

# **Town of Tinmouth**

## **Zoning Regulations**

Adopted June 21, 1977

Amended 1978, 1980, 1983, 1990, 1992, 1994, 2003,  
2004, 2005, 2010, 2014, 2014, 2016, 2018

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## ATTACHMENT A: Flood Hazard Area Regulations

# **Article I: Enactment and Objectives**

## **Section 101 - Enactment**

In accordance with the Vermont Planning and Development Act, hereinafter referred to as the "Act", 24 V.S.A. Chapter 117, there are hereby established Zoning Regulations for the Town of Tinmouth which shall be known and cited as the "Town of Tinmouth Zoning Regulations".

## **Section 102 – Objectives**

1. To implement the policies of the duly adopted Town Plan for Tinmouth, Vermont.
2. To preserve the rural character of Tinmouth.
3. To maintain sustainable agriculture as an economic base that minimizes impact on soil, water, and air quality as the economic base.
4. To protect and preserve scenic and historic features, open spaces, fragile areas and wildlife habitats and other natural resources .
5. To maintain a population consisting of residents and families of all incomes, ages, and types.
6. To allot sufficient space in appropriate locations for agricultural, residential, recreational, and commercial development in order to meet the needs of the town.
7. To prohibit incompatible and uncoordinated development activity.
8. To allow for future growth to occur in a way that will not place an undue burden on the town to provide community services and facilities.
9. To assure that basic needs of health, safety, education, and housing will be met and maintained at satisfying levels in accordance with population growth.
- 10 To foster local activities, programs, development patterns, and town governance that build the town's strong sense of community.
11. To require that public utilities be located in such a way that they will not have an undue adverse effect on the scenic quality and land values of the town.
- 12 To require that town highways permit safe and efficient movement of vehicles through the town while maintaining its rural character.

## Article II: Establishment of Zoning Districts and Zoning Map

### Section 201 - Establishment of Zoning District

The Town of Tinmouth hereby establishes the following four (4) Zoning Districts and two (2) Overlay Zoning Districts:

- Protection
- Conservation
- Rural Residential
- Lakeshore
- Agricultural Overlay
- Flood Hazard Overlay
- Ridgeline Protection Overlay District

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

The minimum lot sizes, set back requirements, lot frontage requirements, and height limitations for each district are as specified in Article V: Lot Size, Setbacks, Yards.

#### A. Protection District

1. Description: Protection areas contain lands that are extremely sensitive to development or which are critical for ensuring public health in the community. Areas of high elevation, significant wetlands, and the Tinmouth Gulf are included.
2. Purpose: To ensure the long-term preservation and sustainability of the land and community in Tinmouth and to promote very low impact recreation.

#### B. Conservation District

1. Description: Conservation areas contain lands that are sensitive to development. These include large regionally connected forested blocks, steep slopes (often with shallow soils), high elevations, wetlands, stream banks and wildlife corridors, as well as areas of scenic, ecological, cultural, or historic significance.
2. Purpose: To preserve the physical, natural, and scenic characteristics of lands in the district; to ensure the maintenance of existing contiguous forest wildlife habitat and viability of working lands associated with a sustainable forest products economy. to promote low-intensity development on the edge of open fields or forested land to avoid loss of either resource
3. Agricultural Overlay Areas: Some land within this district is within the Agricultural Overlay District. Please examine the Official Zoning Map and see Section E below.

#### C. Rural Residential District

1. Description: The Rural Residential District contains areas throughout the town historically centered on agricultural development. Homes should continue to be located on suitable land and compatibly related to a pattern of open fields and woodland.
2. Purpose: To preserve a traditional rural development pattern, conserving and maintaining historic sites and structures when possible, while accommodating the demand for new rural housing with minimal economic and environmental impacts. Development shall be located on sites which preserve open space, forested areas, and natural resource areas.
3. Agricultural Overlay Areas: Some land within this district is within the Agricultural Overlay District. Please examine the Official Zoning Map and see Section E below.

#### D. Lakeshore District

1. Description: The Lake Shore District consists of all land between the normal mean watermark (shoreline at the average lake level as established by the State of Vermont)-and the back of

existing lots with lake frontage, except where a lakefront lot also contains land in another district. The boundary of the Lake Shore District shall be a line drawn across that lot between the outer corners of the adjacent lots. The area is predominantly composed of seasonal homes, with an increasing number of permanent homes.

2. Purpose: The Lake Shore District shall protect Chipman Lake (Tinmouth Pond) from excessive density and from uses which would cause excessive pollution, erosion or invasive plants, prohibit public access, or significantly reduce its scenic qualities.

Note: applicants for projects located within the Lakeshore District are encouraged to contact the Vermont Agency of Natural Resources, to determine the potential need for necessary permits for work that might impact shorelands, wetlands, conservation areas, or waters of the State. Information can be obtained at <http://www.anr.state.vt.us/dec/permits.htm>

#### E. Agricultural Overlay District

1. Description: The Agricultural Overlay District contains land areas presently used for agricultural purposes or containing agriculturally-friendly soil associations and slopes with the greatest agricultural resource value in the community.
2. Purpose: To retain large tracts of undeveloped, open land in areas identified as having a high resource value for agriculture. This Overlay District will preserve open space and prevent the fragmentation of land into parcels too small to farm .

#### F. Flood Hazard Overlay District [See Attachment A for District Regulations].

1. Description: The Flood Hazard Overlay District contains land areas identified as areas of special flood hazard on National Flood Insurance Program maps for Tinmouth, as more fully described in Article III of Attachment A.
2. Purpose: To promote the public health, safety and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard, to maintain the wise use of agricultural land in flood-prone areas, and to minimize losses due to flooding by:
  - a. Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood or cause excessive increase in flood heights or velocities;
  - b. Requiring that uses vulnerable to floods, including public facilities that serve such uses, be protected at the time of initial construction, against flood damage;
  - c. Protecting individuals from buying lands that are unsuitable for their intended purposes because of flood hazard.

#### G. Ridgeline Protection Overlay District.

1. Description: The Ridgeline Protection Overlay District protects wooded ridge profiles that are highly visible from many directions. The District buffers the ridgelines for a distance of five hundred (500) feet on both sides, the distance measured horizontally.
2. Purpose: To retain the undeveloped character of these prominent features of the Tinmouth landscape, protect important habitat corridors for wildlife, viewsheds from Tinmouth and surrounding communities, and prevent development on shallow soils and/or steep slopes.

### **Section 202 – Zoning Map**

The location and boundaries of Zoning Districts are established as shown on the Official Zoning Map which is hereby made a part of these zoning regulations. No changes shall be made to the Official Zoning Map except in accordance with the procedures for amending zoning regulations. The location and boundaries of the Special Flood Hazard Area Overlay District are controlled by the flood insurance studies and maps published by the Department of Homeland Security as described in Article III of Attachment A.

Regardless of the existence of copies of the Official Zoning Map which may periodically be made or published, the Official Zoning Map shall be that located in the Town Offices and shall be the final authority as to the current zoning status of land and water areas.

Maps included in the Tinmouth Town Plan are incorporated here by reference.

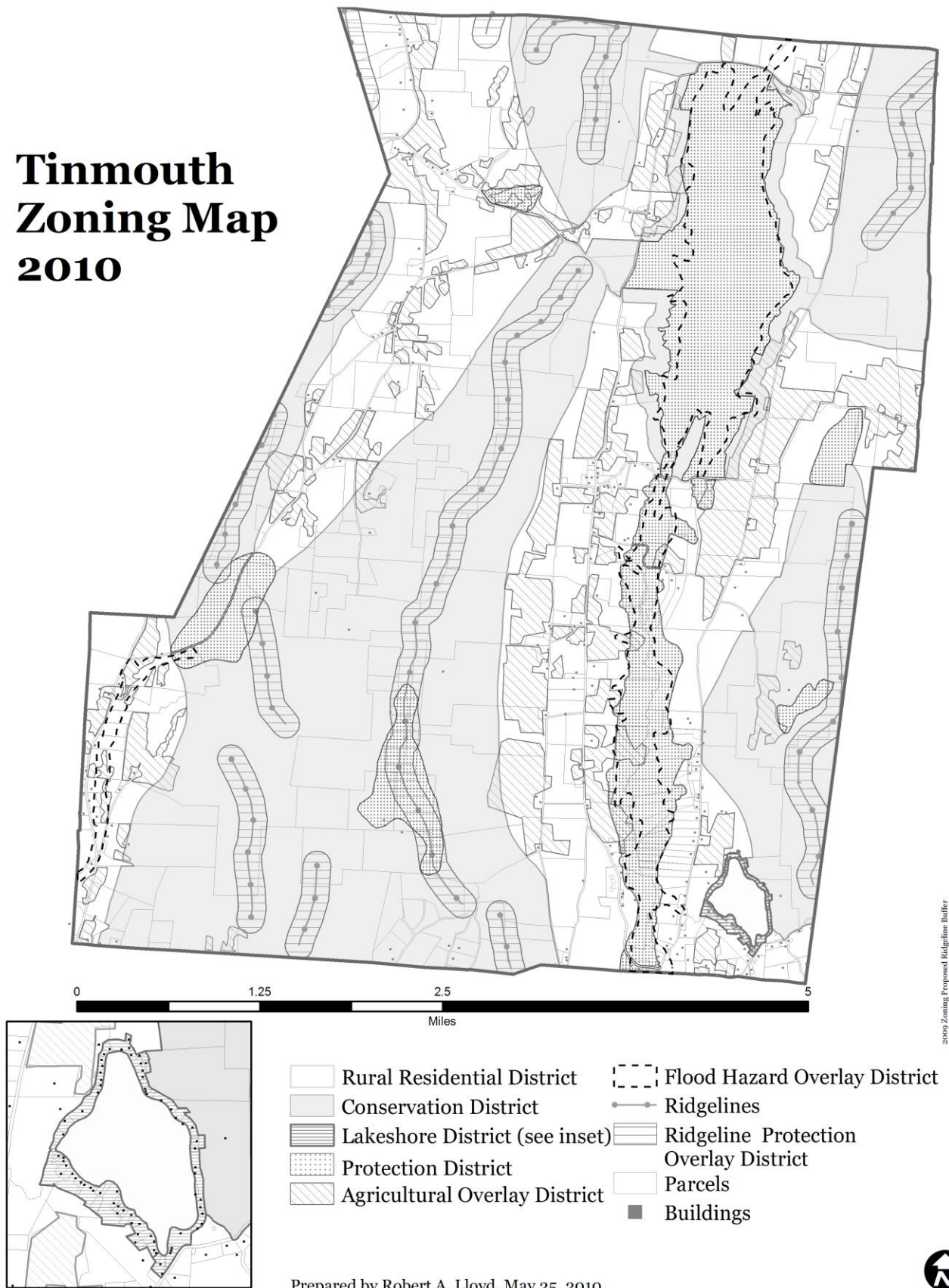
### **Section 203 - Interpretation of Zoning District Boundaries**

Except in the Special Flood Hazard Area Overlay District, if uncertainty exists with respect to the boundary of any Zoning District on the Zoning Map, the Zoning Administrator, after consultation with the Planning Commission, shall determine the location of such boundary. The following shall serve as determining guidelines:

1. Boundaries which approximately follow the center lines of roads, streams, and transportation and utility rights-of-way shall be construed to follow such center lines;
2. Boundaries which approximately follow lot lines shall be construed to follow such lot lines;
3. Boundaries which follow shorelines shall be construed to follow the low mean water level;
4. Boundaries which are parallel to or extensions of features in (1) through (3) above shall be so construed.



# Tinmouth Zoning Map 2010



## Article III: Table of Permitted Uses

USES ARE LISTED AS (A) ALLOWED, NO PERMIT REQUIRED; (P) PERMITTED WITH A ZONING PERMIT; (C) CONDITIONAL USE, REQUIRING A CONDITIONAL USE PERMIT FROM THE BOARD OF ADJUSTMENT. USES NOT LISTED SHALL BE PROHIBITED.

