

TOWN OF SANDGATE, VERMONT

ZONING BYLAWS

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TOWN OF SANDGATE

ZONING BYLAWS

Amended and Adopted: July 25, 2006

PURPOSE AND AUTHORITY

This zoning bylaw is adopted under the authority of 24 V.S.A. Chapter 117, and is intended to supersede and replace any previous zoning bylaw of the Town of Sandgate. Its adoption shall indicate the repeal of any previous zoning bylaw. The purpose of this bylaw is to encourage the appropriate development of all lands in the Town in a manner which will promote the public health, economy, and general welfare, to provide methods for the prevention of such land development problems currently existing or which may be foreseen, and to implement the goals of the Town Plan of Sandgate.

SECTION 1 - DEFINITIONS

For the purpose of this bylaw, certain terms or words shall be defined as below. Words in the present tense include the future, the singular number includes the plural, and vice versa. The word "person" includes a partnership, corporation, or other entity. The word "building" includes the word "structure".

Accessory Use: A use customarily incidental and subordinate to a principal use.

Building: Any structure larger than 150 cubic feet having a roof and intended for the shelter, housing or enclosure of persons, animals, or materials, or any fence over eight feet high.

Building, Accessory: Any building which is subordinate to and whose use is incidental and accessory to the use of the principal building. Porches and decks are considered accessory buildings for the purpose of setback requirements.

Building, Principal: The building on the lot containing the principal use or uses, as opposed to a building containing an accessory use customarily incidental to the principal use.

Building Area: The ground area referred to as "footprint" enclosed by the walls of a building, together with the area of all covered porches and other roofed portions.

Building Coverage: The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

Building Height: The vertical distance from the average finished grade within 10 feet of the walls of the building to the highest point of flat or mansard roofs, including the top of the parapet, or to the mean level between the eaves and ridges for gable, hip or gambrel roofs.

Building Line: A line parallel to a street at a distance equal to the required front yard, or at a greater distance when otherwise legally established by the municipality or by private covenant.

Camp, Primitive: A building or tent not to exceed 600 sq. ft., which must be built on piers, and not used as a primary dwelling unit, but used occasionally or seasonally for temporary shelter in connection with a recreational activity, but not operated as a business.

Changed Use: When different zoning dimensional requirements or sewage regulations apply to the new use relative to the old use. A changed use shall also include, but not be limited to, the conversion of camps or nonresidential buildings to single or multiple family residential buildings, the conversion of a single family residential building to a multiple family residential building, and the conversion of any residential building or residential accessory building to a commercial or industrial use.

Customary Home Occupation: An occupation that is customarily practiced in the community at home and which satisfies the following criteria:

- a) is carried on by a person residing on the site;
- b) is clearly incidental and secondary to the use of the property for residential purposes;
- c) conforms to the following additional conditions:
 - 1. the occupation or profession is carried on wholly within the dwelling unit or in a building or structure accessory to the dwelling unit;
 - 2. not more than two persons not residing on premises working on the premises in the home occupation at any point in time;
 - 3. there is no exterior display or sign except as approved by the Selectboard. No exterior storage of materials, and no other exterior indication of a home occupation or variation from the residential character of the principal building;
 - 4. no offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;
 - 5. there are no retail sales, unless the items sold are products of the owner's own labor or are incidental to the products of the owner's own labor, or are antiques;
 - 6. the customary home occupation does not affect the residential character of the neighborhood;
 - 7. if located in the principal dwelling unit on the property, the customary home occupation shall utilize an area not to exceed 40 % of the floor area of that building, up to a maximum of 1,500 square feet; if located in an accessory building on the property, the customary home occupation shall occupy an area not to exceed 1,500 square feet.

District: A district established by the provisions of Section 2 of this bylaw.

