrubs, well kept grasses and ground covers. Landscaping required under this by-law shall use non-invasive native species. (Guidance on invasive species and appropriate species is available at the Zoning office, from the Thetford Conservation Commission, or online at <http://www.thetfordvermont.us/docs/ccminutes/Invasive.pdf>.)

- a. Landscaping plans shall emphasize the following:

- i. The preservation of existing ground cover and trees, particularly those that are native, mature or determined to be of special horticultural or landscape value.
  - ii. Environmental quality (e.g., wildlife habitat, soil stabilization, storm water retention, air quality, energy conservation).
- b. In addition, landscaping plans are subject to the following:
- i. Shade trees shall be a minimum of 2.5" caliper (trunk diameter), measured at a height of 5 feet, or, in the case of coniferous trees, be a minimum of 8 feet in height, unless otherwise specified by the DRB upon consideration of site conditions; be a species with a substantial life expectancy and a tolerance for soil compaction, drought and, if located along street lines, salt; and be of native origin. The planting of single gender deciduous trees shall be avoided.
  - ii. The DRB may require the submission of a three year plan for all proposed landscaping. Bonding or other surety may be required to ensure installation and maintenance.

#### 4. *Screening.*

Sufficient additional screening shall be provided when the DRB determines that adequate screening is not provided by topographical or other barriers. Screening shall be required where a more intensive land use is proposed to abut a less intensive use; adjacent to garbage collection and utility areas, satellite antennas, outdoor storage, and loading and unloading areas and other outdoor utilities and facilities; and when the project adversely impacts adjacent properties. In addition:

- a. Screening shall provide a year-round visual screen, particularly from roads. A diversity of materials to create a naturalized screen is encouraged so long as sufficient screening is obtained. Materials may include fencing, shade trees, evergreen and flowering shrubs, rocks, mounds or combinations thereof to achieve the same objectives.
- b. If re-contouring of the site is proposed, the side slope shall be used for plantings. A maximum of 4:1 slope is recommended.

#### 5. *Bicycle & Pedestrian Access.*

On-site pedestrian circulation linked to pedestrian facilities located on adjacent properties and/or along public roads, and to on-site parking areas, shall be provided. Access points at property edges shall be coordinated with existing and planned development to provide pedestrian connections between uses. Bicycle racks shall be required for commercial and public uses intended for general public access.

#### 6. *Outdoor Storage & Display.*

The outdoor storage or display of goods, supplies, vehicles, equipment, machinery or other materials is prohibited unless specifically approved by the DRB and/or specifically permitted within particular districts. Secured, covered and screened areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving such outdoor display or storage, the DRB may place conditions on the area and location of such storage or display, and shall require appropriate screening.

#### 7. *Building Design.*

Buildings shall not be designed to function as advertisements through the use of garish color schemes; internal illumination of roofs, facades or awnings; the integration of oversized logos and advertising features into the building's design; or formulaic or homogeneous architectural design based on a national standard for a particular business or franchise that is not consistent with historic building types and designs typical of Thetford.

## 8. *Lighting.*

To ensure appropriate lighting while minimizing its undesirable effects, the following general standards apply to all outdoor lighting with the exception of temporary holiday lighting which is exempt. All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood and zoning district in which it is located.

- a. A lighting plan prepared by a qualified engineer or lighting expert may be required for projects determined by the DRB to pose a potential for significant off-site impact due to the number, location and intensity of proposed lighting fixtures.
- b. Outdoor lighting fixtures shall be limited to recessed, shielded or cutoff fixtures so that no light from fixtures is emitted directly or indirectly at an angle less than 15 degrees below the horizontal.
- c. To determine appropriate lighting levels for a particular use or site, the DRB may consider technical resources, such as The Outdoor Lighting Manual for Vermont Municipalities and publications of the Illuminating Engineering Society of North America (IESNA).
- d. Parking lot lighting shall comply with the standards for maximum mounting height, minimum illumination (at darkest spot) and uniformity ratio as set forth in The Outdoor Lighting Manual for Vermont Municipalities. The DRB may waive these standards for good cause if application thereof is inappropriate or unduly burdensome so long as excessive lighting does not result and the proposed lighting scheme otherwise meets the requirements of this section. Where close proximity of residential neighbors might be a concern, applicants may also be required to use lower mounting heights and illumination levels. Lighting of parking lots in the Rural Residential District is generally discouraged except for minimum security needs.
- e. Outdoor lighting fixtures should include timers, dimmers, and/or sensors to reduce energy consumption and eliminate unneeded lighting.
- f. The use of street or security lighting is only permitted if unusual or hazardous conditions require it. Security lighting, where deemed necessary by the DRB, shall be shielded and aimed so that illumination is directed only on to the designated area.
- g. Exterior building facades shall not be illuminated, except in the case where the DRB approves the exterior illumination of buildings with symbolic or historic significance, provided the maximum illumination on any vertical or angular roof surface does not exceed 5.0 foot candles; fixtures are carefully aimed and shielded so that light is only directed onto the building surface; and lighting fixtures are mounted on or near the building, directed downward, and are designed to "wash" the facade with light.
- h. Except for approved security lighting, outdoor fixtures shall only be illuminated during hours of operation for non-residential uses unless specifically approved by the DRB. Hours of operation shall include any time up to one hour before or after all employees and patrons or customers have vacated the premises. Inns and Bed and Breakfasts are considered open on a twenty-four hour basis.

## 9. *Noise.*

Noise resulting from site maintenance or construction is exempted from this regulation during the hours from 7:30 AM to 7:30 PM. Otherwise, the following standards shall apply to noise within the specified zoning district, whether pulsing, intermittent or continuous, that results from the use under review:

- a. In the Rural Residential and Village Residential Districts the noise shall not exceed 60 dBA at or beyond the boundaries of the property from which it originates from 7:30 AM to 7:30 PM or 50 dBA from 7:30 PM to 7:30 AM.
- b. In the Community Business Districts, the noise shall not exceed 70 dBA.
- c. At the boundary of the Community Business District with the Rural Residential District, noise shall not exceed that permitted in the Rural Residential District.

10. *Odors, smoke, dust, noxious gases, or other forms of air pollution.*

There shall be no objectionable odors, dust, noxious gases, or other forms of air pollution which, because of persistence or character, would endanger or adversely affect public health, safety, or welfare or be considered offensive in that particular location by a reasonable person.

11. *Vibration.*

Noticeable, or clearly apparent vibration which, when transmitted through the ground, is discernible at property lines without the aid of instruments, is prohibited.

12. *Storm water Management.*

To prevent water quality degradation and to minimize impacts on surrounding properties and town infrastructure, development shall be sited and designed to minimize storm water runoff and prevent erosion during all phases of development. Land development shall incorporate Low Impact Development (LID) storm water management and erosion control practices where reasonable. For projects with anticipated storm water impacts, the DRB may require the preparation and implementation of a storm water management plan as appropriate for the setting, scale and intensity of the proposed development. Plans, if required, shall include provisions for the inspection and long-term maintenance of storm water management and erosion control practices and be prepared by a qualified licensed engineer. Plans shall incorporate the LID approach for site design and storm water management where reasonable and the accepted management practices recommended by the state in the Vermont Storm water Management Manual and the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites, as amended. The DRB may, at the expense of the developer, conduct an independent review of the plans. If such a study is required, the applicant will be given an estimate of cost prior to engagement by the DRB.