All uses are subject to Article V; Non-residential uses are subject to Article VIII; Conditional uses are subject to Article IV

USE	Rural Residential	Conservation	Lakeshore	Protection	Ag. Overlay See Section	FH Overlay See Footnote below	Ridgeline Protection Overlay	Notes
Accessory Apartment	P	P	P		P			See Definition and Section 921
Accessory Dwelling	P	P			P			See Definition and Section 922
Accessory Uses and Buildings	P	P	P		C		C	See Section 908
Adult Care Facility (10 residents or less)	P				C			
Agriculture	A	A	A	A	A	P	A	
Animal Training Facility (incl. dogs)	C	C			C			See Definition
Bed and Breakfast	P	P	P		C			See Definition
Boat Rental Facility			P					
Boathouse, Private			P					
Church, convent, cemetery, parish house	C	C			C			See Section 406
Commercial Spring Water	C	C						
Contractor's Storage Yard	P	P	P		C			See Definition
Convenience Store	P	P	C		C			See Definition
With Small Gas Station	C	C	C		C			See Definition
Community Center	P	P	P		C			

USE	Rural Residential	Conservation	Lakeshore	Protection	Ag. Overlay See Section 407	FH Overlay See Footnote below	Ridgeline Protection Overlay	Notes
Day Care – six or fewer full time kids	P	P	P		P			See Section 916
Day Care – six to ten full time kids	P	P	P		P			See Section 916
Dwelling – Single Family	P	P	P		C		C	See Definition
Dwelling - Two Family	P	P	C		C			
Educational Camp	P	P	P		C			See Definition
Educational Institutions & Schools	C	C			C			See Section 406
Farm Stand	A	A			A			See section 913
Fire Station	P	P	P		C			
Food Processing & Distribution	C	C			C			See Small Industry
Forestry	A	A	A	A	A	P	A	See Section 918 – Seasonal Change of Use
Galleries, Art	P	P	P		C			
Group / Residential Care Home	P	P	P		P			See Section 915
Home Based Business	C	C	C		C			See Section 410
Home Occupations	P	P	P		P		C	See Section 913
Hunting Camp	P	P			C		C	See Definition
Kennel, Commercial	C	C			C			See Definition
Library	P	P			C			
Mobile Home Park	C							See Section 408
Municipal Offices	P	P			C			
Museums	P	P	P		C			

USE	Rural Residential	Conservation	Lakeshore	Protection	Ag. Overlay See Section 407	FH Overlay See Footnote below	Ridgeline Protection Overlay	Notes
Outdoor Lighting – residential	A	A	A		A	P		See Section 909
– non-residential	P	P	P		P			See Section 909
Over 2,000' elevation	C	C			C			See Section 909
Parks, Municipal	P	P	P		C	P	C	
Post Office	P	P	P		C			
Plant Nurseries	C	C	C		C			See Definition
Recreation Areas, Commercial	P	P	C		C			See Definition
Recreation Areas, Public	P	P	P		C	P	C	See Section 918 – Seasonal Change of Use
Recreation Areas, Commercial	P	P	C		C			See Definition
Recreation Areas, Public	P	P	P		C	P		See Def, Sec 918
Restaurant	P	P	P		C			See Definition
Sand and Gravel Pits	C	C			C			See Section 404
Small Industry	C	C			C			See Section 403
Small Professional Office	C	C			C			See Definition
Special Public Uses	C							See Section 406
Telecommunications Facilities	C	C			C		C	See Section 409
Temporary Uses and Structures	P	P	P	P	P		C	See Section 911
Windmills	C	C	C		C		C	See Section 405

Footnote on Flood Hazard Overlay Zone: With the exception of those uses listed as permitted in this column, all other uses listed as (P) or (C) in the underlying district are Conditional in the Flood Hazard Overlay (see Attachment A).

### **Section 301 - Limitations**

Pursuant to 24 VSA §4413, 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 the regulations do not have the effect of interfering with the intended functional use:

1. State- or community-owned and operated educational institutions and facilities.
2. Public and private schools and other educational institutions certified by the state department of education.
3. Churches and other places of worship, convents, and parish houses.
4. Public and private hospitals, regional solid waste management facilities certified under 10 VSA Chapter 159.
5. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 VSA §6606a.

Further, pursuant to 24 VSA §4413, no zoning permit shall be required for public utility power generating plants and transmission facilities, as these are regulated under 30 VSA §248. Nor shall a zoning permit be required for accepted agricultural and silvicultural practices, including the construction of farm structures, as defined by the appropriate state officials described in statute. However, a person shall notify the Zoning Administrator of the intent to build a farm structure, and shall abide by minimum setbacks for the relevant zoning district unless otherwise approved by the Secretary of Agriculture.

Further, pursuant to 24 VSA §4412: A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 VSA §4501, shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be so considered if it is located within 1000 feet of another existing or permitted such home.

## **Article IV: Uses Permitted Subject to Conditions**

A zoning permit shall be issued by the Zoning Administrator for any use or structure which requires conditional use approval only after the Board of Adjustment grants such approval. The Board shall consider the appropriate conditions of Sections 401 through 413. One-family and two-family dwellings created following the adoption of the Tinmouth Subdivision Regulations, amended March, 2010, are exempted.

### **Section 401 - General Considerations**

All structures, parking and loading areas, and accesses shall be located and designed to minimize natural resource and aesthetic impacts of the development. Designs which retain the maximum meadowland for potential agricultural use and maximum land of scenic value shall be given favorable consideration.

- A. The proposed development shall not adversely affect:
  - 1. The capacity of existing or planned community facilities, including the Tinmouth grade school, the town offices, the fire department, and any public water supply or sewage disposal systems;
  - 2. Traffic on highways in the vicinity;
  - 3. The potential for renewable energy resources on affected or adjacent properties
  - 4. The safety and efficiency of pedestrian circulation. Walkways shall be maximized.
- B. The proposed development shall be landscaped or screened to ensure compatibility with adjoining areas. In particular, the Board of Adjustment may require structures, parking and loading areas, or accesses to be screened or landscaped according to the following criteria:
  - 1. Visibility of areas from roads and/or adjoining properties.
  - 2. The need to screen parking areas from roads and adjacent properties.
  - 3. Proximity of lots used for residential purposes.
  - 4. All landscaping and screening shall be completed and maintained in accordance with the conditional use permit as approved by the Board of Adjustment. Any dead or diseased planting shall be replaced as soon as seasonally possible.
- C. Parking and loading facilities shall be adequate with respect to on-site circulation, parking, loading, and emergency vehicle access. Particular consideration shall be given to the effect of noise, glare, and odors on adjoining properties and to the general aesthetics of the design.
- D. The applicant may be required to provide a suitable performance bond or other form of security to guarantee the performance and completion of all planting required.
- E. In granting conditional use approval, the Board may attach such reasonable conditions, in addition to those outlined, as it deems necessary.

### **Section 402 - Applications for Conditional Use**

All uses requiring Conditional Use approval shall submit the following to the Zoning Administrator:

- A. Eight (8) sets of a map and plan. The documents shall include the following:
  - 1. Name and address of the owner of record of this and adjoining lands; name and address of applicant, if different than owner; name and address of person or firm preparing the plan; written and drawn description of the property giving location, scale of map, north point, and date.

2. Map of the property drawn to scale showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, zoning district boundaries, existing surface waters (brooks, ponds, etc.), if any..
  3. Scale Map showing proposed structure(s), locations and land use areas; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed; water wells and sewage treatment facilities
  4. Landscaping plans, noting all changes to the pre-existing landscape, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks, transformers, etc.
  5. Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
  6. The location and size of proposed signs.
  7. Certification that the applicant has notified all adjoining property owners of the application.
- B. Any of the above information can be waived at the discretion of the Board of Adjustment. A request for a waiver shall be submitted to the Board of Adjustment and shall specify which portions are requested for waiver. The applicant shall include a preliminary plan providing sufficient information upon which the Board of Adjustment can make a decision. The Board of Adjustment may request additional information.
- A request for a waiver shall not be considered as submission for purposes of timing requirements relating to action on applications.
- C. The Zoning Administrator shall check to see whether all required information has been submitted and the fee paid and, if so, shall submit the completed application to the Board of Adjustment. Incomplete applications shall be returned to the applicant.

### **Section 403 - Small Industry**

In addition to the requirements set forth in Sections 401 and 402, for applications proposing small industry uses, the Board of Adjustment shall consider the following:

1. The development or use must not destroy or significantly alter wetlands or natural areas identified in the Comprehensive Town Plan or by the State of Vermont.
2. No noise which exceeds 70dB(A) at the property line or which represents a significant increase in the noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted.
3. Fly ash, dust, fumes, vapors, gases and other forms of air pollution. No emission shall be permitted which can cause any damage to health, to animals, vegetation or other forms of property or which can cause excessive soiling at any point on the property of others.
4. Odors. No emission of detectable, objectionable odor beyond the property line shall be discharged, caused, allowed or permitted.
5. Fire, Explosive or Safety Hazard. No fire, explosive or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on Municipal facilities or services.
6. Storage of Flammable Liquids. - The storage of any highly flammable liquid above ground with a total capacity greater than 550 gallons shall be prohibited within 500 feet'

of the nearest lot line and must conform with the State Fire Code regarding the storage of flammable liquids.

7. Hazardous Materials. All generation, handling, and disposal of hazardous materials shall be in compliance with Chapter 6, Subchapter VI of the Environmental Protection Regulations adopted by the Vermont Agency of Environmental Conservation. The storage, handling and disposal of nuclear and radioactive waste shall comply with Title 10, Chapter 157, VSA and Title 10, Code of Federal Regulations (CFR.)
8. Adequate space for loading and unloading must be provided within the boundaries of the lot. At no time shall any part of a truck or van be allowed to extend onto the traveled portion of a public road while the truck or van is being loaded or unloaded.
9. No outdoor storage of materials, equipment, or products of the industry shall occur within the lot setbacks and required yards.
10. Hours of operation – The Board of Adjustment may set hours of operation for an approved business.

#### **Section 404 – Sand and Gravel Pits**

In addition to the requirements set forth in Sections 401 and 402, for applications proposing sand and gravel pits, the Board of Adjustment shall consider the following:

1. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, road, or private property. All provisions to control natural drainage shall meet with the approval of the Zoning Administrator.
2. No excavating or stock piling of materials shall be permitted within 75 feet of the nearest property line or 300 feet of the nearest dwelling.
3. No power-activated sorting machinery or equipment shall be located within 75 feet of the nearest property line or 300 feet of the nearest dwelling.
4. No blasting or crushing shall be permitted.
5. Stripping of top soil for sale or for use on other premises, except as may be incidental to a construction project or sand or gravel operation on the same premises, shall be prohibited.
6. No sand or gravel pit shall be located in a wetland area as designated on the National Wetlands Inventory Map. Said map is incorporated herein by reference.
7. Hours of operation shall be limited to 8:00 am - 5:00 pm, Monday through Friday.
8. Dust must be controlled on any private access road. Dust from a screen must be contained on site.
9. Access to a sand or gravel pit should not be located through a wetland, unless no reasonable alternative is available.
10. Entry access shall have a locked gate.
11. Provisions shall be made to prevent spills/discharges of oil, grease, lubricants, etc.
12. Evergreen buffer screen consisting of a staggered double row of 8' to 10' (minimum) evergreens, 10' on center, must be planted and maintained to screen residential views of site/activities. These may be thinned to maintain the screen. Screen may be required up to 300' from access road or pit.
13. A reclamation/restoration plan shall be submitted and include:
  - a. all boundaries of the area proposed for restoration
  - b. final topography of the area proposed for restoration



- c. final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities
  - d. schedule of final restoration activities including seeding mixtures, cover vegetation, fertilizer types and rates;
  - e. photographs of the site before excavation (from at least two different points); and,
  - f. subsequent use of the site, if known or anticipated.
14. The extension or expansion of existing sand and/or gravel pits by more than 2 acres in 5 years shall require a permit.
  15. The Board of Adjustment may require a bond for reclamation
  16. Applicant must obtain all necessary State permits and comply with all applicable regulations.
  17. A sand or gravel pit on a farm shall be termed accessory to an agricultural use and shall not be subject to provision (5) of this Section if all of the following requirements are met:
    - a. The excavation area is confined to one-half acre or less.
    - b. No trucks whose primary function is hauling sand, gravel or soil are kept on the premises.
    - c. The sand or gravel pit is not a primary source of income or the owner thereof.
    - d. No power-activated sorting machinery or equipment is located on the premises.
  18. Slopes are not to exceed 2 to 1.
  19. No more than 1 acre per year may be excavated.