Dwelling Unit, Accessory: An efficiency or one bedroom dwelling unit located within or appurtenant to an owner-occupied one-unit dwelling that is clearly subordinate to the one-unit dwelling, which has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided that the property has sufficient wastewater capacity and that the unit does not exceed 30 percent of the total habitable floor area of the one-unit dwelling, but is at least 400 square feet in floor area. An accessory dwelling unit does not require any additional lot area beyond that which is required for the one-unit dwelling.

Dwelling, One-Unit: A detached building designated for or occupied solely as a dwelling unit.

Dwelling, Two-Unit: A detached building constructed to serve as two independent dwelling units.

Dwelling, Multiple: A building containing separate dwelling units for three families, having separate or joint entrances, services, or facilities.

Dwelling Unit: A building or part of a building occupied or intended to be occupied by one family for residential purposes, containing full kitchen and bathroom facilities, including a properly functioning sewage disposal system and replacement area conforming to all applicable provisions of the Sandgate Sewage Ordinance, and an independent entrance for the exclusive use of the occupants.

"E"

Family: A group of individuals living together in a single housekeeping unit.

Footprint: See building area.

"G"

Hotel: A building operated as a business and providing lodging for persons with or without meals, and intended for the accommodation of transients, and so designed that normal access and egress are controlled from a central point. A hotel is not a dwelling unit.

Inn: See hotel.

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"K"

Lot: A plot or parcel of land.

Lot, Building: A plot or parcel of land occupied or capable of being occupied by one or more principal building and accessory buildings or uses customarily incident to it, including such open spaces as are required by this bylaw. In the case of multiple dwellings and public, institutional, commercial, industrial or agricultural buildings, a group of buildings on the same or contiguous premises, all under one ownership, may be considered as occupying the same lot.

Lot, Corner: A lot at the intersection of and abutting two or more streets where the angle of intersection is not more than 135 degrees, or where the intersection is rounded by a curve having a radius of less than 100 feet.

Lot, Interior: A lot other than a corner lot or through lot.

Lot, Through: A lot other than a corner lot which abuts two or more streets which do not intersect at the lot.

Lot Line, Front: All dividing lines between a street and the lot shall be considered front lines.

Lot Line, Rear: The line or lines bounding a lot at the rear and approximately parallel to and at the maximum distance from the front lot line.

Lot Line, Side: The line or lines bounding a lot which extends from the street toward the rear in a direction approximately perpendicular to the street. In the case of corner lots or through lots, all lines extending from streets shall be considered side lot lines.

Lot, Minimum Width: The average distance between the side lot lines measured in a straight line between the side lot lines; such measurements to be taken every 50 feet over the full depth of the lot.

In the case of a corner lot, the minimum width shall be similarly measured and, for the purpose of this measurement only, the front lot line which has the least dimension shall be considered the front lot line, and the lot lines adjacent thereto shall be considered as side lot lines.

Manufacturing: Shall include fabricating, treating, processing, and similar operations performed on any materials permitted to be worked upon by the terms of this bylaw.

Mobile Home: A prefabricated dwelling unit which is designed to be moved as a whole or in sections and installed at a site as a permanent residence; is anchored onto a foundation; satisfies all local zoning and sewage requirements applicable to a dwelling unit; and which bears a seal signifying conformance to the design and construction requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards (24 CFR Part 3280).

Mobile Home Park: Any premises used or permitted to be used for parking more than one mobile home.

Motel: A building or group of buildings operated as a business and providing lodging for persons, intended primarily for the accommodation of transients, and each of which rooms or suites of rooms has automobile parking space provided on the premises.

Non-complying Structure: A structure or part thereof not in conformance with zoning regulations covering building bulk, dimensions, height, area, yards (setbacks), density, or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of such zoning regulations.

Nonconforming Use: A use of land or structure which does not comply with all zoning regulations, where such use conformed to all applicable laws, ordinances, and regulations prior to the enactment of such regulations.

Open Space: A space, not occupied by a building or other roofed structure on the same lot as the principal building.