Site plan approval may be granted only upon the DRB finding that the proposed development will:

- a. To the maximum extent reasonable, conserve and protect the natural hydrologic assets and functions of a site, direct development away from sensitive environmental areas, and preserve native vegetation, soils, and existing drainage courses.
- b. To the maximum extent reasonable, create opportunities to retain all runoff on site. Storm water shall be filtered and infiltrated into the ground by directing runoff away from impervious areas and engineered drainage systems and into areas of natural vegetation.
- c. Use green space, flatten slopes, disperse drainage, increase distance from streams, maximize sheet flow and incorporate other Integrated Management Practices (IMPs).
- d. Minimize clearing, grading and limit lot disturbance; save A and B (top) soils; reduce impervious surfaces, pipes, curb and gutters; and discontinue engineered drainage systems when unneeded.
- e. To the maximum extent reasonable, use a decentralized storm water management system of small-scale controls that are located near the sources of runoff generation. These controls shall be designed to store, infiltrate, filter and release runoff the way natural areas do. IMPs provide a

variety of on-site opportunities to control the volume and peak runoff rates of storm water and to filter pollutants.

***Compliance with the Vermont Storm Water Regulations as evidenced by an approved State Permit will constitute compliance with the storm water management regulations in this section.***

13. *Historic Structures.*

Consideration shall be given to the impact of the proposed development on historic structures on the site or on adjacent properties. To the maximum extent reasonable, continued use of existing historic structures is required, especially retention of the exterior appearance of historic structures and the visual context of historic structures.

14. *Fire and Public Safety.*

Consideration shall be given to measures necessary for fire and public safety including the location of fire hydrants or other fire protection measures, access to buildings by emergency vehicles and personnel, and proper storage of hazardous or toxic substances. The DRB may request the fire and police departments to review the development plans and make recommendations. Fire, safety, explosive, radioactive emission or other hazards which endanger the applicant's or neighboring properties, or the general public or which results in a significantly increased burden on municipal facilities and services, are prohibited.

15. *Waste storage.*

Liquid or solid wastes or refuse in excess of available capacities for proper disposal; which cannot be disposed of by available or existing methods without undue burden to municipal facilities; which pollute ground or surface waters; or which are otherwise detrimental to the public health, safety, and welfare, are prohibited.

16. *Underground Utilities.*

For new construction, all new utility systems, which may include but not be limited to electric, gas, telephone, fiber optics, and television cable, shall be located underground, unless doing this is deemed unreasonable and prohibitively expensive by the DRB due to site conditions.

17. *District Standards.*

To ensure that development is designed in a manner that is consistent with the existing and desired character of the district within which it is located, site plans must be consistent with the standards, purposes and uses delineated in Article II.

## ***Section 6.06 Conditional Use Review***

### **(A) Purpose**

Conditional use review is intended to ensure compliance with standards addressing the impact of certain proposed land uses on the community at large, adjacent properties, the neighborhood and/or zoning district in which the project is located. Typically, land uses are subject to conditional use review because the scale, intensity or potential off-site impacts warrant careful scrutiny by the Development Review Board and the placement of development conditions so that the use is not detrimental.

### **(B) Determination by the Development Review Board**

All conditional use applications, except for those associated with Accessory Dwelling Units, are subject to Site Plan Review procedures, criteria and standards which are found in Section 6.05 of this document and automatically incorporated herein in a single conditional use review. No zoning permit shall be

issued by the Zoning Administrator for any use or structure which requires conditional use approval until the DRB grants such approval. In considering its action the DRB shall hold a public hearing and make findings based on general and specific standards, as provided for in Section 4414 (3) of V.S.A. Title 24, Chapter 117, and within Section 6.04 of these zoning regulations.

**(C) Review Process**

Following the guidelines of the Act [§4464], the review process is identical to the process described in Site Plan Review Section 6.05(D) and detailed in Section 7.08.

**(D) General Standards**

Conditional use approval shall be granted by the Development Review Board only upon finding that the proposed development will not result in an undue adverse effect on the following:

1. *The capacity of existing or planned community services or facilities*

The DRB shall consider the demand for community services and facilities resulting from the proposed development in relation to the available capacity of such services and facilities. Available capacity may be determined in part through consultation with other municipal and/or state officials having jurisdiction over affected services and facilities, and consideration of any capital budget and program in effect. Conditions may be imposed as appropriate to ensure that the demand for community facilities or services does not exceed existing or anticipated available capacity

2. *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 Thetford Town Plan.*

The DRB shall consider the location, scale, size, mass, materials, type, density and intensity of use associated with the proposed development in relation to the character of the area likely to be 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 Thetford Town Plan. In making its determination the DRB shall consider submitted materials, and testimony presented at public hearing.

3. *Traffic on roads and highways in the vicinity*

The DRB shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency and use of affected public roads, bridges, and intersections. The DRB will rely on accepted transportation standards in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians, bicyclists, or motorists, or unacceptable levels of service for roads, highways and intersections, unless such conditions or levels of service (LOS) can be mitigated by the applicant through physical improvements to the road network and/or traffic management strategies, or improvements in public transportation. The DRB may require a traffic impact study, which will evaluate existing and projected traffic conditions and determine a level of service for existing conditions and for conditions as they are projected after the development. The DRB may deny conditional use approval for development that would result in a reduction of LOS with existing infrastructure unless the conditions can be mitigated, at the applicant's expense, without widening or regrading the road and without cutting significant trees within the right of way. Any improvements to highways or intersections shall use context sensitive road design that preserves the neighborhood and rural or scenic character of the area.

4. *Ordinances, Bylaws and Regulations in effect*

The DRB shall consider whether the proposed development complies with all ordinances, bylaws, and regulations in effect at the time of application, including other applicable provisions of this bylaw, other municipal permit and/or approval conditions (e.g., subdivision, highway access). Conditions may be imposed or incorporated as appropriate to ensure compliance.

5. *The utilization of renewable energy resources*

The DRB shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources. Conditions may be imposed or incorporated as appropriate to ensure compliance

**(E) Site Plan Standards**

In addition to the general standards set forth in subsection (D), the Development Review Board shall also apply all applicable site plan review standards set forth in Section 6.05(E). Compliance with such standards shall be a requirement of conditional use approval.

**(F) Additional Standards**

It shall be a condition of any conditional use approval involving residential buildings that a Vermont Residential Building Energy Standards certification must be filed with the Town Clerk and the Vermont Department of Public Service in accordance with 21 V.S.A. § 266. In permitting a conditional use, the Development Review Board may impose, in addition to the standards expressly specified by these regulations, other conditions it finds necessary to implement the purposes of these regulations. These conditions include, but may not be limited to, the following:

1. Increasing the required lot size or yard dimensions in order to protect adjacent properties.
2. Limiting the number, location, and size of signs.
3. Specifying a time limit for beginning the construction, alteration, or enlargement of a structure to house a conditional use.
4. Requiring that any future enlargement or alteration of the use be reviewed by the Development Review Board to permit the specifying of new conditions.
5. Requiring plans for the sale, storage or disposal of hazardous or toxic substances.
6. Requiring compliance with performance standards in Section 3.10.
7. Insuring the proposed use will not result in the pollution of ground or surface waters or the injection of toxic or hazardous waste into ground waters.
8. Insuring the proposed use will not resulting the pollution of the air including localized air pollution exceeding the State Air Quality standards.