#### **Section 405 - Windmills (Wind Energy Conversion Systems)**

All systems to be connected to the power grid must go through Section 248 of V.S.A. Title 30 and are exempt from town regulation. In addition to the requirements set forth in Sections 401 and 402, the Board of Adjustment shall consider the following when reviewing applications for off grid windmills / Wind Energy Conversion Systems (WECS).

1. Natural screening using existing landscape features is encouraged.
2. Where feasible, structures and facilities shall be sited to avoid open fields.
3. The maximum design output for a facility shall be 30 kw.
4. The maximum height for any windmill facility shall be 130 feet.
5. Towers shall have a minimum setback from all property lines, power lines, and public rights of way of either 100 feet or 1½ times the height of the tower, whichever is greater.
6. Wind energy systems shall not exceed sound levels of 70 dBA as measured at the nearest neighboring property boundary. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
7. No wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator. Off-grid systems shall be exempt from this requirement.

#### **Section 406 - Special Public Use Limitations**

- A. This section applies to uses specified under 24 VSA Chapter 117 §4413 and listed below:
  1. State- or community-owned and operated institutions and facilities
  2. Public and private schools and other educational institutions certified by the state department of education
  3. Churches and other places of worship, convents and parish houses

4. Public and private hospitals
  5. Regional solid waste management facilities certified under 10 V.S.A chapter 159
  6. Hazardous waste management facilities for which a notice of intent to construct has been received under section 6606a of Title 10.
- B. In addition to the requirements set forth in Sections 401 and 402, the Board of Adjustment shall consider the following:
1. Additional yard space or setbacks of the use from the property line other than what is already required in the district may be required to protect the privacy of adjoining property owners.
  2. The density, size, height or bulk of buildings may be increased or decreased as needed to ensure compatibility with established patterns of land use in the district, and to ensure orderly growth and development in the community.

#### **Section 407 - Conditional Use in the Agricultural Overlay**

For a listing of uses relevant to this section, see Article III, Table of Uses.

In addition to the requirements set forth in Sections 401B and 402, the Board of Adjustment shall consider the following:

Where feasible, all structures, landscaping, and accesses shall:

1. Retain a maximum amount of contiguous open land for agricultural use by
  - a) siting structures in treed areas or on the edges of open land, or
  - b) by implementing other innovative with the permission of the Board or of these regulations;
2. Utilize the least productive land for development
3. Protect historic resources and outstanding natural resources;
4. Be compatible with existing uses; and,
5. Provide shared driveways for separate homes.

#### **Section 408 – Mobile Home Park**

In addition to the requirements set forth in Sections 401 and 402, the Board of Adjustment shall consider the following when reviewing an application for the establishment of a mobile home park:

1. Mobile home lots in a mobile home park shall not be located within a flood way, and all mobile home pads within the park, if located in a Flood Hazard Area, shall meet the requirements of Section 411.
  2. All mobile home parks shall have individual lots for units, adequate driveways and sufficient parking.
  3. There shall be no dead-end rights-of-way unless with a turnaround having at least a fifty (50) foot interior radius.
  4. All roads within a mobile home park shall comply with Town road standards, and adequate walkways shall be provided.
  5. The minimum size for a mobile home park shall be ten acres and it shall have at least 2.5 acres per individual mobile home lot.
  6. A mobile home park shall consist of no more than ten (10) mobile home lots. Each mobile home lot shall be at least 20,000 square feet in area; shall have an average width of at least 100 feet and an average depth of at least 120 feet; and shall have planted thereon at least 4 trees of native species at least 1 inch diameter at chest height.
  7. Minimum setbacks shall be 15 feet from all mobile home lot edges. All buildings not physically connected to a mobile home must be at least fifteen (15) feet from any other building or mobile home.
  8. A minimum of twenty (20) percent of the total land area in any mobile home park shall be set aside for common recreational use.
- The project must meet all state and local septic and water standards.

## **Section 409 - Wireless Telecommunication Facilities**

A. Purpose. The purpose of this section is to ensure appropriate review and oversight of wireless telecommunications towers and associated infrastructure, to protect the scenic, historic, environmental, and residential resources and qualities of the community, and to minimize the visual and environmental impacts of these facilities, all within the confines dictated by federal law.

### **B. Procedure**

1. Conditional use approval is required for all wireless telecommunications facilities that are licensed and/or regulated by the Federal Communications Commission, along with any associated equipment, buildings, and infrastructure. However, in accordance with 24 VSA §4412(9), the Zoning Administrator shall issue a permit for a Wireless Telecommunications Facility that is determined to create either no impact or only de minimis impact upon any of the criteria in this Article of the Zoning Regulations. The Zoning Administrator's decision shall be in writing, and may be appealed as with any other decision.
2. No permit shall be required for a Wireless Telecommunication Facility that is subject to or has received a Certificate of Public Good under 30 VSA §248a.
3. Prior to granting any approval, the Board of Adjustment shall make affirmative findings upon the entire general conditional use criteria described in Article IV of the Zoning Regulations; the criteria described below; any other applicable provisions of this Ordinance, and the goals and policies in the Town Plan.
4. A complete application form shall be filed, along with a site plan showing all information required in Section 402, and any other information required in this Section. A complete application shall also include a report, plans, and elevations stamped by qualified engineers that:
  5. Describes the height, design, and elevation of all proposed infrastructure;
  6. Documents the height of all proposed antenna mounting positions on a tower;
  7. Describes the tower's proposed capacity, including number, height, and type(s) of antennas that the tower is expected to accommodate; and
8. Documents the need for the proposed site and structure(s), and demonstrates why no other alternative site will provide adequate coverage or capacity. However, the applicant may at the same time submit the required information for alternative sites acceptable to it. If the Board of Adjustment rejects the primary site, on request of the applicant it will proceed to consider such alternative site or sites without requiring a new application.
9. Applicants shall also submit photographs of existing conditions at the proposed site or sites, and accurate photo simulations showing post-construction conditions at the site.
10. Additional information may be required by the Board of Adjustment.
11. An applicant must be a wireless service provider or FCC licensee, or landowner with an executed contract to provide land or facilities to one of those entities. A permit shall not be granted for facilities to be built on speculation.
12. No permit shall be required for a property owner to place or allow placement of antennae used to transmit, receive, or transmit and receive communications signals on the property owner's premises if the aggregate area of the largest face of the antennae is not more than eight sq ft, and if the antennae and mast to which they are attached do not extend more than 12 feet above the roof of that portion of the building to which they are attached.

13. No permit shall be required for a Wireless Telecommunication Facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed 50 feet in height.
14. This section shall not apply to amateur radio, citizens band radio, AM or FM radio, or broadcast television service.

#### C. Location

1. Prohibited locations. Telecommunications towers and associated equipment, buildings, and infrastructure shall not be located in:
  - a. Land not ordinarily suitable for subdivision under Section 301.1 of the Subdivision Regulations
  - b. Historic Districts as defined in the Town Plan, or designated as such by the State of Vermont or the United States Department of the Interior; unless located within an existing structure, e.g. a church steeple or attic.
  - c. Protection District or the Flood Hazard Overlay Zone;
  - d. any required setback from rivers, streams, or wetlands.
2. Telecommunications towers, and associated equipment, buildings, and infrastructure, including access roads, shall comply with Section **412**, Conditional Use in the Ridgeline Protection Overlay District.
3. Applicants are encouraged to locate antennas within existing tall structures such as church steeples or barn silos; in these instances, the above standards may be modified by the Board of Adjustment.
4. Height. In addition to other standards herein, no tower or structure shall exceed 130 feet in height. No tower or structure may be higher than 10 feet above the average height of buildings within 300 feet of the proposed facility. The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Wireless Telecommunication Facility on lands owned or leased by the applicant.
5. Setbacks. The minimum setback requirement for any telecommunications tower or associated structure shall be as required in the applicable zoning district, plus an additional setback equal to the height of the tower (the 'fall zone'). The minimum setback for any tower taller than 100' shall be 300' from a dwelling and residential zoning district boundary. Where a tower is mounted on an existing structure such as a barn, silo, church steeple, or utility pole, and the tower does not increase the height of the structure more than ten feet, then the additional 'fall zone' setback is not required.
6. Lighting. Towers requiring lighting shall not be permitted, unless the Board of Adjustment finds it the only viable alternative to meet reasonable facility requirements of a communications service provider. If a tower tall enough to require lighting is permitted by the Board of Adjustment, the only tower lighting allowed is that required by FAA regulation. All lighting shall be shielded to minimize or prevent glare onto adjoining properties.
7. Bulk, Height, and Glare. All towers and related infrastructure shall be designed to minimize the visual impact of height and mass. Materials shall be of a type, style, color, and location so as to blend into the site, minimize glare, and not result in undue adverse visual impacts to the natural landscape or the built environment.

8. Noise. The Board of Adjustment may require the applicant to provide a study from a qualified engineer as to the maximum projected noise from the proposed facility, measured in dB Ldn (decibels, logarithmic scale, accounting for greater sensitivity at night). This study shall include existing or ambient measurements, plus noise that may be created or caused by the proposed facility. Noise measurements and projections shall be provided for the location of the tower facility itself and at the property line. Noise emissions shall not exceed 70 db at the property line.
9. Screening/Camouflage/Fencing.
  - a. Screening shall be required at the perimeter of the site, unless it is demonstrated that existing natural foliage is sufficient. Required screening shall be at least ten feet in depth, and at least ten feet tall, with the potential to grow to significant size at maturity.
  - b. Disturbance to existing topography or vegetation shall be minimized, unless found necessary to mitigate visual or aesthetic impacts. The location and type of security fencing shall be shown and described on the site plan.
  - c. Towers are not required to be camouflaged as trees. If the applicant chooses to disguise the tower as a tree, it shall closely imitate a native species such as white pine, hemlock, or spruce.
10. Co-location
  - a. The principle of co-location shall be employed to the greatest extent possible. The applicant shall demonstrate that there are no other existing towers that can accommodate the proposed use(s). If other towers do exist, then the applicant must demonstrate that they are technically inadequate, and/or that bona fide, good faith negotiations with that landowner have failed. The duration and terms of any offer by either party shall be disclosed to the Board of Adjustment.
  - b. Any permit granted shall include a condition requiring that other wireless service providers shall be allowed to co-locate on any new or existing tower. The applicant shall provide written evidence as to how it will comply with this condition, and under what terms it proposes to allow co-location. Such terms must be approved by the Board of Adjustment and included in the permit.
11. Access Roads and Above Ground Utilities. Any roads or above ground utilities shall follow the contour of the land, and be sited and constructed to minimize visual impacts to the greatest extent possible.
12. Environmentally Sensitive Areas. The Town Plan and Zoning Regulations describe environmentally sensitive areas including steep slopes, wetlands, floodways, unique natural features, wildlife habitat, historic sites, high elevations, ridgelines, and scenic resources. Telecommunications facilities and associated infrastructure shall avoid undue adverse impacts on these areas to the greatest extent possible. Where there may be adverse impacts, then the project shall be designed to mitigate these impacts to the greatest extent possible. The Board of Adjustment shall approve these mitigations in the permit.

#### D. Annual Status Report

The owner/operator shall provide an annual report to the town on the status of the facility, including any plans being contemplated or anticipated for modification or removal of the facility.