Premises: A lot, as defined in this section.

Primitive Camp: See camp.

Public Sewer: A system of sanitary sewers owned by a municipality or other governmental unit.

Public Water Supply: A system of water supply owned and operated by a municipality or other governmental unit, or by a corporation authorized and regulated by the State of Vermont for the purposes of public water supply.

"Q"

Road: A street, as defined in this section.

Setback: See Yard

Sewage Disposal System: A system for the disposal of waste using undisturbed soil on-site as a disposal medium, including a tank for collection of solids and leach area for liquids.

Street: A town or state highway, a street of an incorporated village or a street shown on a subdivision plan approved by the Planning Commission. The word "street" shall include the entire right-of-way thereof. (If a boundary of the right-of-way has not been surveyed and so recorded, the boundary shall be deemed to be 25 feet from the centerline of the traveled way).

Street Line: The line dividing the street and lot.

Thread of the River: Lowest elevation of riverbed.

Travel Trailer: A vehicle designed and used primarily for recreational travel purposes. To be considered a travel trailer such vehicle must rest on its own wheels. The provisions hereof applicable to travel trailers shall also be applied to any motor vehicle whose body has been equipped for occupancy for recreational purposes.

Travel Trailer Camp: Any premises used or permitted to be used for the parking of more than one occupied travel trailer.

"U"

Violation: See Section 8.6.

"W"

"X"

Yard, Front: An open space between the building and the front lot line, extending the full length of the lot, or in the case of a corner lot, extending along all streets.

Yard, Rear: The open space between the building and the rear lot lines, extending the full length of the lot.

Yard, Side: An open space between the building and a side lot line, extending the full length of the lot.

Yard, Required Front, Rear, or Side: As much of the front, rear, or side yard, as required by the applicable provisions of this bylaw.

Yards, Depth or Width: The depth of front or rear yards, and the width of side yards, shall be measured perpendicularly to the respective lot lines.

"Z"

SECTION 2 - DISTRICTS

2.1 **Division into Districts:** For the purposes of this bylaw, the Town is divided into the following classes of districts, to be designated by the abbreviations set forth below:

Rural Residence	RR Districts
Forest #1	F1 Districts
Forest #2	F2 Districts

The regulations of this bylaw are applicable to each class of district.

- 2.2 Zoning Map:** The boundaries of these districts are hereby established, as shown on the official Zoning and Town Plan Map, which map and amendments are included in this bylaw.
- 2.3 Zoning of Streets:** Zoning districts shall include the beds of streets lying within them. Where opposite sides of a street lie in different districts, the boundary shall be deemed to be the center of the right-of-way.
- 2.4 Land Under Water:** Zoning districts shall include any land under rivers, streams, lakes or ponds lying within them. Where opposite sides of a river or a stream lie in different districts, the boundary shall be the thread of the river or stream. Where opposite sides of a lake, pond, swamp, or water body lie in different districts, the boundary shall be deemed to be the center thereof.
- 2.5 Interpretation of Map:** Any question as to the location of a district boundary line on the Zoning Map shall be resolved by the Administrative Officer with appeals of any such decision made to the Board of Adjustment.

SECTION 3 - GENERAL REGULATIONS

3.1 Compliance with Bylaws:

1. No land or premises or part thereof shall hereafter be used, and no buildings or part thereof or other structure shall be constructed, reconstructed, extended, enlarged, moved, or altered except in conformity with this bylaw. Interior alterations and normal maintenance activities that do not enlarge a building or result in a changed use shall not require a zoning permit nor be subject to review under this bylaw.
2. No lot shall have an area, width, or front, side, or rear yard less than that set forth in the applicable paragraph hereof, except as otherwise provided in this bylaw.
3. Nothing contained in this bylaw shall require any change in structure or use of a building complying with local laws in force prior to this bylaw.