***Section 6.07 Planned Unit Development Review***

**(A) Purpose**

The purpose of the Planned Unit Development (PUD) section of this bylaw is to encourage growth and development in harmony with the Town Plan. Such growth and development will:

1. Encourage a range of housing options, emphasizing availability of affordable homes typically under--represented in the commercial market;
2. Promote the highest standards of energy--efficient building that retains value and respects the need for energy conservation;

3. Conserve and enhance the natural resources that sustain agriculture, wildlife, water quality and recreation;
4. Retain the distinct character of Thetford's villages and rural areas, encouraging mixed residential and business opportunities in villages and rural development sensitive to Thetford's character and heritage.

PUDs achieve these goals through incentives to planned developments that support these ends.

**(B) Applicability**

PUD provisions may be applied, at the request of an applicant, to any sized parcel within any district. Any change to an approved PUD shall require an amendment to the prior approval in accordance with this section. Adjoining landowners may combine all or a portion of contiguous parcels for the purpose of submitting a joint PUD application provided such property owners intend that each of their properties will:

1. be subject to all requirements and conditions of PUD approval issued in accordance with this Section, and
2. upon approval of the application, be subject to the terms and conditions established by the Development Review Board in approving the official development plan.

**(C) Application Procedures and Coordination with Other Review Processes**

Applications for PUDs shall be reviewed in accordance with the following procedures:

1. One or more pre-application conferences are encouraged at which the Development Review Board and interested municipal officials may exchange information with the applicant and understand the nature and scope of the applicant's proposal.
2. Upon determination that review is required, and the application as submitted is complete for review by the Development Review Board, subject to requests for waivers of application requirements, the Zoning Administrator shall schedule a public hearing of the Development Review Board, warned in accordance with Section 7.08. Once the public hearing is opened, the Board shall determine if the application is complete and decide whether any waivers of application requirements shall be granted. If not, or if the Board requires additional information for the application, the public hearing may be recessed to another date certain for continuation of that hearing. Once all information required by the Board has been submitted, the DRB shall close the hearing and act to approve, approve with conditions, or disapprove an application within 45 days after the date the hearing was closed; and shall issue a written decision to include findings of fact, any conditions, and procedures for appeal. The application shall be deemed approved by the DRB on the 46th day in the event that the DRB fails to act within 45 days of the adjournment of the hearing.
3. Application for a PUD shall be filed with the Zoning Administrator simultaneously with additional applications for subdivision review, variances, and Conditional Use, if needed.

The application for a PUD must include the following:

- A narrative master plan which, together with all required submission materials, shall comprise the official development plan for the PUD. Such master plan shall include a brief summary of the project and how it meets the standards set forth in this Section. In addition, the master plan shall describe the nature of all proposed modifications or changes of existing land use and development regulations, including relevant sections of the Subdivision Regulations, and all proposed standards and criteria for the design, bulk and spacing of buildings and sizes of lots and open spaces.
- Application materials required for Site Plan Review set forth in Section 6.05(C).

4. Any additional materials required by the DRB under subsection (D). Applications of PUDs may be reviewed simultaneously with applications for subdivision review in accordance with the requirements and procedures set forth in the Thetford Subdivision Regulations. PUD applications shall be subject to site plan review standards set forth under Section 6.05.
5. Approval granted by the Development Review Board under this Section for a PUD involving one or more conditional uses under Section 6.06 shall not exempt the proposed development from such review. The DRB may, however, conduct the conditional use review concurrently with PUD review.
6. Within 45 days after the close of the final public hearing, the Development Review Board shall approve or deny the PUD application. This Decision shall include a clear indication of all approved modifications of developmental standards. The Development Review Board may, as a condition of granting approval, impose such restrictions and conditions related to the location, scale, density, intensity or overall design of future development within the PUD as the DRB deems necessary. Subdivision, site plan, or conditional use approval may be granted simultaneously with approval of the PUD application. The applicant shall be notified by certified mail of the Development Review Board's decision.
7. Nothing herein permitting a PUD shall be construed to limit the right of the Development Review Board to grant special exceptions or variances which are permitted by these regulations or by statute. Approval of a PUD application does not nullify or change any existing zoning regulation affecting the project land not specifically modified in connection with the Development Review Board's approval of that application.

**(D) Standards**

In addition to the General Standards in Section 6.04, all Planned Unit Developments (PUDs) shall meet the following standards:

1. Any residential use permitted in the district in which the PUD is located is permissible under the PUD, including home based businesses as provided in Section 5.03. A PUD may include, at the discretion of the Development Review Board, dwelling units of varied types, including single-- and two--unit dwellings and multi--unit dwellings in districts where permitted.
2. Certain non--residential uses also are allowed. Examples of such uses include: recreational facilities; day care facilities; and accessory uses.
3. The overall density of the project may exceed the usual limits on density for the district(s) in which the land is located, per Table 2.2. The permitted density may be increased according to criteria (a--c) in this subsection. Density bonuses are described either as a number of additional units or as a percentage increase. Density bonuses are additive, which means that if a project qualifies for bonuses according to more than one criterion the total bonus will be the sum of the bonuses from the qualifying criteria. However, the total density bonus for a project shall not exceed 150% in the Rural Residential district and shall not exceed 250% in the Village Residential or Community Business district. Fractional density bonuses are not rounded up, which means that the number of additional units allowed by the bonus is the largest whole number that does not exceed the number that results from applying the bonus percentage.

**a. Affordable Housing**

In all districts density bonuses may be granted for projects that create affordable housing units, as defined in Section 8.02. The density bonus shall depend on the district in which the housing units will be created and on the percentage of affordable housing units as a percentage of the total number of housing units to be created, as shown in Table 6.1.

| <b>Table 6.1 Affordable Housing Density Bonuses</b> |                          |                            |                           |
|---|--------------------------|----------------------------|---------------------------|
| <b>Percentage of units affordable</b>               | <b>Rural Residential</b> | <b>Village Residential</b> | <b>Community Business</b> |
| <b>0%</b>   | 0%                       | 0%                         | 0%                        |
| <b>10%</b>  | 13%                      | 25%                        | 25%                       |
| <b>20%</b>  | 25%                      | 50%                        | 50%                       |
| <b>30%</b>  | 38%                      | 75%                        | 75%                       |
| <b>40%</b>  | 50%                      | 100%                       | 100%                      |
| <b>50%</b>  | 63%                      | 125%                       | 125%                      |
| <b>60%</b>  | 75%                      | 150%                       | 150%                      |
| <b>70%</b>  | 88%                      | 175%                       | 175%                      |
| <b>80%</b>  | 100%                     | 200%                       | 200%                      |
| <b>90%</b>  | 100%                     | 200%                       | 200%                      |
| <b>100%</b>   | 100%                     | 200%                       | 200%                      |

**b. Energy-efficient Residential Building**

A Home Energy Rating System (HERS) “index” score may be used to determine a density bonus. To qualify for this incentive, all residential units in the project must be built to achieve a rating that exceeds the requirements for compliance with the Vermont Residential Building Energy Standards (RBES), i.e. each unit must be designed to achieve a HERS score less than the RBES maximum. The RBES standard, as updated from time to time, is available from the Vermont Department of Public Service. An applicant must submit projected HERS scores for each unit designed in the project. The projected HERS scores must be the work product of Efficiency VT or other licensed engineer. The maximum density bonus shall be equal to the percentage by which the energy rating of the project is an improvement over, i.e. less than, the RBES standard. The improvement over the RBES standard, measured as a fraction, shall be determined by the following formula:

$$\text{Density bonus \%} = (\text{RBESmax} - \text{Design Score}) / \text{RBESmax} * 100\%$$

Where

RBESmax is the maximum HERS index score allowed for compliance with RBES; and

Design Score is the HERS score of the least energy efficient unit in the project.