#### E. Abandonment or Discontinuation of Use

At least 30 days prior to abandonment or discontinuation of use, the owner/operator shall provide written notice to the Town by certified mail of any intent to abandon or discontinue the use of the facility or site. Upon abandonment or discontinuation of use, Zoning Administrator may require the owner/operator to remove all structures and facilities promptly and return the site to an acceptable condition as determined

by the Zoning Administrator, unless it is demonstrated that good cause exists (for example, time of year or anticipated reuse by another party) to allow these structures and facilities to remain. In either case, a clear and definitive time frame shall be specified for removal.

#### F. Bond or Security

As a condition of permit approval, the Board of Adjustment may require a bond or other means of security to ensure that sufficient funds will be available to remove all structures and restore a site should the owner/operator be unwilling or unable to do so. If the Board of Adjustment or Select Board determines that such bond must be reviewed by counsel, applicant shall be responsible for paying a reasonable attorney's fee.

#### G. Modifications

Any change in the number or size of facilities or equipment, or change in technology from the original permit, shall require an amendment to that permit.

#### H. Independent Review

If needed or requested, the Board of Adjustment may engage independent consulting assistance to review the application for conformance with the Zoning Regulations and Town Plan. Consistent with federal law, the applicant will be required to pay any costs associated with that review. The Board of Adjustment shall not issue a decision until these funds, and any attorney's fee due under F above, are received.

#### I. Consistency with Federal Law

These regulations are consistent with the Telecommunications Act of 1996, in that they do not prohibit the provision of wireless telecommunications services, do not discriminate among service providers, and do not pre-empt FCC regulations governing radio frequency emissions.

#### J. Telecommunications Terms

**Antenna:** A device attached to a tower or other structure for transmitting or receiving wireless signals.

**Co-location:** The use of a single mount or tower for more than one antenna for one or more telecommunications providers.

**FAA:** Federal Aviation Administration

**FCC:** Federal Communication Commission

**Telecommunications facility/Wireless telecommunications facility:** A tower, pole, antenna, or other structure intended for receipt or transmission of radio, telephone, or television signals or other electromagnetic signals by a telecommunications or wireless service provider. This includes all appurtenant equipment and infrastructure, including but not limited to access trails or roads, guy wires, buildings, or other equipment or structures.

**Telecommunications provider/Wireless service provider:** an entity licensed by the FCC to provide telecommunications services to individuals or institutions.

**Tower:** A structure more than 20 feet in height above the ground elevation built for the purpose of support, elevation, or placement of antennas for broadcast services or wireless services.

#### **Section 410 - Home Based Business**

In addition to the requirements set forth in Sections 401 and 402, the Board of Adjustment shall consider the following:

1. The dwelling and the lot shall maintain a residential appearance. Accessory structures must not significantly affect the character of the neighborhood. Goods for sale shall only be displayed inside buildings, except to the extent that external display is permitted by the Board of Adjustment. No used goods or components (“junk”), whether intended for reuse or later recycling, shall be visible. All such items must remain within buildings at all times.
2. A single sign consistent with State sign law may be placed at the road frontage. Additional outdoor signs advertising goods produce or for sale are not permitted.
3. The business shall be conducted within a portion of the dwelling or in a building or buildings accessory thereto.
4. The business will be owned and operated by a resident of the dwelling, and shall employ no more than two additional workers, other than members of the owners’ immediate family living in the dwelling. The Board of Adjustment may approve a larger number of employees if the applicant shows that they will not cause excessive traffic for the adjacent roads and neighborhoods, and the number of employee vehicles parked at the site will not create an industrial appearance. The Board may require screening of parking lots.
5. The Board shall take into account the proximity of neighboring dwellings or institutions and the business’s potential effect on neighbors. The business shall not generate unsafe or intrusive traffic, parking, noise, vibration, glare, fumes, odors, or electrical interference in the neighborhood.
6. The conditional use permit is granted to the applicant for the length of time that the applicant occupies the dwelling. The permit shall expire upon relocation by the applicant and shall neither remain with subsequent occupants or the dwelling nor transfer to a new location with the applicant.
7. Fire, Explosive or Safety Hazard. No fire, explosive or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on Municipal facilities or services.
8. Hazardous Materials. All generation, handling, and disposal of hazardous materials shall be in compliance with Chapter 6, Subchapter VI of the Environmental Protection Regulations adopted by the Vermont Agency of Environmental Conservation. The storage, handling and disposal of nuclear and radioactive waste shall comply with Title 10, Chapter 157, VSA and Title 10, Code of Federal Regulations (CFR.)
9. Hours of operation – The Board of Adjustment may set hours of operation for an approved business.

#### **Section 411 – Projects in the Flood Hazard Overlay District**

Regulations of projects in the Flood Hazard Overlay District are contained in Attachment A, Town of Tinmouth Flood Hazard Area Regulations. Projects requiring a conditional use permit are described in Attachment A, Section V, “Conditional Use Approval.”

#### **Section 412 - Conditional Use in the Ridgeline Protection Overlay District**

In addition to the requirements of Sections 401 and 402, the Board of Adjustment shall consider the following:

1. Structures and access roads shall be sited to avoid ridgelines, designed to be as unobtrusive as possible, and blend into the forest landscape to the maximum extent feasible.
2. When viewed from VT 140, VT 133, Mountain View Road, North End Road, North East Road, East Road, Gulf Road, or Upper Gulf Road, no part of any structure shall appear to be higher than the ridgeline.

3. Structures and access roads shall be sited on land as level as possible, such as benches and terraces, and avoid steep slopes. The highest point on a structure, except for communications towers and residential windmills, shall be at least 50 feet below any nearby ridgeline.
4. Tree cutting shall be limited. Ridgelines shall not be cleared for lawns or other purposes connected with a structure.
5. Access roads shall be designed to avoid steep slopes, and shall be shielded by vegetation from visibility from the valley below. They shall be constructed and maintained at private expense. They must be reviewed by the Chief of the Tinnmouth Volunteer Fire Department for accessibility by the Department's equipment. Hunting camps are exempt from this requirement.



# Article V: Lot Size, Setbacks, Yards

## Section 501 - Setbacks

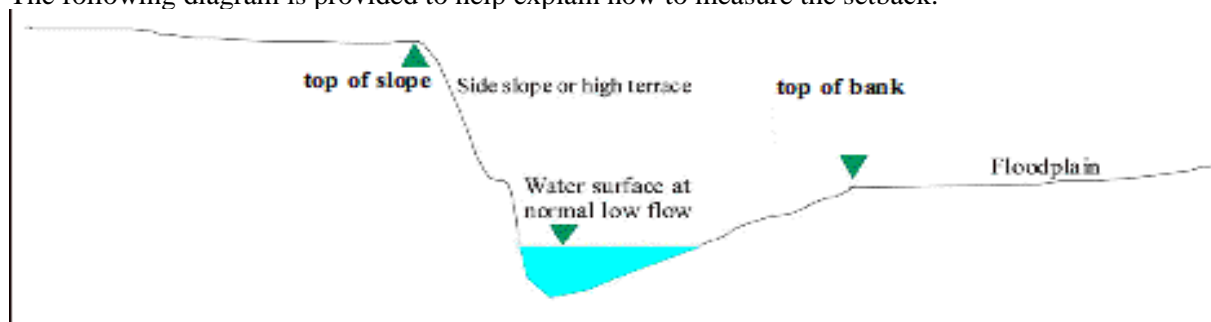
The following requirements apply to all uses shown as Permitted (P) in Article III, Table of Uses. Conditional Uses shall meet the requirements of Article IV and Article V.

District	Min Lot Size	Setbacks					Min Lot Frontage <sup>1</sup>	Max Bldg Height <sup>1</sup>	Notes
		Front	Side	Rear	Lake shore	Rivers & streams			
Protection		-	-	-	-	35'		-	
Conservation	25 acres	50'	35'	35'		35'	400'	35'	
Rural Residential	5 acres	50'	35'	35'	35'	35'	150' plus 50' for each acre above three, up to 400'	35'	
Lakeshore	1 acre	25'	10'	25'	50' <sup>1</sup>	35'	80'	35'	
Agricultural Overlay	Same as underlying district					35'			See Section 407
Flood Hazard Overlay	Same as underlying district								See Section 411
Ridgeline Protection Overlay	Same as underlying district								See Section 412

## Section 502 - Rivers and Streams Setback

A 35' buffer of undisturbed natural vegetation, measured perpendicular to the top of slope (see diagram below), shall be left along the edges of rivers and streams. The purpose is to promote the establishment and protection of heavily vegetated areas of native vegetation and trees along the Town's water bodies to reduce the impact of storm water runoff, prevent soil erosion, protect wildlife and fish habitat, and maintain water quality.

The following diagram is provided to help explain how to measure the setback.



**Section 503 - Wetland Setbacks**

A protected 100 foot buffer zone of natural vegetation shall be maintained around all Class I and II wetlands identified on the Town's Wetland Inventory Map to protect flood control, water quality, ground water recharge and wildlife habitat functions.

If development is being considered within 400 feet of Class I, or within 100 feet of Class II wetlands, the applicant is advised to contact the District Wetlands Ecologist at the regional Department of Environmental Conservation Water Quality Division to delineate the onsite wetland boundary and obtain any required state permit.

**Section 504 – Exclusion of Road Right of Way from Lot Area**

Lot area for the purpose of establishing minimum lot size shall exclude lands lying within public and private rights-of-way.

**Section 505 – Setback for a Deck Attached to a Dock**

A deck no larger than 300 square feet attached to a dock in the water, only needs to meet the side setback requirement in the Lake Shore District.

## Article VI: Nonconformities

### **Section 601 – Nonconforming Uses and Nonconforming Dimensions**

A nonconforming use is a use of a property or an activity on the property, which is not an allowed or permitted use in that Zoning District. A nonconforming dimension is a physical dimension such as, but not limited to, setbacks, building height or lot frontage, that is not consistent with the rules governing such dimensions in the Zoning District. All nonconformities, whether of use or dimension, are subject to the provisions of this Article.

### **Section 602 – Construction Approved Prior to Adoption or Amendment to Regulations**

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

All nonconformities shall be subject to the provisions of Sections 602 through 605 of this regulation.

### **Section 603 - Completion of Construction**

All construction of nonconforming structures for which permits were granted under the provisions of previous regulations must be completed within one year of the effective date of these regulations.

### **Section 604 - Changing a Nonconforming Use**

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

### **Section 605 – Enlarging a Nonconforming Use or Structure**

The area of a structure or structures containing a nonconforming use may be enlarged on the same lot with the approval of the Board of Adjustment, provided that:

1. all provisions of these Regulations, except type of use, are complied with; and
2. the Board of Adjustment determines that there will be no undue, adverse effect on the character of the neighborhood; and
3. only one such enlargement is made; and
4. the total enlargement does not exceed fifty percent (50%) of the area of the structure containing the nonconforming use in existence at the time of the adoption of these Regulations; and
5. such action does not increase the degree of nonconformance.

### **Section 606 - Restoration of a Nonconforming Use or Structure**

1. Lands, buildings, and other improvements used for a nonconforming use which have been damaged or destroyed by fire, explosion, flood, vandalism or act of war, may be restored to carry out the same use within one year. The Board of Adjustment may extend this period for one year when it can be demonstrated that restoration within one year is not possible or, in the judgment of the Board of Adjustment, creates an undue hardship.
2. Buildings and other improvements having dimensional nonconformities which have been damaged or destroyed by fire, explosion, flood, vandalism or act of war, may be restored to the same dimensions within one year with the prior approval of the Board of Adjustment. Otherwise, replacements for the improvements shall comply with the Zoning Regulations in effect at the time of loss.

**Section 607 – Discontinuance of a Nonconforming Use or Structure**

Any Nonconforming Use or Structure, which has ceased by discontinuance or abandonment for a period of one year shall thereafter conform to the provisions of this Regulation. Intent to resume a nonconforming use shall not confer the right to do so unless actual resumption occurs within the specified time period.

**Section 608 – Maintenance of a Nonconforming Use**

A Nonconforming Use may be normally maintained or repaired provided that such action does not increase the degree of nonconformance.