3.2 Dimensional Requirements: Land development may be permitted only on lots which have frontage of at least 50 feet on a public street or have access to such a street by a permanent easement or right-of-way at least 20 feet in width approved by the Planning Commission.

3.3 Use Regulations: No building, structure, or portion thereof shall be erected, altered or moved, and no land or buildings, or part thereof, shall be used for any use other than those listed as a permitted use in the district in which it is located. Except as otherwise provided herein, any use not specifically permitted shall be deemed to be prohibited.

1. No more than one inoperable motor vehicle may be stored on any lot for a period in excess of thirty days unless within a building or totally screened from view off the premises. "Inoperable" means unregistered or used for salvage. No scrap or waste material not originating on the premises may be stored or disposed of on any lot, except at a municipal solid waste disposal area. No scrap or waste material originating on the premises may be stored on any lot unless within a building or totally screened from view off the premises, except that a reasonable time shall be allowed for removal of scrap or waste material resulting from a construction operation, or for fire, flood, or similar emergency. This provision shall not interfere with the continued operation of a bona fide pre-existing auto repair establishment or similar business.

2. Any existing use subject to this section shall be brought into compliance with Section 3.3.1 of this bylaw within ninety days.

3.4 Severability: Should a court of competent jurisdiction determine any portion of this bylaw to be invalid, the remainder of the bylaw shall remain in full force and effect.

3.5 Administrative Requirements:

1. Any lot in individual, separate and non-affiliated ownership from surrounding properties in existence on the effective date of this zoning regulation may be developed for the purposes permitted in the district in which it is located, even though not conforming to the minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet. The lot must meet all other zoning requirements for development.
2. If an existing small lot comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed to be merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:
 - a. The lots are conveyed in their preexisting, nonconforming configuration.
 - b. On the effective date of this Bylaw, each lot was developed with a water supply and wastewater disposal system.
 - c. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
 - d. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.
3. If more than one dwelling is to be placed on any one lot, each dwelling shall be located so that each such dwelling, with any building accessory to it, could be set off as a separate lot conforming to all of the applicable provisions of this bylaw. This requirement shall not apply to accessory apartments as defined in this bylaw. No building shall be sold into separate ownership except in compliance with the above.
4. Any structure placed in a pre-existing lot meeting the requirements of Section 3.5.1 which lot lies in more than one district, must meet all the requirements of the district where it is placed.

3.6 Required Notification to Vermont Department of Water Resources: No zoning permit for the development of land located within a designated flood hazard area or wetland may be granted prior to the expiration of a period of thirty (30) days following the submission of a report to the Vermont Department of Water Resources describing the proposed use and the location requested for such use.

3.7 Conditional Use: A conditional use may be approved by the Board of Adjustment only after a public hearing and upon finding by the Board of Adjustment that such use shall not adversely affect:

1. the capacity of existing or planned community facilities;
2. the character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan;

3. traffic on roads and highways in the vicinity;
4. other provisions of ordinances, regulations, and bylaws of the Town of Sandgate applicable thereto; or
5. the utilization of renewable energy resources.

Each use so approved shall meet any standards applicable to the specific uses as to lot and building dimensional requirements, landscaping, design, and locations of service areas, and other standards that may be imposed by the Board of Adjustment. Approval shall be based on a site development plan, prepared in conformance to the requirements of Section 8.3, and failure of the development to conform to such site plan shall constitute a violation of this bylaw.

The Board of Adjustment shall act to approve or disapprove any such requested conditional use within forty-five (45) days after the date of the final public hearing, and failure to so act within such period shall be deemed approval.

SECTION 4 - RESIDENTIAL DISTRICTS

4.1 Purpose: The purpose of the Rural Residential District is to assure the preservation of the natural rural and scenic qualities of areas which are planned to be predominantly residential in character and to encourage development close to existing roads and to minimize the length of new roads, and to avoid the need for public water supply and public sewer systems.