As required by 21 V.S.A. § 266, an RBES certification for each unit must be filed with the Town Clerk and the Vermont Department of Public Service within 30 days of construction completion. In addition, it shall be a condition of any permit that the certification must be signed by a home energy rating organization that is Vermont-accredited in accordance with 21 V.S.A. § 267, and that the certified HERS rating for all units must be no higher than the projected scores shown on the plans that were approved.

**c. Natural Resource Protection**

A density bonus may be granted for each of the values in subsections i – iii, below, if the DRB determines that the conditions required in the subsection are met. Bonuses for these subsections are additive but the total bonus due to natural resource protection shall not exceed 100%.

i. *Significant Wildlife Habitat*

A density bonus of up to 50% of the permitted overall density may be granted if and only if the adverse impact on significant wildlife habitat would be less than if the development were done according to the standards of Section 6.04 (A).

ii. *Forest Resources*

A density bonus of up to 50% of the permitted overall density may be granted if and only if the adverse impact on forest land would be less than if the development were done according to the standards of Section 6.04 (B).

iii. *Agricultural land*

A density bonus of up to 50% of the permitted overall density may be granted if and only if the adverse impact on agricultural land would be less than if the development were done according to the standards of Section 6.04 (C).

The methods for meeting the conditions shall include but are not limited to the following:

- The methods described in Section 6.04;
- Designation of open space, as defined in Section 8.02 and regulated in Section 3.08.

If development would have no adverse impact or de minimus adverse impact if done according to the standards of Section 6.04, with no designation of open space, then no density bonus shall be allowed. In determining the density bonus to be granted for each value, the DRB shall consider the following:

- The density bonus, as a percentage, compared to the percentage of the total area of the parcel(s) that is set aside as open space, to the extent that the open space provides protection against adverse impact.
- The density bonus compared to that portion of the designated open space that is the minimum necessary to reduce the adverse impact to none or *de minimus*.

4. Residential development may be concentrated within some portion(s) of the site which are offset by open space areas if the open space will promote the values described in the Purpose subsection above and if the overall density of the project does not exceed the usual limits on density for the district(s) in which the land is located, per Table 2.2. This provision is independent of density bonuses.
5. It shall be a condition of any PUD permit that a Vermont Residential Building Energy Standards certification must be filed with the Town Clerk and the Vermont Department of Public Service in accordance with 21 V.S.A. § 266.
6. It shall be a condition of any permit that buffers of native vegetation and trees shall be established and protected along water bodies. The width of buffers and acceptable activities within buffers shall be determined on a case-by-case evaluation, consistent with the Vermont Agency of Natural Resources "Guidance for Agency Act 250 and Section 248 Comments Regarding Riparian Buffers".
7. The PUD shall be consistent with the goals and objectives of the Town Plan.
8. The PUD shall result in no greater burden on present and planned municipal services and facilities than would result from traditional development of the parcel with the same number of units as proposed in the PUD. The available public or private facilities and services, including schools, streets, emergency services, and utilities, will be adequate to provide service to the proposed PUD. The Development Review Board shall require written certification from town departments that the town

has adequate resources to support any proposed PUD with five or more units, and may require this certification for any proposed PUD with less than five units.

9. The Development Review Board may restrict points of access to state or town highways and where necessary, require improvements to roads to meet town road or private highway specifications, which would in turn be subject to Selectboard approval.

**(E) Common Facilities**

1. Land that is to be dedicated for common facilities or for the preservation and maintenance of significant wildlife habitat, forest resources or agricultural land, may be held in common or individual ownership, or it may be conveyed to the Town, should the Town choose to accept it.
2. Common Land. Land to be dedicated to shared facilities (e.g., private road, community wastewater and water supply systems, or other community facilities), may be held in common, and will be subject to the legal requirements set forth below and in and any other section of this Bylaw. Land and/or facilities to be held in common shall be subject to appropriate deed restrictions and/or covenants stipulating their allowed use, and establishing the person or entity responsible for their regular maintenance and long term management. All costs associated with administering and maintaining common land and associated facilities shall be the responsibility of applicant and subsequent property owners.
3. Land to be Conserved. Land to be dedicated to the preservation and maintenance of significant wildlife habitat, forest resources or agricultural land may be held in common or individual ownership, and may be located on one or more lots, although concentrating such resources on a single lot is preferred by the Town. The ownership of the land or the benefit of an easement preserving such land shall be in a manner and form approved by the Development Review Board; such ownership or easement may be held by the municipality or a nonprofit land conservation organization, if such entities choose to accept such ownership or easement. Conservation and agricultural easement areas ("open space areas") shall be indicated with an appropriate notation on the final plat.

**(F) Legal Requirements**

1. Documentation and assurances shall be provided that all required improvements and associated ~~rights-of-way~~ and easements and other common facilities and land will be adequately maintained either by the applicant, subsequent or other landowners, a homeowners' association, or through other accepted legal mechanism. Such documentation shall be in a form approved by the Development Review Board and filed in the Thetford Land Records.
2. All required improvements shall be constructed to approved specifications in accordance with a construction schedule approved by the Development Review Board. The DRB may require that all such improvements be completed prior to the issuance of a Zoning Permit for subsequent development on approved lots. A performance bond or comparable surety acceptable to the Selectboard may be required to ensure that all improvements are completed to the specifications of this bylaw and the Thetford Subdivision Regulations.

***Section 6.08 Requirements for Waivers and Variances***

When approval of a permit for a use has been denied, or is not possible using the requirements of this bylaw, an applicant may apply for a waiver to the Zoning Administrator in some circumstances. In other instances an applicant would need to appeal this denial to the DRB for a waiver or a variance. If the matter has only to do with dimensional requirements (for example a smaller setback than is otherwise

required), a waiver may be possible. For special and rare circumstances a variance may be needed, but variances are difficult to get and must meet a five--part test.

### ***Section 6.09 Standards for Waivers***

- (A) In all districts, waivers may be granted **by the Zoning Administrator, with no requirement for a hearing**, for:
1. Reductions in front or side setbacks as necessary to allow for disability access;
  2. Reductions in side setbacks to allow for necessary life safety improvements.
- (B) In all districts, waivers may be granted after a hearing by the DRB if any of the following criteria are met:
1. The proposed development conforms to the existing development patterns of the district;
  2. The proposed development will cluster development and more effectively preserve open land, forest land, or scenic vistas; or
  3. The proposed development will result in permanently affordable housing units; and
  4. The waiver will not result in a greater than 50% decrease in any dimensional requirement.

### ***Section 6.10 Standards for Variances***

The DRB shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Section 7.04. In granting a variance, the DRB may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the Town Plan currently in effect. The DRB shall 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.

### ***Section 6.11 Advisory Committees and Commissions***

#### **(A) General**

The Act [§4433] authorizes municipalities to create one or more advisory commissions, which include committees or a combination of advisory commissions to assist the legislative body or the Planning Commission in preparing, adopting and implementing the Town Plan. Advisory commissions authorized

under either §4433 or chapter 118 of title 24 may advise appropriate municipal panels, applications and interested parties in accordance with the procedures established under the Act[4464].