**Section 609 – Development of Nonconforming Lot**

An existing nonconforming lot or parcel may be developed provided that all provisions of these Regulations, except those which create the nonconformity are complied with. See also existing small lots (Section 906).

**Section 610– Alteration of a Nonconforming Lot or**

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

**Section 611 – Repair, relocation, replacement, or enlargement of nonconformities within a regulated Flood Hazard Area**

[See Attachment A]

## Article VII: Repealed (November 2018)

## Article VIII: Site Plan Approval

### Section 801 - Site Plan Approval

No zoning permit shall be issued by the Zoning Administrator for any use or structure until the Planning Commission grants site plan approval. Notwithstanding, the following uses or structures are exempted:

- One-family and two-family dwellings
- Accessory structures
- Uses or structures requiring a conditional use permit
- Uses or structures approved as part of lot created following the adoption of the Tinmouth Subdivision Regulations, amended November, 2010.

#### A. Submission of Site Plan Map and Supporting Data

The owner shall submit two (2) site plan maps 24”X36” in size; and in addition, ten (10) sets of 11”X17” photo-reduced copies, and supporting data to the Planning Commission which shall include the following information presented in drawn form and accompanied by written text:

1. Name and address of the owner of record and adjoining lands; name and address of person or firm preparing the map (if different); scale of map, north point and date.
2. Survey or sketch of the property showing existing features, including contours (if available), structures, roads, utility easement, rights of way, zoning classification, zoning district boundaries, land use and deed restrictions.
3. Site plan showing proposed structure(s), locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
4. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

#### B. Site Plan Review Procedure

The Planning Commission shall take into consideration the following objectives in conducting its review:

1. Innovative siting of buildings that considers the Tinmouth Town Plan’s objectives of preserving open fields and regionally connected forested ridges. Site plans that retain the maximum possible meadowland for potential agricultural use and maximum possible land of scenic value shall be given favorable consideration. The Planning Commission shall encourage structures and roads to be located on the edges of properties, where such siting furthers the preservation of meadowland, unfragmented forested blocks, sensitive natural areas, and historic sites and structures.
2. Maximum safety of pedestrian and vehicular circulation between the site and the street network including: location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets; sight distance improvements; shared access with adjoining properties; and location of sidewalks and/or other walkways. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.
3. Consideration shall be given to the items in 2. above and effect of noise, glare, or odors on adjoining properties. Refuse and service areas should be included in this consideration. Provisions for snow removal should also be made.
4. Adequacy of circulation, parking and loading facilities. Adequacy of on-site circulation, parking, and loading facilities. In the case of a Planned Residential Development, no more than eight parking spaces shall be accommodated in any single parking area.

5. Particular attention shall be given to safety, including aisle widths to accommodate emergency vehicles, traffic movement patterns and location of parking areas to prevent conflicts with entering and exiting traffic onto a public street, location of loading docks and number and size of parking spaces.
  6. Adequacy of landscaping, screening and setbacks with regard to achieving maximum compatibility and protection to adjacent properties.
  7. Particular consideration shall be given to preservation of existing vegetation, visibility of unsightly areas from the road and adjoining properties and the adequacy of landscaping materials to meet seasonal conditions and soils conditions.
  8. Protection of existing or proposed renewable energy resources, such as solar collectors and windmills, on this and adjoining properties.
  9. Adequate storm water management measures to ensure that no additional storm water runoff is generated beyond the boundaries of the property and that existing drainage patterns are not altered in a manner which impacts neighboring properties, town highways or surface waters.
  10. Plans for handling storm water runoff shall utilize the best available technology to minimize off-site storm water runoff, increase on-site infiltration, and encourage natural filtration functions.
- C. The Planning Commission shall act to approve, approve with conditions, or disapprove any such site plan within forty-five days after the date upon which it receives the completed set of plans and information required by A. above. Failure to so act within such period shall be deemed approval.
- D. Copies of the Planning Commission's decision, along with findings of fact shall be sent to the applicant and filed with the town clerk.

## **Article IX: General Regulations**

### **Section 901 - Required Frontage on, or Access to, Public Roads or Waters**

No land development may be permitted on lots which do not have either frontage on a public road or public waters, or access to such road or waters by a permanent easement or right-of-way at least 25 feet in width.

### **Section 902 - Front Yard Setback**

Notwithstanding provisions for front yards elsewhere in these regulations; the front yard setback shall be measured starting 25 feet from the center line of the road. This setback requirement shall apply to public and private roads.

### **Section 903 - Waste Water Disposal and Potable Water Supply**

Sewage disposal shall be accomplished by means of on-site systems in locations shown on the submitted site plans. Prior to the start of construction, the developer must 1) submit copies of plans and documents used to obtain a state wastewater and potable water supply permit under the Vermont Wastewater System and Potable Water Supply Rules; 2) submit state certificate that shows full compliance with a state permit issued under those rules; 3) provide timely notice of, and opportunity to observe, any soil testing, such as the digging of test pits. See also Section 1103, Certificate of Occupancy.

### **Section 904 - Lots in More than One Zoning District**

Where a District boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than 30 feet into the more restricted part, provided the lot has frontage on a road in the less restricted district.

To build on a lot which is located in two districts, the building must meet the requirements of the district in which the building will be built.

### **Section 905 - Reduction of Lot Area**

No lot shall be so reduced in area that the area, yards, lot width, frontage or other requirements of these Regulations shall be smaller than herein prescribed for each District. The provisions of this section shall not apply when part of a lot is taken for a public purpose.

### **Section 906 - Existing Small Lots**

Any lot described in a deed in the town land records in existence on the effective date of the most recent relevant amendment to these Regulations may be developed for a purpose permitted in the District in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre or with a minimum width or depth dimension of 40 feet.

### **Section 907 - More Than One Use on a Lot or of a Structure**

Nothing in this ordinance shall prevent two different uses from occupying a single lot (meeting minimum lot size) or structure, provided that each use complies with all other applicable provisions of this ordinance.

### **Section 908 - Accessory Structures**

An accessory structure shall comply with the required lot setbacks and height limitations. Agricultural buildings are exempt from height limitations.

### **Section 909 - Outdoor Lighting**

All private lighting shall be placed, directed, and shielded so that the light points downward and does not create direct light to shine on other properties. Lighting shall not interfere with pedestrian or motorist vision.

Lighting shall be placed in a manner that will not create a nuisance to other premises, interfere with traffic, and which shall be in keeping with Tinmouth's rural character.

Lighting shall not be neon and shall be in a steady, non-fluctuating or non-undulating manner (Temporary holiday lighting is exempt from this requirement)

### **Section 910 - Off-Street Parking Space Requirements**

For every building hereafter erected, altered, extended or changed in use, there shall be provided sufficient off-street parking spaces..

### **Section 911 - 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.

### **Section 912 - Parking and Occupancy of Recreational Vehicles**

A "recreational vehicle" as used in this section means a Class A, B, or C motor home, a fifth wheel trailer, camping trailer, travel trailer, pick-up coach, or camper, and any other self-propelled vehicle designed or converted for temporary occupancy while traveling or camping. The term also includes all vehicles with facilities for sleeping, eating, and other life activities, except for a permanently established mobile home. It shall be unlawful for any person to park a recreational vehicle on any public or private property, except in accordance with the following regulations:

1. The owner of a recreational vehicle may park it on his own property and no closer than 15 feet to any lot line. A recreational vehicle so parked shall not be used as permanent living quarters and shall not be hooked up to any utilities.
2. A recreational vehicle may be occupied on any lot by a non-paying guest of the owner of the lot for a period not to exceed 45 days in any 12 month period. It shall not be hooked up to any utilities.

### **Section 913 - Home Occupations**

Residents may use a minor portion of a dwelling or accessory structure for an occupation which is customary in residential areas and which does not change the character of those areas as long as:

1. The dwelling, accessory structures and the lot maintain a residential appearance at all times;
2. The home occupation shall be carried on within a minor portion of the dwelling or a minor portion of an accessory building such as garage or barn.
3. Exterior displays of goods and wares, or the exterior storage of materials not customarily associated with residential use, or other exterior indications of the home occupation, including alterations to the residential character of the principal or accessory structures, shall not be permitted. One unlit exterior sign is permitted.
4. The use is conducted within a portion of the dwelling or a building accessory thereto by a resident or the principal practitioner of the home occupation and not more than two (2) employees;
5. The use does not generate unsafe or intrusive traffic, parking, noise, vibration, glare, fumes, odors or electrical interference.
6. A permitted home occupation is granted to the applicant for the length of time that the applicant occupies the dwelling. The permit shall expire upon relocation by the applicant and shall



neither remain with subsequent occupants of the dwelling nor transfer to a new location with the original applicant.

7. A home occupation may include sale on the premises of goods produced by the applicant and employees on the premises. For sales of goods produced by others, retail or wholesale, see Section 410, Home Based Business
8. The home occupation permit does not allow expansion of the occupation into a home based business or small industry, nor does it entitle the applicant to a conditional use permit for such expansion. If expansion is desired, to small industry or home based business a permit will be required. See Sections 403 and 410.
9. A used or new car sales business, other than infrequent casual sales of a resident's personal vehicles, is not a home occupation.
10. A seasonal farm stand is an agricultural use, provided it sells products grown on the farm where it is located. A farm stand may also sell agricultural products grown or produced (e.g., maple products or fresh milk) in the Town of Tinmouth.

#### **Section 914 - Equal Treatment of Housing**

This regulation shall not have the effect of excluding mobile homes, modular homes, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

This regulation shall not have the effect of excluding from the municipality housing to meet the needs of the population as determined in the Town Plan.

#### **Section 915 - Residential Care Home or Group Home**

A state licensed or registered residential care home, or group home, serving not more than six persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another such home.

#### **Section 916 - Day Care Facilities**

A state registered or licensed family child care home serving six or fewer children shall be considered by right to constitute a permitted single family use of property.

A state registered or licensed family child care home serving no more than ten full time children and five part-time children, as defined in VSA Title 33 4902(3)(A) shall be considered to constitute a permitted use of property, but requires site plan approval .

#### **Section 917 – Open Space Uses in the Flood Hazard Overlay**

Open space uses permitted in the Flood Hazard Overlay District as detailed in Article III above are subject to additional requirements due to the District's special environmental sensitivities and public safety concerns. All open space uses detailed in Article III shall be permitted to the extent that they are not prohibited by any other ordinance or Regulation and provided that they do not:

1. require the erection of structures, storage of materials and equipment;
2. require importing fill from outside the flood hazard area;
3. require channel modification or relocation;
4. obstruct flood flows;
5. increase the flood level within the floodway during the occurrence of the base flood;
6. increase off-site flood damage potential; and,
7. propose the construction of water supply, sanitary sewage or on-site waste disposal systems.

### **Section 918 - Seasonal Use Change**

A permit is required for a change of use from seasonal to year-round. Construction shall not begin until proof of a wastewater permit is provided to the Town.

### **Section 919 - Boundary Line Adjustments**

Except as provided in Section 709 3. (PUD's), the Zoning Administrator may approve boundary line adjustments if the following conditions are found to exist:

1. No additional lots will be created.
2. No more than two lots are involved.
3. The adjustment will not make complying lots nonconforming.
4. The adjustment will not increase the nonconformance of any existing lot.

NOTE: A plat map must be filed in accordance with State Statutes within 180 days of the decision to issue the permit. The plat map provided shall show all buildings on the properties and show setbacks to make sure that a complying lot will not become non-complying as far as setbacks are concerned.

### **Section 920 - Acceptance of Streets; Improvements**

Every street or highway shown on a plat filed or recorded as provided in this chapter shall be deemed to be a private street or highway until it has been formally accepted by the municipality as a public street or highway by ordinance or resolution of the legislative body of the municipality. No public municipal street, utility, or improvement may be constructed by the municipality in or on any street or highway until it has become a public street or highway as provided in this section. The legislative body shall have authority after a public hearing on the subject to name and rename all public streets and to number and renumber lots so as to provide for existing as well as future structures.