4.2 Permitted Uses in RR Districts:

1. One-family, two-family dwellings, and multiple-family dwellings, as defined in this Bylaw, on a lot of not less than two acres per dwelling unit;
2. Customary home occupations, as defined by this bylaw;
3. Agricultural uses, including: maple sugaring, pasturage of livestock, crop raising, farm stands, and buildings accessory to and necessary for such agricultural uses;
4. Rooming houses and tourist homes for not more than six roomers or tourists, provided that no sign connected therewith shall exceed four square feet;
5. A cemetery;
6. A state licensed or registered community care home or group home, serving not more than eight persons who are developmentally disabled or physically handicapped, except that no such home shall be located within 1,000 feet of another such home;
7. A state licensed or registered family child care facility as provided for in Section 7.10;
8. Public utility power transmission lines;
9. Churches, convents, parish houses, and similar houses of worship;
10. An accessory dwelling unit on a lot occupied by a principal dwelling. There may be no more than one such accessory dwelling unit on a lot. Sewage Ordinance regulations must be met.

4.3 Conditional Uses in RR Districts: The following uses are conditionally permitted in RR Districts, subject to the requirements of Sections 3.7 and 8.3, and the specific standards contained in this section:

1. A recreational facility or camping area for groups of adults, families, or children, whether operated for profit or not, provided that the lot area is not less than twenty-five acres, plus an additional 8,000 square feet for each person accommodated, and that all buildings are located not less than 200 feet from any street line or other lot line;
2. A state licensed or registered family child care facility as provided for in Section 7.10;
3. Public utility power generating plants;
4. State or community owned and operated institutions and facilities;
5. Public and private schools and other educational institutions certified by the Vermont Department of Education;
6. Public and private hospitals.
7. Mobile home parks as provided for in Section 7.5(3).

4.4 Specific Standards for Conditional Uses in the RR District:

a. Lighting

Exterior lighting, including, but not limited to, lighting of exterior walls of buildings and lighting of walks and drives, shall be done in such a manner as to direct light away from adjacent lots and public ways.

b. Refuse Disposal

No refuse shall be dumped upon any part of the lot outside the buildings constructed thereon. Refuse stored outside buildings shall be placed in completely enclosed containers.

c. Building and Site Design

The project shall be designed to take advantage of the natural terrain and vegetation and public views to the greatest extent possible.

The project shall utilize an architectural design that complements the rural environment and is compatible with surrounding land uses. Consideration shall be given to building height and size, roof shape, pitch and direction, exterior materials and texture, color, and architectural features including but not limited to, cornices, entablatures, doors, windows, shutters, chimneys, porches, stairways, signs, and accessory structures.

Land which is not occupied by buildings, streets, or parking lots shall be reserved and maintained in open green space; the location, character, landscaping, and size of such areas shall be planned so as to contribute favorably to the property's appearance from the town road.

4.5 Accessory Uses and Buildings Permitted in RR Districts: Accessory uses and buildings customarily incidental to a permitted or conditional use on the same lot, including buildings used for permitted home occupations. Accessory buildings shall not be used for dwelling purposes, except for accessory dwelling units.

4.6 Dimensional Requirements - RR Districts:

	<u>Principal Building or Use</u>	<u>Accessory Buildings</u>
Minimum lot area	2 acres	N/A
Minimum lot area per dwelling unit *	2 acres	N/A
Minimum lot width	300 feet	N/A
Minimum front yard <i>(setback from the center line of the traveled portion of the road)</i>	75 feet	50 feet
Minimum side yard <i>(setback)</i>	50 feet	25 feet
Minimum rear yard <i>(setback)</i>	50 feet	25 feet
Minimum from stream bank**	100 feet	100 feet

* Except as provided for in mobile home parks (Section 7.5(3))

** See Section 7.3.1

SECTION 5 - FOREST #1 DISTRICT

5.1 Purpose: To guide the growth of the town in an orderly manner by concentrating residential and other development where it will most efficiently be served by public facilities, utilities and roads; to preserve tracts suitable for perpetuating the forest resources and forest-related industries which have been an important part of the State's economy; to protect the vital sources of pure water for public supplies; to maintain a high quality environment for forest and mountain based recreation; and to assure the preservation of the natural rural and scenic qualities.