**(B) Thetford Hill Historic Preservation Committee**

In accordance with the Act [§4433(3)] and for the purposes of maintaining the historic character of the Thetford Hill Historic Preservation Overlay District, the Thetford Hill Historic Preservation Committee (“Committee”) shall have the following role in review of uses within the overlay district:

1. The provision of historic preservation guidance and recommendations to property owners who are considering making alterations or additions to existing structures or commencing new construction within the Town of Thetford.
2. Recommendations to the DRB on the review of conditional use proposals, including for the demolition of any historic structures.
3. Recommendations to the DRB on the review of subdivision proposals, including Condominium Developments and Planned Unit Developments.
4. Recommendations to the DRB on proposed site plan applications prior to application to and review by the DRB.
5. Recommendations to the DRB on the review of building permit applications for alterations to historic structures and construction upon historic sites, including building permit applications associated with subdivisions and site plans.
6. The establishment and publication of criteria for the ongoing evaluation and designation of significant historic resources and landmarks, and the review of requests by property owners to be included in a district, to be designated as a landmark, or to establish a new district. The Committee may make its evaluation criteria available to applicants through the zoning office.
7. The development and presentation of educational and informational materials and public events regarding Thetford architectural history and its preservation.
8. The review of local nominations to the National Register of Historic Places.
9. Other historic preservation functions as determined by the Planning Commission, such as seeking funding for a historic preservation project.

**(C) Thetford Conservation Commission**

In accordance with 24 V.S.A. §4433 the Thetford Conservation Commission may assist the DRB by providing advisory environmental evaluations, where pertinent to applications made to that body, for permits for development; and cooperate with the DRB on matters affecting the local environment or the natural resources of Thetford.

***Section 6.12 Uses within the Thetford Hill Historic Preservation Overlay District***

Decisions on all applications to the DRB shall be made in accordance with the Act [§4414(1)(F)(ii)]. The Thetford Hill Historic Preservation Committee shall advise the DRB, which shall make a determination after giving consideration to the following:

- (A) The historic or architectural significance of the structure(s), its distinctive characteristics, and its relationship to the historic significance of the surrounding area.
- (B) The relationship of the proposed changes in the exterior architectural features of the structure to the remainder of the structure and to the surrounding area.
- (C) The general compatibility of the proposed exterior design, arrangement, texture, and materials proposed to be used.

- (D) Factors including open space, yards, off--street parking, screening, fencing, entrance drives, sidewalks, signs, lights, and/or landscaping that might affect the character of any building or structure within the Historic Preservation Overlay or any other district, shall be considered as well as those factors which relate to the placement of a structure or group of structures which might affect the overall streetscape.
- (E) The impact the applicant's proposal will have on the surroundings, and the extent to which it will preserve and enhance the historic, architectural and cultural qualities of the Historic Preservation Overlay or any other district, and the community. The Committee shall be guided by the following:
1. Every reasonable effort shall be made to provide a compatible use which will require minimum alteration to the structure and its environment.
  2. Rehabilitation or renovation work shall not destroy the distinguishing qualities or character of the structure and its environment. Historic material or architectural features should not be removed or altered.
  3. Deteriorated architectural features should be repaired rather than replaced where ever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings.
  4. Changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment, and these changes shall be recognized and respected.
  5. All structures are recognized as products of their own time. Alterations to create an earlier period are discouraged.
  6. Additions to existing structures are acceptable if such design, materials, and construction are of quality and are compatible with the size, scale, material, and character of the neighborhood, structures, and its environment.
  7. Whenever possible, new additions or alterations to structures shall be done in such a manner that if they were removed in the future, the essential form and integrity of the original structure would be unimpaired.
  8. Every reasonable effort shall be made so that structures not be razed or demolished, in order to preserve the historic streetscape.
  9. New construction shall be sympathetic to architectural features and materials which are in keeping with the character of the historic buildings found within Thetford Hill or any other historic district. New structures should enhance, compliment, and maintain the integrity of the Village, or other district, and its structures.

## **Article VII. Administration & Enforcement**

### ***Section 7.01 Appointment of the Zoning Administrator***

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

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

### ***Section 7.02 Duties of the Zoning Administrator***

The Zoning Administrator shall administer the zoning bylaws literally and shall not have the power to permit any land development that is not in conformance with those bylaws. In so doing the Zoning Administrator shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

In fulfilling his/her duties and responsibilities, the Zoning Administrator shall receive applications, inspect premises, maintain records, issue permits, and perform other necessary tasks as may be necessary to carry out the provisions of this Bylaw.

In accordance with the Act [§4452], if any street, building, structure, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of the zoning bylaws, the Zoning Administrator shall institute in the name of the Town of Thetford any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate that construction or use, or to prevent, in or about those premises, any act, conduct, business or use constituting a violation.

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

### ***Section 7.03 Zoning Permit Requirements***

#### **(A) Applicability**

1. In accordance with the Act [§4449] no development, as defined in Article VIII (with the exception of the exemptions listed in Section 1.04) may commence without issuance of a zoning permit by the Zoning Administrator.
2. No development requiring a wastewater disposal system may commence until all required permits for the wastewater disposal system have been issued by the state. (See Vermont on-site wastewater regulations.)

#### **(B) Application Requirements**

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

## 1. Permitted Uses

Applications for a zoning permit shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:

- a. the dimensions of the lot, including existing property boundaries;
- b. the location, footprint and height of existing and proposed structures or additions;
- c. the location of existing and proposed accesses (curb cuts), driveways and parking areas;
- d. the location of existing and proposed easements and rights-of-way;
- e. the locations of any wetlands on or adjacent to the lot;
- f. where wetlands are present on the lot, the entire area that will be disturbed as part of the construction, including the perimeter of all disturbed soil, along with a plan for minimizing the disturbance;
- g. existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands;
- h. the location of existing and proposed water and wastewater systems; and
- i. other such information as required by the Zoning Administrator to determine conformance with these regulations.

Note: The Zoning Administrator may waive the requirement for any of the above information if not needed to determine compliance with these regulations.

It will be a violation of the permit if the project, as built, fails to conform to the information provided on the application, including in items a – i above, in any substantial way.

## 2. Uses Subject to Development Review

For development requiring one or more approvals from the DRB prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted with the application for a zoning permit to the Zoning Administrator, who shall review the materials for completeness and forward them to the DRB.

- a. **Subdivision Approval:** All applications shall conform to the requirements of the Thetford Subdivision Regulations.
- b. **Conditional Use Approval:** A site plan as specified in Section 6.05 of this Bylaw shall accompany all applications for conditional use permit, except in those cases where this Bylaw states that site plan review is not required.
- c. **Planned Unit Development approval:** All applications shall conform to the requirements of Section 6.07.
- d. **Flood Hazard Area Approval:** Any application for development within the Flood Hazard Area shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, the Federal Insurance Administrator, and adjacent municipalities in accordance with the Act [§4424(D)] and the Thetford Flood Hazard Area Zoning Bylaw.
- e. **Thetford Hill Historic Preservation Overlay District:** Applications for development that will occur within the Thetford Hill Historic Preservation Overlay District shall meet the requirements for applications for conditional use approval.