### **Section 921 - Accessory Apartment**

An efficiency or one-bedroom apartment, located within or appurtenant to a principal single family dwelling, that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, is permitted, subject to administrative review to assure that it complies with all of the following:

1. The property has sufficient wastewater capacity.
2. The unit does not exceed 50 per cent of the total habitable floor area of the principal single family dwelling.
3. Applicable setback, coverage, and parking requirements specified in these regulations are met.

### **Section 922 - Accessory Dwelling**

(A) An accessory dwelling that is attached to, or on the same lot as, a single family dwelling, (i.e. not a two family or multifamily dwelling) shall be permitted, provided that the lot contains sufficient land for a second lot in the district in which it is located, e.g., at least ten acres in the rural residential zone. A lot may not contain both an accessory apartment and an accessory dwelling.

1. An accessory dwelling is subject to administrative review for compliance with the following provisions and the issuance of a zoning permit:
  - a) An accessory dwelling shall have facilities for independent living, including sleeping, food preparation, and sanitation.
  - b) The accessory dwelling shall meet all applicable setback and any other dimensional requirements for the district in which it is located; or, for an existing nonconforming structure, the accessory dwelling shall in no way increase the degree of noncompliance under Section 607.
  - c) It shall be demonstrated to the satisfaction of the Zoning Administrator, or Board of Adjustment, as appropriate, that adequate water supply, septic system, and off-street parking capacity exist to accommodate residents of the accessory dwelling.
2. The permit for the accessory dwelling shall clearly state that the dwelling is an accessory structure to the single family residence and shall be retained in common ownership. Sale of the accessory

dwelling separate from the principal dwelling will require subdivision approval. An accessory dwelling may only be subdivided from the primary dwelling if it meets all current local and state regulations applying to such dwellings, including all density, dimensional, and other requirements for the district in which it is located.

### **Section 923 - Measurement of Building Height in the Lakeshore District**

In the Lakeshore District, the height of a building is the vertical distance measured from the proposed finish grade at the lake side of the building to the highest point of the roof. "Roof" does not include a chimney or lightning rod.

### **Section 924 – Commercial, Ground-Mounted Solar Energy Installations**

A. Setbacks. 30 V.S.A. § 248(s) states the following Minimum Setbacks for Ground-Mounted Solar:

Size of installation	From edge of state or municipal highway	From Property Boundaries
Greater than 150kW	100 feet	50 feet
Less than or equal to 150kW	100 feet	50 feet
Less than 15 kW	No requirement	No requirement

In accordance with 30 V.S.A. §248(s), the Board of Adjustment may approve a setback smaller than the minimums stated in 30 V.S.A. § 248(s) if agreed to by the applicant and each owner of property adjoining the smaller setback.

B. Screening. In accordance with 30 V.S.A. §248(b)(1) and 24 V.S.A. §4414 (15) and 24 V.S.A. §2291, the proposed development shall be landscaped or screened with evergreen plantings to ensure compatibility with adjoining areas. Solar arrays or structures shall be screened or landscaped to mask visibility from roads and/or adjoining properties. Natural screening using existing landscape features is encouraged. Any dead or diseased planting shall be replaced as soon as seasonally possible.

## **Article X: Other Regulations**

### **Section 1001 - Interpretation of Regulation**

The provisions of these Regulations shall be held to be minimum requirements adopted for the promotion of the public's health, safety, comfort, convenience and general welfare. Except as provided to the contrary in the Act or these Regulations, these Regulations are not intended to repeal, annul or in any way impair any Regulations or permits previously adopted or issued. Where these Regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, Regulations, permit, easement or agreement, the provisions of these Regulations shall control.

### **Section 1002 - Notice of Hearing**

Any public notice required for public hearing under this Zoning Regulation shall be given in accordance with Section 4444 of the Act.

### **Section 1003 - Fees**

Fees may be established by the Select Board in amounts necessary to cover all costs of the Zoning Administrator, the Board of Adjustment and the Planning Commission for processing applications, including costs of material, administrative time, and reasonable overhead such items as postage, telephone, computer use, etc.

### **Section 1004 - Severability**

If any provision of this Regulation is held invalid, the invalidity does not affect other provisions or applications of this Regulation which can be given effect without the invalid provision or application.

### **Section 1005 - Effective Date**

This Regulation shall take effect upon approval in accordance with the voting and other procedures contained in Title 24 VSA, Chapter 117.

### **Section 1006 - Precedence of Regulation**

The provisions of this Regulation shall take precedence over any conflicting and less restrictive local laws.

### **Section 1007 - Disclaimer of Liability**

These Regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages.

These Regulations shall not create liability on the part of the Town of Tinnmouth or any local official or employee thereof for any flood damages that result from reliance on this Regulation or any administrative decisions lawfully made there under.

# Article XI: Administration and Enforcement

## Section 1101 - Municipal Appointments

### A. Zoning Administrator

1. The Select Board 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 Select Board may remove a Zoning Administrator for cause at any time, after consultation with the Planning Commission.
2. An acting Zoning Administrator may be appointed by the Select Board, 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, Select Board shall establish clear policies regarding the authority of the Zoning Administrator relative to the authority of the acting Zoning Administrator.
3. The Zoning Administrator shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as necessary and appropriate.
4. 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 shall 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.

### B. Planning Commission

#### 1. Continuation of the Planning Commission

There shall be a Planning Commission for the municipality. The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Select Board in accordance with the Act [§§43214323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Select Board

#### 2. Powers and Duties

The Commission shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to

- a) The duty to:
  - i Prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition;
  - ii Prepare and approve written reports on any proposed amendments to these regulations as required by the act (Section 4441C);
  - iii Hold one or more warned public meetings on proposed amendments to these regulations, prior to submission of a proposed amendment and a written Report to the Legislative Body (Section 4441(d). See also Article XII).
- b) The power to hear and act upon:
  - i applications for site plan approval (Article VIII);
  - ii applications for subdivision approval (Subdivision Regulations);
  - iii applications for planned residential development (Article VII)

As part of the accomplishment of its duties the Planning Commission shall maintain complete records of its proceedings, studies and recommendations, as well as keep the Select Board informed on the current status of the Zoning Regulations and their effectiveness within the Town.

### 3. Advisory Counsel to Other Agencies

Upon request, the Planning Commission shall serve as guide and counsel to the Select Board of the Town, the Zoning Administrator, the Board of Adjustment, and other public offices in matters relative to the Zoning Regulations.

### 4. General Rules of Procedure

The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law.

### 5. Quorum and Votes

No meeting or hearing—resulting in official action by the Planning Commission may be held without the attendance of a majority of the members of the Commission in office at the time of the hearing or action; neither shall any official action be taken without the concurrence of a majority of the members of the Commission in office at the time the vote is taken.

## C. Board of Adjustment

### 1. Appointment and Term of the Board

- a. The Board of Adjustment shall consist of seven (7) members unless otherwise determined by the Select Board.
- b. Members of such Board shall be appointed and any vacancy filled by the Select Board. The terms of each member shall be for three (3) years unless otherwise determined by the Select Board [terms are completely up to Select Board]. Members may be reappointed to successive terms. The Select Board may appoint alternates to serve on the Board for a term of two years unless otherwise determined by the Select Board [terms are completely up to Select Board].
- c. Any member of the Board of Adjustment may be removed for cause by the Select Board upon written charges and after public hearing.

### 2. Appropriations

The Town may make such appropriations in its annual budget as are sufficient to afford the Board of Adjustment the technical and material assistance necessary to the fulfillment of its duties as outlined herein.

### 3. Officers of the Board

The Board of Adjustment shall annually elect its own officers (Chair, Vice Chair, Secretary and Assistant Secretary). The officers of the Board may administer oaths and compel the attendance of witnesses and the production of material pertinent to any issue under appeal.

### 4. Meetings

Meetings of the Board shall be held at the call of the Chair and at such times as the Board may determine. All such meetings shall be open to the public, except as otherwise provided by law.

### 5. Rules of Procedure

The Board shall adopt, from time to time, such rules of procedure as it determines are necessary to effect the provisions of this Regulation. The Board 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 Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations.

The Board, in connection with any proceeding, may examine or cause to be examined any property, maps, books or records bearing upon the matters concerned in such proceeding. The Board may require the attendance of any person having knowledge in the premises, may take testimony and require proof material for its information. The Board may administer oaths or take acknowledgment in respect of such matters. Any of the powers granted to a Board of Adjustment may be delegated by the Board to a specifically authorized agent or representative.

#### 6. Minutes and Findings

The Board shall keep minutes of its proceedings, indicating the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the clerk of the municipality as a public record.

All findings and actions of the Board shall be in writing and shall include the reasons for the action taken irrespective of its nature. Findings shall be detailed and in specific terms, discussing the reason for the decisions, beyond such generalities as "in the interest of public health, safety and general welfare." In every instance, a statement of the facts upon which such action is based shall appear in the decision.

#### 7. Quorum and Votes

For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the Board in office at the time of the hearing or action, and any action thereof shall be taken by the concurrence of a majority of the members of the Board in office at the time of the hearing or action.

#### 8. General Powers and Duties of the Board

##### a. General Powers.

Except as specifically provided herein and in accordance with the provisions of 24 VSA, Chapter 117, the Board of Adjustment may not amend, alter, invalidate or affect any plan or bylaw of the Town or the implementation or enforcement thereof, or allow any use not permitted by the Zoning Regulations or any other bylaw.

##### b. General Duties

The Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- i. appeals from any decision, act or failure to act by the Administrative Officer (Section 1101),
- ii. applications for conditional use approval (Article IV),
- iii. requests for waivers from one or more dimensional standards (see Section 1104 E)
- iv. requests for a variance in the application of provisions of the Zoning Regulations (Section 1104 A & B), and
- v. requests for the construction, repair, relocation, replacement, or enlargement of a structure within a Flood Hazard District (Section 1104 C).

#### 9. Applications

Requests to the board of Adjustment for review of items in 8.b.ii, iii, and v (above) shall be filed with the Zoning Administrator in accordance with the appropriate provisions of the zoning regulations. Requests to the board of Adjustment for appeals (8.b.i.) and variances (8.b. iv) shall be filed with the Secretary of the Board of Adjustment.

## **Section 1102 – Zoning Permits**

### **A. Applicability**

1. No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of Tinmouth until a zoning permit has been issued by the Zoning Administrator, as provided for in the Act [§§4448, 4449]. All development in the Special Flood Hazard Area must be reviewed as described in Attachment A.
2. “Land Development” means division of a parcel into two (2) or more parcels, the construction, exterior reconstruction, conversion, structural alteration, relocation or enlargement of any building(s) or other structure(s), or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land shall commence only in compliance with all regulations in this bylaw for the district in which such building or land is located. [24 VSA § 4303 (10)]

### **B. Exemptions**

No zoning permit shall be required for the following activities except as they may be located in the Special Flood Hazard Area [See Attachment A].

1. 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-of-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.
2. Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
3. Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
4. Hunting, fishing, and trapping as specified under 24 V.S.A. §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities [or other use].
5. Structures less than 100 square feet in area do not require application for zoning permit, but must comply in every other respect with required setbacks and other requirements in this bylaw and may be subject to other State requirements.
6. Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
7. Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
8. Exterior alterations to structures which do not result in any change to the footprint or height of the structure or a change in use.
9. Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
10. 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 404.
11. Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.



12. Small accessory buildings associated with residential uses which are less than 64 square feet of floor area and less than eight (8) feet in height, and are not located within required setback areas
13. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.

#### C. All Other Uses

1. Permits are required for all other changes, including the addition of a deck, story, or room, a foundation or new roof structure, the finishing of a basement, or the placement of a mobile home on the property
2. If the Zoning Administrator determines that the application must be reviewed by the Planning Commission and/or Zoning Board of Adjustment, the number of copies required shall increase from two to a number up to 15.
3. An application for any permit shall be accepted by the Zoning Administrator only if it is complete and is accompanied by payment in cash, check or money order made out to the municipality for the amount of the specified fee.