5.2 Permitted Uses in F1 Districts:

1. A one-family or two-family dwelling on a lot of not less than 5 acres per dwelling unit.
2. Customary home occupations, as defined in this bylaw.
3. Agricultural uses, including: maple sugaring, pasturage of livestock, crop raising, farm stands, and buildings accessory to and necessary for such agricultural uses.
4. Commercial forestry and related uses.
5. A state licensed or registered residential group home, serving not more than ~~six~~ eight persons who are developmentally disabled or physically handicapped, except that no such home shall be located within 1,000 feet of another such home.
6. A state licensed or registered family child care facility as provided for in Section 7.10.
7. Public utility power transmission lines.
8. Churches, convents, parish houses and similar houses of worship.

9. An accessory dwelling unit on a lot occupied by a principal dwelling. There may be no more than one such accessory dwelling unit on a lot. Sewage Ordinance regulations must be met.

5.3 Conditional Uses in F1 Districts: The following uses are conditionally permitted in the F1 District, subject to the requirements of Sections 3.7 and 8.3, and the specific standards contained in this section:

1. A seasonal private recreational, hunting, or fishing primitive camp, subject to the following:
 - a. Toilet facilities shall not be located within the principal building. Only privy-type toilet facilities are permitted; the camp may not be served by a sewage disposal system (tank and leaching field).
 - b. No toilet facilities shall be located within 100 feet of any water supply or water body (spring, well, stream, brook, river, pond, or wetland).
 - c. All buildings shall be located not less than 200 feet from any lot and street line.
 - d. Camps in the F1 District shall not be served by electricity generated at an off-site power source.
2. A recreational facility or camping area for groups of adults, families, or children, whether operated for profit or not, provided that the lot area is not less than twenty-five acres, plus an additional 8,000 square feet for each person accommodated, and that all buildings are located not less than 200 feet from any street line or other lot line;
3. A state licensed or registered family child care facility as provided for in Section 7.10;
4. Public utility power generating plants;
5. State or community owned and operated institutions and facilities;
6. Public and private schools and other educational institutions certified by the Vermont Department of Education;
7. Public and private hospitals.

5.4 Specific Standards for Conditional Uses in the F1 District: (Applies to uses listed in Section 5.3 (2-7) above, only)

a. Lighting

Exterior lighting, including, but not limited to, lighting of exterior walls of buildings and lighting of walks and drives, shall be done in such a manner as to direct light away from adjacent lots and public ways.

b. Refuse Disposal

No refuse shall be dumped upon any part of the lot outside the buildings constructed thereon. Refuse stored outside buildings shall be placed in completely enclosed containers.

c. Building and Site Design

The project shall be designed to take advantage of the natural terrain, vegetation, water quality and public views to the greatest extent possible.

The project shall utilize an architectural design that complements the rural environment and is compatible with surrounding land uses. Consideration shall be given to building height and size, roof shape, pitch and direction, exterior materials and texture, color, and architectural features including but not limited to, cornices, entablatures, doors, windows, shutters, chimneys, porches, stairways, signs, and accessory structures.

Land which is not occupied by buildings, streets, or parking lots shall be reserved and maintained in open green space; the location, character, landscaping, and size of such areas shall be planned so as to contribute favorably to the property's appearance from the road.

5.5 Accessory Uses and Buildings Permitted in F1 Districts: Accessory uses and buildings customarily incidental to a permitted or conditional use on the same lot, including buildings used for permitted home occupations. Accessory buildings shall not be used for dwelling purposes, except for accessory dwelling units.