### (C) Issuance of permits

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

1. Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the DRB or to a state agency for consideration. In accordance with the Act [§4448], if the Zoning Administrator fails to act with regard to a complete application for a permit within the 30-day period, a permit shall be deemed issued on the 31<sup>st</sup> day.
2. No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the DRB or Selectboard until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
3. If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Zoning Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [§4449(d)].
4. A zoning permit shall include a statement of the time within which appeals may be taken under Section 7.04; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.
5. The Zoning Administrator, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the Town Offices for a period of fifteen (15) days from the date of issuance.
6. For permits related to the demolition of a structure within the Thetford Hill Historic Preservation Overlay District, the permit shall not be granted until a notice of the proposed demolition has been given by the owner of such property in a newspaper of general circulation in the area, and a notice given to the Thetford Hill Historical Society, the State Historic Preservation Office, and a notice posted at two public places in the district. Such provision affords a person or organization the opportunity to acquire or to arrange for the preservation of the building for a three month period commencing on the day of notice. This requirement may be vacated by the DRB when it is deemed appropriate.

**(D) Effective Date**

No zoning permit shall take effect until the time for appeal under Section 7.05 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

**(E) Permit Display**

In accordance with the Act [§4449], the notice of a zoning permit must be displayed within view from the public right-of-way nearest to the property until the time for appeal under Section 7.04 has passed.

**(F) Permit Expiration**

A zoning permit is authorization to undertake certain actions, and shall expire two years from the date it is issued if such action is not begun, unless extended as specified below. In addition:

1. If the zoning permit authorizes only a change in the use of any building or other structure, or in the use of land, the change in use must occur prior to the two--year expiration date of the zoning permit, or it shall become null and void and no extension can be granted.
2. If the zoning permit authorizes construction (construction, reconstruction, conversion, relocation, alteration or enlargement of any building or structure), said construction activity must be physically begun prior to the two--year expiration date of the zoning permit. If the construction activity is not begun, the permit shall become null and void.
3. If the zoning permit authorizes construction, and if said construction activity has been physically begun before the two--year permit expiration but is not complete, the applicant may file an application to renew the permit, without fee, with the Zoning Administrator. The application to renew must be received by the Zoning Administrator at least 30 calendar days prior to the expiration date of the original permit. A zoning permit authorizing construction activity may be renewed in this manner for up to two consecutive 12--month periods to allow for completion of construction. If construction is not completed by the end of four consecutive years, the zoning permit and any renewals thereof shall become null and void.
4. The expiration of a zoning permit under this subsection shall include the expiration of all associated zoning approvals, and at its expiration, any land development on the lot must cease. All subsequent land development, if desired, must be approved after the submission of a new application for a zoning permit and all laws and ordinances then in effect will be applicable.
5. Zoning permits that have been fully complied with shall not expire and shall run with the land.

***Section 7.04 Appeals of Zoning Administrator Actions***

Any **interested person** as defined under the Act [§4465] may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the DRB, or the Town Clerk if no Secretary has been elected, and by filing a copy of the notice with the Zoning Administrator.

- (A) The DRB shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The DRB shall give public notice of the hearing under Section 7.08 and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- (B) The DRB may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the DRB determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [§4470].
- (C) In accordance with the Act [§4468], all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the DRB from time to time, provided that the date and place of the adjourned hearing shall be announced at the hearing.
- (D) A decision on appeal shall be rendered by the DRB within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent promptly by certified mail to the appellant. Copies of the decision shall be mailed to every person or body appearing and

having been heard at the hearing, and filed with the Zoning Administrator and the Town Clerk as part of the public records of the municipality, in accordance with Section 7.11. Failure of the DRB to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.

### ***Section 7.05 Notice of Appeal***

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

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

### ***Section 7.06 Appeals to Environmental Court***

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the DRB may appeal a decision rendered by the DRB under Section 7.10, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

- (A) "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (B) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Town Clerk, or the Zoning Administrator if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

### ***Section 7.07 Violations & Enforcement***

#### **(A) Violations**

The commencement or continuation of any land development that does not meet the requirements of this Bylaw shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451--4454], including the potential for fines and removal of structures. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of Thetford, any appropriate action, injunction or other proceeding to enforce the provisions of this Bylaw. All fines imposed and collected shall be paid over to the municipality. The value of fines shall be set by the Selectboard in accordance with the Act, or the Judicial Bureau or courts, as may be applicable.

#### **(B) Notice of Violation**

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality in conformance with Section 7.11. Notices may be sent to insurance companies, mortgage holders, tenants, or other parties as the Zoning

Administrator determines may be affected by enforcement proceedings. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

**(C) Limitations on Enforcement**

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Section 7.11.

***Section 7.08 Hearing Notice Requirements***

In accordance with the Act [§4464], a warned public hearing shall be required for site plan approval (Section 6.05), conditional use approval (Section 6.06), planned unit development approval (Section 6.07), waivers and variances (Section 6.08), changes to a non-conformity (Section 4.02), right-of-way approval, appeals of decisions of the Zoning Administrator (Section 7.04) and final subdivision review. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- (A) publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- (B) posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
- (C) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
- (D) for hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

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

***Section 7.09 Public Hearings***

In accordance with the Act [§4461], all meetings and hearings of the DRB, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a

quorum shall be not less than the majority of members of the DRB. The DRB, in conjunction with any hearing under this bylaw, may:

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

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 7.04 are met. The DRB shall keep a record of the name, address, and participation of each of these persons.

Where applicable, Historic Preservation Committee or Conservation Commission recommendations shall be submitted in writing at or before the public hearing of the DRB.

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

### ***Section 7.10 Decisions***

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

- (A) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 7.06. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
- (B) In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, this Bylaw, and the town plan currently in effect. This may include, as a condition of approval:
  1. the submission of a three--year performance bond, escrow account, or other form or surety acceptable to the Thetford Selectboard, which may be extended for an additional three--year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
  2. a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

All decisions of the DRB shall be sent promptly by certified mail to the applicant, or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

### ***Section 7.11 Recording Requirements***

Within 30 days of the issuance of a municipal land use permit, denial of a permit, or issuance of a notice Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the

Town Clerk for recording in the land records of the municipality generally as provided in 24 V.S.A. §1154(c), and file a copy in the Town Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.

## Article VIII. Definitions

### *Section 8.01 Terms and Uses*

For purposes of this Bylaw, the following interpretations shall apply:

- (A) Words used in the present tense shall include the future.
- (B) Words used in the singular number include the plural number, and the plural includes the singular
- (C) The word shall is mandatory, not discretionary; the word may is permissive.
- (D) The word lot is synonymous with the words plot and parcel.
- (E) The words used for shall be synonymous with the words, intended for, designed for, arranged for, and occupied for.
- (F) The word Act shall refer to and be interpreted to mean the Vermont Municipal and Regional Planning and Development Act, V.S.A. Title 24, Chapter 117.
- (G) The word Town shall refer to and be interpreted to mean the Town of Thetford, Vermont.
- (H) The word Bylaw shall refer to and be interpreted to mean the Zoning Bylaw for the Town of Thetford, Vermont.

### *Section 8.02 Definitions*

For purposes of this Bylaw, meanings of the following words and terms shall be interpreted as herein defined.

**ACCESSORY USE, ACCESSORY STRUCTURE:** A use or structure incidental and subordinate to the principal use of the premises, and which does not change the basic character thereof.

**ACCESSORY DWELLING UNIT:** A distinct unit that is clearly subordinate to a single-family dwelling or business, and has facilities and provisions for independent living, including sleeping, food preparation and sanitation.

**AFFORDABLE HOUSING:** Affordable housing is defined as either of the following:

- A. Owner-occupied housing for which the total annual cost of ownership, including principal interest, taxes, insurance, and condominium fees, does not exceed 30 percent of the gross annual income of a household at 120% of the county median income as defined by the U.S. Department of Housing and Urban Development.
- B. Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80% of the county median income as defined by the U.S. Department of Housing and Urban Development.