#### D. 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 Select Board, also shall be submitted with each application. In addition, the following information will be required as applicable:

1. Permitted Uses: Applications for a permitted use shall include 2 copies of 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) existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
  - f) the location of existing and proposed water and wastewater systems,
  - g) a surveyor's plot plan of the property, if available, and
  - h) other such information as required by the Zoning Administrator to determine conformance with these regulations.
2. Uses Subject to Board of Adjustment Review: For development requiring one or more approvals from the Board of Adjustment prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Secretary of the Board of Adjustment.

#### E. Issuance

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

1. Within thirty (30) days of receipt of a complete application, including all application materials, and fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the appropriate municipal panel and/or state for consideration. In accordance with the Act [§§4448, 4449], if the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 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 appropriate municipal panel or Select Board 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 Select Board 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)]. Upon request of the applicant, an application that has been denied under a proposed amendment that has been rejected, or that has not been adopted within the 150-day period, shall be reviewed again, at no cost, under the existing bylaw. .
4. A zoning permit shall include a statement of the time within which appeals may be taken under Section **1104**, 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 municipal offices for a period of fifteen (15) days from the date of issuance.

#### F. Effective Date

If a zoning permit is issued, it shall not take effect until the expiration of a fifteen (15) day appeal period. In the event that notice of appeal is properly filed, such permit shall not take effect until the final adjudication of said appeal.

No site work or building shall occur until the effective date of the permit.

#### G. Completion

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

#### H. Exclusivity of Remedy

The exclusive remedy of an interested person with respect to any decision or act of the Zoning Administrator, or any failure to act, with respect to any one or more of the provisions of this regulation shall be the appeal to the Board of Adjustment.

##### I. Special Duties Relating to Flood District Permits

The Zoning Administrator shall, to the extent possible, submit to the Federal Emergency Management Administration the information required by the Federal Emergency Management Administration Report Form with respect to the administration and enforcement of the flood hazard area sections of this bylaw. A copy of the Report shall be submitted to the State coordinating agency.

### **Section 1103 – Appeals**

#### A. 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 Board of Adjustment or the Town Clerk if no Secretary has been elected, and by filing a copy of the notice with the Zoning Administrator.

1. The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The Board shall give public notice of the hearing under Section 1106, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

2. The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [§4470].
3. In accordance with the Act [§4468], all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place of the adjourned hearing shall be announced at the hearing.
4. A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Municipal Clerk as part of the public records of the municipality, in accordance with Section 1107. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.

#### B. Interested Persons

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

1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
2. the Town of Tinmouth or any adjoining municipality;
3. a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
4. any ten (10) voters or property owners within the municipality who, by signed petition to the Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
5. any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

#### C. Notice of Appeal to Board of Adjustment

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

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

#### D. Hearing on Appeal

In accordance with the Act [§4468], The Board of Adjustment shall set a date and place for a public hearing of an appeal under this chapter that shall be within 60 days of the filing of the notice of appeal.

The Board of Adjustment shall give public notice of the hearing and shall mail to the appellant a copy of that notice at least 15 days prior to the hearing date.

#### E. Appeals to Environmental Court

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

1. "Participation" in a proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the 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 1104 – Variances and Waivers**

#### A. Variance Criteria

The Board of Adjustment shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Section 1103 of the Act. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the Town plan currently in effect. The Board may grant a variance and render a decision in favor of the appellant only if *all* of the following facts are found, and the findings are specified in its written decision:

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

#### B. Renewable Energy Structures.

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

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;
2. The hardship was not created by the appellant;
3. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or

development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

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

#### C. Variances within the Flood Hazard Area. [See Attachment A].

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

#### D. Waivers

1. As an alternative to some variances, the Board of Adjustment may grant a waiver of setbacks, lot frontage and building heights specified in Article V. Such waivers must be in conformance with the municipal plan [§4414(7) (a)] and state planning goals [§4302], and may:

- a. allow mitigation through design, screening or other remedy;
- b. allow waivers for structures providing for disability accessibility, fire safety and other legal requirements; or
- c. provide for energy conservation and renewable energy structures, and

2. The waiver, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations.

3. The process of applying for and/or appealing a waiver is the same as for a variance. A waiver may be granted subject to conditions.

### **Section 1105 - Administrative Review**

The Zoning Administrator may approve applications for one and two family dwellings and accessory structures, changes of use in existing buildings where no new impacts as compared with existing uses may be anticipated, and other amendments to administrative permits where conformance with the bylaws is found. The Zoning Administrator may also approve minor amendments to permits issued by the Planning Commission or the Zoning Board of Adjustment where no material changes or impacts are expected and where bylaw conformance is found.

Amendments that entail any of the following shall not require site plan review by the Planning Commission or the Zoning Board of Adjustment and may be administratively approved by the Zoning Administrator:

changes that do not violate, or require a variance from the provisions of the Zoning and Subdivision Regulations;

changes in land use that do not require an increased requirement of parking spaces;

changes to the building footprint involving less than five hundred (500) square feet or 10% of building area, whichever is less, and that do not affect parking, traffic, access or circulation;

minor changes in location of landscaped areas, sidewalks or bike paths;

substitution of planting materials from approved planting list, provided the substitution does not change the approved overall design concept;

minor changes in the location of structures;

no amendment shall have the effect of substantially altering the findings of fact of any approval in effect;

no new subdivision shall occur, although minor boundary line adjustments may be allowed.

### **Section 1106 – Violations and Enforcement**

#### A. Violations

The commencement or continuation of any land development **or** subdivision that does not meet the

requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of the Town of Tinmouth, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

#### 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 Town under Section 1107. 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 1107 of the Act.

### **Section 1107 – Public Hearings**

#### A. Public Notice

In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review (Article IV), appeals of decisions of the Zoning Administrator, variances, and waivers (Sections 1003, 1004) and final subdivision review (Tinmouth Subdivision Regulations). 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:

- publication of the date, place and purpose of the hearing in a newspaper of general circulation in the Town;
- posting of the same information in three (3) or more public places within the Town, 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;
- 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
- for hearings on subdivision plats located within 500 feet of a Town boundary, written notification to the clerk of the adjoining municipality.

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

- posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and

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.

The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

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

#### B. Hearings

In accordance with the Act [§4464], all meetings and hearings of the Appropriate Municipal Panel (Board of Adjustment or Planning Commission), 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 Appropriate Municipal Panel. The Appropriate Municipal Panel, in conjunction with any hearing under this bylaw, may:

- examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
- require the attendance of any person having knowledge of the premises;
- take testimony and require proof material for its information; and
- 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 1003B are met. The Appropriate Municipal Panel(s) shall keep a record of the name, address, and participation of each of these persons.

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

#### C. Decisions

Any action or decision of an Appropriate Municipal Panel shall be taken by the concurrence of a majority of the members of the Panel. In accordance with the Act [§4464(b)], the Appropriate Municipal Panel 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:

1. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 1103A. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
2. In rendering a decision in favor of the applicant, the Appropriate Municipal Panel may attach

additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:

- the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Tinmouth Select Board, 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
- a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

3. All decisions of an Appropriate Municipal Panel shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

### **Section 1108- Recording Requirements**

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

The Zoning Administrator shall maintain a record of all variance actions, including justification for their issuance;

3. A copy of any permit and/or variance shall be affixed to the copy of the deed of the concerned property on file in the Municipal Clerk's office.



## **ARTICLE XII: Amendments**

Any provision of this Regulation, as well as the boundaries of the various zoning districts established herein, may be amended or repealed subject to Sections 4441 and 4402 of the Act, and to the provisions summarized below.

### **Section 1201 - Drafting**

An amendment may be prepared by the Planning Commission or by any other person or body. A proposed amendment prepared by someone other than the Planning Commission shall be submitted in writing along with any supporting documents to the Planning Commission. The Planning Commission may then proceed as if the amendment or repeal had been prepared by them. However, if the proposed amendment or repeal of a bylaw is supported by a petition signed by not less than five (5) percent of the voters of the municipality, the Commission shall correct any technical deficiency and shall, without otherwise changing the amendment or repeal, promptly proceed as if it had been prepared by the Commission.

### **Section 1202 – Planning Commission Report**

When considering an amendment the Planning Commission may prepare a written report on the proposal. If the proposal would alter the zoning designation of any land area, the report should cover the issues which are detailed in Sections 4441 and 4442 of Chapter 117 of Title 24 of the Vermont Statutes Annotated. The report must include a brief explanation of the proposed bylaw, amendment or repeal, a statement of its purpose as required for public notice, and findings regarding how the proposal:

- conforms with or furthers the goals contained in the municipal plan, including the effect on the availability of safe and affordable housing,
- is compatible with proposed future land uses and densities of development as set forth in the municipal plan, and
- carries out, as applicable, any specific proposals for planned community facilities."

### **Section 1203 – Planning Commission Hearing**

The Planning Commission shall hold at least one (1) public hearing within the town after public notice. At least fifteen (15) days prior to the first hearing, a copy of the proposed amendment and written report shall be delivered with proof of receipt, or mailed by certified mail, return receipt requested, to:

- the chair of the Planning Commission of each abutting municipality, or in the absence of any Planning Commission in a municipality, to the clerk of that abutting municipality;
- the executive director of the Rutland Regional Planning Commission; and
- the Department of Housing and Community Affairs within the Agency of Commerce and Community Development.

Any of the foregoing, or their representatives, may submit comments on the proposed amendment to the Planning Commission, or may appear and be heard in any proceeding with respect to the adoption of the proposed amendment.

### **Section 1204 – Submission to Select Board**

After public hearing, the Planning Commission may make revisions to a proposed bylaw or amendment and to their written report, for submission to the Select Board. The Planning Commission may warn another hearing on the proposed revisions but is not required to do so. When the Planning Commission transmits the proposal and report to the Select Board, it must simultaneously file copies with the municipal clerk for public review.

However, if requested by the Select Board or if a proposed amendment was supported by a petition, the Planning Commission shall promptly submit the amendment, with changes only to correct technical deficiencies, to the Select Board together with any recommendation or option it considers appropriate.

Simultaneously with the submission, the Planning Commission shall file with the Town Clerk a copy of the proposed amendment for public review.

#### **Section 1205 – Legislative Hearing**

Not less than fifteen (15) or more than one hundred twenty (120) days after a proposed amendment is submitted to the Select Board they shall hold the first of one or more public hearings, after public notice, on the proposed amendment and shall make copies of the proposal and any written report of the Planning Commission available to the public upon request. Failure to hold a hearing within the one hundred twenty (120) days shall not invalidate the adoption of the amendment.

#### **Section 1206 – Changes**

The Select Board may make minor changes to the proposed amendment, but shall not do so less than fourteen (14) days prior to the final public hearing. If at any time the Select Board makes substantial changes in the concept, meaning or extent of the proposed amendment it shall warn a new public hearing or hearings.

When any part of the proposal is changed, the Select Board, at least fourteen (14) days prior to the hearing, shall file a copy of the changed proposal with the Clerk of the municipality and with the Planning Commission. The Planning Commission is then required to amend its report to reflect the changes made by the Select Board and submit the report as amended to the Select Board prior to the public hearing.

#### **Section 1207 – Adoption**

A bylaw, amendment or repeal shall be adopted by a majority of the Select Board at a meeting that is held after the last public hearing, and shall be effective 21 days after adoption.

The town, by action of the Select Board or by vote of the town at a special or regular meeting duly warned on the issue, may elect to require that bylaw amendments or repeals shall be adopted by vote of the town by Australian ballot at a special or regular meeting duly warned on the issue. That procedure shall then apply until rescinded by the voters at a regular or special meeting of the town. .

#### **Section 1208 – Timing**

If the proposed amendment is not approved or rejected within one (1) year of the date of the final hearing of the Planning Commission, it shall be considered disapproved unless five (5) percent of the voters of the municipality petition for a meeting of the town to consider the amendment, and the petition is filed within sixty (60) days of the end of that year. In that case a meeting of the town shall be duly warned for the purpose of acting upon the amendment by Australian ballot.