**AGRICULTURAL LANDS:** Agricultural lands are those with the best combination of physical and chemical characteristics that have a potential for:

- growing food, feed, and forage crops,
- have sufficient moisture and drainage,
- plant nutrients or responsiveness to fertilizers,
- few limitations for cultivation or limitations which may be easily overcome and
- an average slope that does not exceed 15 percent.

Present uses may be cropland, pasture, regenerating forests, forestland, or other agricultural or silvicultural uses. The soils must be of a size and location, relative to adjoining land uses, so that those soils will be capable, following removal of any identified limitations, of supporting or contributing to an

economic or commercial agricultural operation. Unless contradicted by the qualifications stated in this bylaw, primary agricultural soils shall include important farmland soils map units with a rating of prime, statewide, or local importance as defined by the Natural Resources Conservation Service (N.R.C.S.) of

the United States Department of Agriculture (U.S.D.A.).

**ALTERATION:** Structural change, rearrangement, change of location or addition to a building, other than repairs, and modifications in building equipment.

**AUTOMOBILE SERVICE AND REPAIR STATIONS:** A building or premises or portion thereof used for the retail sale of gasoline, oil or other fuel, automotive parts, supplies or accessories for motor vehicles and which may include, as an incidental use only, facilities used for polishing, grazing, washing or otherwise cleaning or light servicing of motor vehicles, but not including liquefied petroleum gas distribution facilities.

**BED & BREAKFAST:** A single-unit owner-occupied dwelling with meal service limited to breakfast, for ten or fewer in-house transient guests in a maximum of five bedrooms with rental periods no longer than a period of two weeks.

**BOARD:** The Thetford Development Review Board.

**BUILDING:** A structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel, excluding fences.

**BUILDING HEIGHT:** The vertical distance measured from the average elevation of the proposed finish grade at the front wall of the building to the highest point of the coping of a flat roof or to the declivity of mansard roofs, and to the average height between eaves and ridge for other types of roofs.

**BUILDING LINE:** The line, parallel to the front lot line, measured between side lot lines through that part of the building structure or construction site where the lot is narrowest.

**CHANNEL:** The area of a stream that contains continuously or periodic flowing water that is confined by banks and a streambed.

**CHILD CARE FACILITY:** A "family child care home or facility" means a home or a facility where the owner or operator is to be licensed or registered by the state for child care.

**COMPLETION OF CONSTRUCTION:** Construction is complete when all permit requirements have been met and the structure can be safely occupied or otherwise utilized for its intended use.

**CONSTRUCTION:** For the purposes of this bylaw the term shall include reconstruction, conversion, relocation, alteration or enlargement of any building or structure.

**CONTEXT SENSITIVE ROAD DESIGN:** A collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic and environmental resources, while maintaining safety and mobility. Context Sensitive Road Design is an approach that considers the total context within which a transportation improvement project will exist. Context Sensitive Road Design includes consideration of core principles that are identified in Section 6008 of the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005. Design guidelines are published by the Federal Highway Administration and the American Association of State Highway and Transportation Officials.

**DEVELOPMENT:** See "Land Development".

**DEVELOPMENT ENVELOPE:** A specified area of land delineated on a lot within which all or specified structures are to be located, and outside of which no structures, or only specified structures, are to be located. As a condition(s) of subdivision approval, other site development activities, such as the installation of septic systems, grading or clearing, may also be restricted outside of a development envelope.

**DISTRICT:** A part of the territory of the Town of Thetford within which certain uniform regulations and requirements of various combinations thereof apply under the provisions of this Bylaw.

**DRB:** The Thetford Development Review Board.

**DRIVE-IN OR DRIVE-THROUGH SERVICE:** Any service that is provided while a customer remains in a motor vehicle. Examples include, but are not limited to, food service, banks and pharmacies.

**DWELLING UNIT:** A space consisting of one or more rooms designed, occupied or intended for occupancy, as a separate living quarters, with cooking, sleeping and sanitary facilities provided within that space for the exclusive use of one or more persons maintaining a household.

**1 & 2 UNIT DWELLING:** Any use of land or structure comprising one or two residential units in a primary structure. Examples: house, cabin, mobile home, duplex, 1 unit dwelling with accessory unit in accordance with Section 5.10.

**3 & 4 UNIT DWELLING:** Any use of land or structure comprising three or four residential units in a primary structure. Examples include triplexes and quads.

**5+ UNIT DWELLING:** Any use of land or structures comprising five or more residential units in a primary structure. Examples include apartment houses and attached townhouses.

**FAMILY:** One or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.

**FLOOR AREA:** Floor area shall be the horizontal area within the outside perimeter of the outside walls of a building.

**FOREST FRAGMENTATION:** The division or conversion of large tracts of contiguous forest or formerly contiguous forest into smaller pieces leaving remnant patches of forest that vary in size and isolation separated by non-forested lands or other vegetation and land-use types.

**FORMULAIC CHAIN BUSINESS:** A type of retail store, rental establishment, restaurant, hotel, or motel which, along with fifty (50) or more other business locations within or outside the United States, regardless of ownership of those businesses, maintains two (2) or more of the following features: standardized array of merchandise or standardized menu, standardized façade, standardized decor and color scheme, uniform apparel, standardized signage, or a trademark or service mark. This definition closely aligns with the current Thetford Town Plan Goals, Policies and Recommendations, which emphasize encouraging future development of a size and scale compatible with existing structures and the preservation of the municipality's historic nature and distinctive community character.

**HOME ENERGY RATING SYSTEM (HERS):** A home energy rating system accredited by the Vermont Dept. of Public Service that provides a numerical rating in compliance with 21 V.S.A. § 267(a).

**HOTELS:** Includes buildings or groups of buildings under the same management in which there are more than 15 sleeping accommodations for hire, primarily used by transient residents who are lodged with or without meals, whether designated as a hotel, inn, club, motel, or by any other name. So-called apartment hotels shall be classified as hotels because they are potentially subject to transient occupancy like that of hotels.

**IMPERVIOUS SURFACE:** Those manmade surfaces, including, but not limited to, paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

**INTERESTED PERSON:** Under the Act [§4465(b)] the term includes the following:

- (A) a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- (B) the Town of Thetford or any adjoining municipality;
- (C) a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or

environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;

- (D) any ten (10) voters or property owners within the municipality who, by signed petition to the DRB, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
- (E) any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development

**LAND DEVELOPMENT:** The division of a parcel into two or more parcels; the combination of parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or fill; the construction of a road or utility; and any change in the use of any building or other structure, or land or extension or use of land, including land clearing, filling, or grading incidental to development.

**LOCAL DISTRICT LANDFILL:** A landfill shall be considered a local district landfill if it is operated by the Solid Waste District and no less than 85% of the weight of the waste received is produced within member towns of the Solid Waste District.

**LOCATION:** For the purposes of zoning permit applications and site plans, references to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing and orientation should be referenced to true North.

**LODGING:** A building or buildings providing temporary public lodging, comprised of two or more units. These facilities may serve meals. This term includes hotel, motel, bed and breakfast, tourist home / cabin, and ski lodge. This term does not include short-term rentals, boarding houses, or group homes.

**LOT:** A portion or parcel of land occupied or intended to be occupied by a building or use and its accessories, together with such yards as are required under the provisions of this Bylaw, having not less than the minimum area, width and depth required by this Bylaw, for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as permitted in accordance with the provisions of this Bylaw. The minimum area of a lot as defined herein must be an integral unit of land under unified ownership in fee or in co-tenancy or under legal control tantamount to such ownership, which ownership or control must continue for the existence of the building or buildings permitted to be situated on the lot.

**LOT AREA, LOT SIZE:** The total horizontal area within the property lines of the lot, excluding public streets, and meeting the district requirements of this Bylaw.

**LOT DEPTH:** The mean horizontal distance between the front and rear lot lines, measured at right angles to the front building line.

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

**LOT WIDTH:** The mean horizontal width of the lot measured at right angles to its depth.

**MIXED USE:** A parcel, building or buildings containing two or more uses. This can mean some combination of residential, commercial, industrial, office, institutional, or other uses.

**MOBILE HOME:** A prefabricated dwelling unit that is (1) designed for continuous residential occupancy; and (2) is designed to be moved on wheels, as a whole or in sections. Within the meaning of these regulations, a travel trailer shall not be considered a mobile home nor shall a travel trailer be considered a dwelling unit.

**MOBILE HOME PARK:** A parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate three or more mobile homes. This definition does not apply to premises used solely for the display or storage of mobile homes.

**NONCONFORMING LOT or PARCEL:** Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the zoning administrator.

**NONCONFORMING STRUCTURE:** A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the zoning administrator.

**NONCONFORMING USE:** A use of a building or land that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the zoning administrator.

**OPEN SPACE:** One or more parcels, or a portion of one or more parcels, set aside or reserved for public or private use with no improvements or development. Types of open space include farmland, forestland, parks and recreation areas, trail corridors and ecological preserves. Open space may or may not be held in common. Open space may be placed under an easement with the town or a conservation organization such as a land trust, in which case allowed uses of the area shall be specified in a conservation easement document, which identifies those natural and cultural features with high public value and how they are to be protected.

**PARKING SPACE:** Off--street area used for the temporary storage of one passenger automobile or commercial vehicle under 1 ½ ton capacity and containing not less than 200 square feet, exclusive of access drives, aisles, ramps, columns, and having direct access to a street.

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

**RESIDENTIAL AREA:** The whole of any area zoned Village Residential or Community Business, or any other area containing ten or more residences within one--quarter mile as established by the DRB.

**RESIDENTIAL BUILDING ENERGY STANDARDS (RBES):** the energy--efficiency code for residential new construction in Vermont, enacted in May 1997 as Act 20 and commonly referred to as the Vermont Residential Energy Code or simply the Energy Code.

**SETBACK:** The horizontal distance from the edge of a road right--of--way, lot line, boundary or other delineated feature (e.g., a stream bank, shoreline, or wetland area), to the nearest structural element of a building, structure, or parking area on the premises.

**SHEET FLOW:** Water, usually storm runoff, flowing in a thin layer over the ground surface.

**SHORT TERM RENTAL:** A building providing not more than 1 unit of temporary lodging (under affiliated ownership) for the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

**SIGN:** Any structure or part thereof or device attached thereto or painted or represented thereon which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of an announcement, direction, or advertisement.

**SIGN AREA:** Sign area shall mean the entire area of the sign together with any frame but excluding the necessary supports or uprights on which the sign is placed. Only one side of flat back to back signs shall be included in calculating sign area.

**SIGNIFICANT WILDLIFE HABITAT:** Those landscape features that are important to the survival and/or reproduction of the wildlife native to the Town of Thetford. This shall include, but is not limited to, (1) habitat for rare, threatened and endangered species (state or federally listed); (2) concentrated black bear feeding habitat (bear-scarred beech and oak stands); (3) wetlands that provide critical functions for wetland-dependent wildlife such as breeding/nesting habitat for wading birds (e.g. bitterns, herons), waterfowl (e.g. ducks, geese) and otter and vernal pools; (4) wildlife travel corridors, including forest cover reaching to road rights-of-way, which serve to link large tracks of unfragmented forest habitat; (5) habitat identified as significant in an inventory conducted by or for the Town of Thetford; and (6) habitat identified by the Vermont Department of Fish and Wildlife as either significant wildlife habitat or necessary wildlife habitat in accordance with 10 V.S.A. Sec. 6086(a)(8)(A).

**SOLID WASTE DISTRICT:** The Greater Upper Valley Solid Waste District (formed pursuant to 24 V.S.A. Chapter 121) to which the Town of Thetford belongs.

**SPRAWL:** a pattern of land use that is characterized by dispersed, automobile-dependent development outside of compact urban and village centers, along highways, and in the rural countryside. Sprawl is typically characterized by

- Excessive land consumption;
- Low densities in comparison with older centers;
- Lack of transportation options;
- Fragmented open space, wide gaps between development and a scattered appearance;
- Separation of uses into distinct areas;
- Repetitive one story development;
- Commercial buildings surrounded by expansive parking;
- Lack of public spaces and village centers.

**STRUCTURE:** Any assembly of materials with fixed location on the ground or attached to an object having an affixed location on the ground or an assembly of materials for occupancy or use including, but not limited to, a building, mobile home or trailer, sign, wall or fence, except a wall or fence on an operating farm. For the purposes of this bylaw the term explicitly includes wastewater (septic) systems. (See section 1.04(Q).)

**STREAM:** The full length and width, including the bed and banks, of any watercourse, including rivers, creeks, brooks, and branches and intermittent watercourses that have a defined channel and evidence of water and sediment transport, even if such watercourses do not have surface water flow throughout the year or throughout the channel. For purposes of this regulation, constructed drainageways including water bars, swales, and roadside ditches, are not considered streams.

**STREAM ORDER** is determined by the stream network pattern. A stretch of stream that has no tributaries entering is considered a **first order** stream. From the point where two first order streams join, the stream becomes a **second order** stream, etc. For the stream to increase in order, it must intersect another tributary of the same order. Stream order is not affected by intersecting with tributaries of a lesser order.

**TOP OF BANK:** The point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

**TOP OF SLOPE:** A break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

**TRAVEL TRAILER:** Any vehicle used as temporary sleeping, camping or living quarters, which is mounted on wheels, a truck or a camper body, or is towed by a motor vehicle. This definition specifically excludes

mobile homes. For purposes of this Bylaw, the meaning of camper, camping trailer and travel trailer shall be synonymous.

**TRAVEL TRAILER CAMPGROUND:** A parcel of land upon which two or more campsites are located for occupancy by travel trailers, for recreation, education or vacation purposes. For purposes of this Bylaw, the meaning of travel trailer campground and travel trailer park shall be synonymous.

**VERMONT RESIDENTIAL BUILDING ENERGY STANDARDS CERTIFICATE:** The one--page, adhesive--backed form that itemizes the energy components of a building and indicates its compliance with the Energy Code. The builder must sign and affix this certificate to the property and provide one copy each to the Town Clerk and the Department of Public Service within 30 days of construction completion.

**V.S.A:** Vermont Statutes Annotated.

**WETLAND:** For the purposes of this Bylaw the meaning of the term is taken from the Vermont Wetland Rules.

**YARD:** An open space on a lot not occupied or obstructed by any structure or portion of a structure.

**YARD, FRONT:** The yard extending across the full width of the yard between the front lot line and the nearest line or point at the principal building.

**YARD, REAR:** A yard extending across the full width of the lot between the rear lot line and the nearest line or point of the principal building.

**YARD, SIDE:** A yard extending across from the front yard to the rear yard between the side lot lines and the nearest line or point of building.

**ZONING ADMINISTRATOR:** The zoning administrative officer for the Town of Thetford.