#### **Section 1209 – Distribution**

Copies of bylaws, amendments and repeals, as adopted, shall be sent to the regional Planning Commission and to the Vermont department of Housing and Community affairs.

## Article XIII: Definitions

### Section 1301 - Definitions

Except where specifically defined herein, all words used in these Regulations shall carry their customary meanings. Words used in the present tense include the future, and singular includes the plural; the word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied"; "person" includes individual, partnership, association, corporation, company or organization.

Doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Planning Commission.

**Access:** Frontage on a town highway (25' minimum) or a deeded 25 foot minimum right-of-way to a town highway.

**Accessory Apartment:** An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single family dwelling, and that has facilities for independent living, including sleeping, food preparation, and sanitation. (See Section 921)

**Accessory Dwelling:** A secondary dwelling unit established in conjunction with and clearly subordinate to a primary single family dwelling unit. It is retained in common ownership and attached to, or on the same lot as the primary dwelling unit, and otherwise meets applicable criteria of this bylaw (see Section 922). An accessory dwelling unit has facilities for independent living, including sleeping, food preparation, and sanitation facilities.

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

**Act, The:** The Vermont Planning and Development Act, 24 Vermont Statutes Annotated, Chapter 117. The State law authorizing and regulating local planning and land use regulation.

**Affordable Housing:** Housing that is owned or rented by its inhabitants whose gross annual household income does not exceed 100 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing is not more than 35% of the household's gross annual income.

**Agricultural or Forest Use:** Land which is used for raising livestock, or agricultural or forest products, including farm structures and the storage of agricultural equipment; and, as an accessory use, the sale of agricultural products raised on the premises.

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

**Animal Training Facility:** A facility for training dogs or other household pets in obedience, tricks or stunts, or other desired attributes. No dogs in residence except personal pets of the residents. The appropriate authorities may place limits on the facility to avoid disturbance to near neighbors. Such a facility is not an agricultural use.

**Appropriate Municipal Panel:** The Selectboard or Planning Commission when performing development review functions, or the Zoning Board of Adjustment or a Development Review Board.

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

**Boundary Adjustment:** Any revision to a plat legally filed with the municipality which creates no new building lots and which will have no impact on roads, right of way, or other public facilities. A boundary adjustment shall not be considered as subdivision under these regulations.

**Building:** Any structure enclosed by exterior walls and covered by a roof, constructed or used for residence, business, other public or private purposes.

**Building Height:** The vertical distance from the average finished grade surrounding the buildings to the highest point of the roof. See also Section 923, Measurement of Building Height in the Lakeshore District

**Community Center:** Includes public or private meeting hall, place of assembly, museum, art gallery, library, place of further education, not operated primarily for profit.

**Conditional Use:** A use or occupancy of a structure, or a use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions therein.

**Conservation Easement:** A legally binding agreement that limits certain types of uses or prevents development from taking place on the land in perpetuity while the land remains in private hands. In a conservation easement, a landowner voluntarily agrees to sell or donate certain rights associated with his or her property – often the right to subdivide or develop – and a private organization or public agency agrees to hold the right to enforce the landowner's promise not to exercise those rights.

**Contractor:** General contractors and builders engaged in the construction of buildings, either residences or commercial structures, or part thereof.

**Contractor's storage yard:** An unenclosed portion of the lot or parcel upon which a contractor maintains its principal office. Designation of the area as a contractor's storage yard would allow the area to be used to store and maintain construction equipment and other materials customarily used in the trade carried on by the contractor, including up to six trucks. Operations using and storing fewer than three trucks do not require a permit.

**Convenience Store:** A small retail establishment, whose structure is limited in area to 2,000 square feet, focused primarily on the sale of food and incidental home-care products. A fueling station may be included but requires a conditional use permit. A canopy may be included, but shall not extend more than 6 feet in any direction from a pump.

**Day care facility:** Any place operated, whether for compensation or not, whose primary function is protection, care and supervision of children under sixteen years of age outside their homes for periods of less than twenty-four hours a day by a person other than a child's own parent, guardian or relative, but not including a kindergarten approved by the state board of education. See Section 918 for details.

**Dwelling Unit:** Building or part thereof used as, living quarters for one family. The terms "dwelling," "one-family dwelling" or "two-family dwelling" shall not include a motel, hotel, boarding house or tourist home, but shall include mobile-home and modular (prefabricated) housing.

**Dwelling, One Family:** Building used as living quarters by one family.

**Dwelling, Two family:** Building used as living quarters by two families living independently of each other, i.e. 2 baths, 2 kitchens, 2 entrances, etc.

**Educational Camp:** The use of a site for provision of indoor or outdoor activities, including accommodations, arts and crafts, recreation, educational activities, and incidental food services.

**Family:** Two or more persons living together as a single housekeeping unit.

**Highway:** A public way; a main direct road or street.

**Home Based Business:** A business that is conducted at the dwelling of an owner of the business. It may include a service, manufacture of goods, or wholesale or retail sale of goods, other than new or used cars or trucks, but at a scale consistent with the character of the neighborhood and the continued use of the dwelling for residential purposes. It may have more employees, customers, facilities, or commercial activities than a home occupation. It requires a conditional use permit. See Section 410.

**Home Occupation:** Any use customarily conducted within a dwelling or a building accessory thereto by the residents thereof, which is clearly secondary to the dwelling used for living purposes and does not change the residential character thereof. See Section 913 for details.

**Hunting Camp:** A residential structure for seasonal occupancy, primarily during hunting seasons. The structure shall not exceed 600 square feet in floor area and shall have only one story. It shall have no public utility hookup. Lot size shall be 25 acres minimum. Occupancy is limited to 45 days in any calendar year.

**Junk Yard:** A junkyard shall consist of four or more junk motor vehicles. Junk motor vehicle means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle, other than an on-premise utility vehicle. Agricultural vehicles and equipment are excluded from this definition.

**Kennel:** A facility for the boarding, breeding, raising, grooming or training of four or more dogs, cats, or other household pets, whether or not animals are in full time residence. The appropriate authorities may place limits on the facility to avoid disturbance to near neighbors. Such a facility is not an agricultural use. The owner or an employee shall live on the premises.

**Lot: Also a parcel.** A plot or parcel of land under undivided ownership, whether freehold or leasehold.

Land occupied or to be occupied by a building and its accessory buildings together with the required open spaces, having not less than the minimum area, width and depth required for a lot in the District in which the land is located.

**Lot Width:** Lot width shall be measured at the front yard setback. (See Article V and **Setbacks**)

**Mobile Home:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling and electrical systems, and is:

- transportable in one or more sections; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this provision except for size and for which the manufacturer voluntarily files a certification required by the U. S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U. S. Code. 10 V. S. A. §6201(1).

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

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

**Nonconformity:** Nonconforming use, structure, lot, or parcel that was in conformance with all applicable laws, ordinances and regulations prior to the enactment of bylaws, or were improperly authorized as a result of error by the administrative officer.

**Open space** – Undeveloped land, not to be further subdivided

**Parcel:** See **Lot**.

**Plant Nursery:** A facility for growing ornamental flowers, shrubs, bushes, trees or other decorative plants for commercial sale. Not an agricultural use. Retail sales at the nursery are permitted only if the conditional use permit so specifies.

**Recreation, commercial:** Land use or structure intended for entertainment activities such as hiking trails, cycling paths, swimming pools, and tennis courts, but excluding any uses involving motorized vehicles or firearms.

**Recreation, public:** Recreational activities on publicly owned lands. May include any types of activities listed under “recreation, commercial”.

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

**Road Frontage:** Lot lines which abut a public road.

**Road Line:** Right-of-way line of a road as dedicated by deed or record. Where the width of the road is not established, the road line shall be considered to be 25 feet from the centerline of the road.

**Sand and Gravel Pits:** A type of open pit mine, or strip mine, from which the mineral removed is restricted to sand and gravel.

**Setback:** See **Yard**.

**Site Plan:** A plan, drawn to scale, showing uses and structures proposed for a parcel of land as required by these regulations. It includes lot lines, streets, building sites, open space, buildings, major landscape features, and proposed utility lines, if any.

**Small Industry:** The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. The total gross floor area of operation does not exceed 10,000 square feet. The number of employees does not exceed 10 full time equivalents.

**Small Professional Office:** An office or office structure, not greater than 3,000 square feet in total area, whose use is limited to work that causes no noise, odor, air, water, or soil pollution.

**Structure:** Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something located on the ground, except a wall or fence.

**Trailer:** An un-powered, wheeled vehicle towed by a self-propelled vehicle. Trailers may be used as temporary living quarters during travel or camping (camping trailers), as fixed living quarters (“mobile homes”), as temporary offices, and for carrying goods, equipment, machinery, and farm products. See Section 408.

**Wetlands:** Those areas designated as such on the Fragile Areas Map of the duly adopted Town Plan of Tinmouth, or which the Vermont Agency of Natural Resources has designated as wetlands, Class I or Class II.

**Wildlife corridor** – Connecting habitat that ensures that animals and plant species are able to move freely between conserved lands, undeveloped private lands, contiguous forest habitat, and other important habitats, land features, and natural communities to meet all their requirements for survival, both within the town and regionally.

**Wind Energy Conversion System (WECS):** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics and which is intended to primarily reduce on-site consumption of utility power.

**Windmill:** See Wind Energy Conversion System

**Wind Tower Height:** Maximum height of rotor blade tip, when vertical.

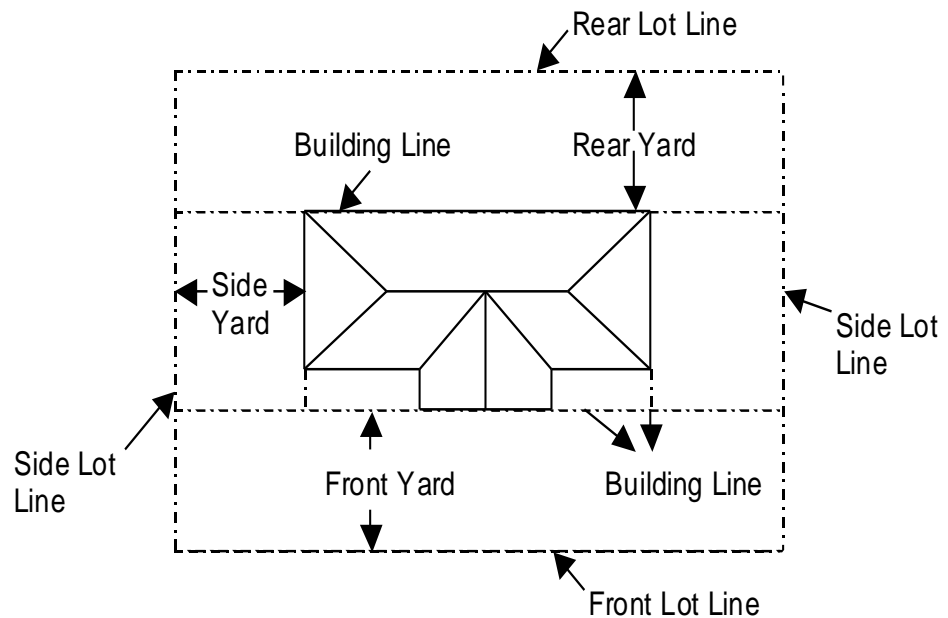
**Yard (Setback):** An open space at grade between a building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or

the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used. Decks, porches, etc. are part of the main building in measuring setbacks.

**Front Yard:** The yard between the front lot line and front line of a principal building extended to the sidelines of the lot. Any yard adjoining a street or road is a front yard.

**Rear Yard:** The yard between the rear lot line and the rear line of a principal building extended to the sidelines of the lot.

**Side Yard:** The yard between the side lot line and the side yard line of the principal building extended to the front and rear yards.



**Zoning Administrator:** The Town's Zoning Administrator or the person appointed to administer the zoning regulations.