5.6 Dimensional Requirements - F1 Districts:

	<u>Principal Building or Use</u>	<u>Accessory Building</u>
Minimum lot area	5 acres	N/A
Minimum lot area per dwelling unit	5 acres	N/A
Minimum lot width	300 feet	N/A
Minimum front yard <i>(setback from the center line of the traveled portion of the road)</i>	75 feet	50 feet
Minimum side yard <i>(setback)</i>	50 feet	25 feet
Minimum rear yard <i>(setback)</i>	50 feet	25 feet
Minimum from stream bank *	100 feet	100 feet

*See Section 7.3.1

SECTION 6 - FOREST #2 DISTRICT

6.1 Purpose: To preserve tracts suitable for perpetuating the forest resources and forest-related industries which have been an important part of the State's economy; to maintain a high quality environment for forest and mountain based recreation; and to identify those areas where substantial development of the land in terms of buildings, structures, or other intensive uses are prohibited because:

1. Topography, soil depth, drainage, slope, or other natural conditions present environmental limitations to development in the general area;
2. Use involves the inefficient development of roads, utilities, and public services; and
3. Vital watershed areas require protection in order to maintain and preserve a safe, healthful, and reliable water supply for the present and future residents of the Town of Sandgate.

6.2 Permitted Uses in F2 Districts:

1. Agricultural uses, including: maple sugaring, pasturage of livestock, crop raising, and buildings (except dwellings) accessory to and necessary for such agricultural uses;
2. Commercial forestry and related uses;
3. Forestry carried on for research, demonstration, education, and related uses;
4. Recreational uses;
5. Private recreational, hunting, or fishing **primitive** camp, subject to the following:
 - a. Toilet facilities shall not be located within the principal building. Only privy-type toilet facilities are permitted; the camp may not be served by a sewage disposal system (tank and leaching field).
 - b. No toilet facilities shall be located within 100 feet of any water supply or water body (spring, well, stream, brook, river, pond, or wetland).
 - c. All buildings shall be located not less than 200 feet from any lot and street line.
 - d. Camps in the F2 District shall not be served by electricity generated at an off-site power source.
6. Public utility power generating plants and transmission lines.
7. One-family dwelling units on a minimum lot of twenty-five (25) acres per dwelling unit, provided that any such dwelling unit is located within 250 feet of the center line of the traveled portion of a Class II or III town highway.
8. An accessory dwelling unit on a lot occupied by an existing or permitted principal dwelling. There may be no more than one such accessory dwelling unit on a lot. Sewage Ordinance regulations must be met.
9. A state licensed or registered residential group home, located within 250 feet of the center line of the traveled portion of a Class II or III town highway, and serving not more than eight persons who are developmentally disabled or physically handicapped, except that no such home shall be located within 1,000 feet of another such home.
10. A state licensed or registered family child care facility as provided for in Section 7.10, and located within 250 feet of the center line of the traveled portion of a Class II or III town highway.

6.3 Conditional Uses in F2 Districts: The following uses are conditionally permitted in the F2 District, subject to the requirements of Sections 3.7 and 8.3, and the specific standards contained in this section:

1. One-family dwellings, located more than 250 feet from the center line of the traveled portion of a Class II or III town highway, on a minimum lot of twenty-five (25) acres per dwelling unit, and subject to the following:
 - a. Topography shall be mapped at twenty (20) foot intervals, unless the Zoning Board of Adjustment determines that a larger scale is necessary, and construction should be avoided on slopes greater than 15 percent;

- b.** Natural drainage shall be maintained;
- c.** A lot shall have at least 25 acres below 1,600 feet in elevation for development and no dwelling on that lot shall be above 1,600 feet in elevation;
- d.** Soil types based on the USDA soils classification, soil percolation rates, and depth to bedrock shall be identified;
- e.** All requirements for a sewage disposal system according to the Town of Sandgate Sewage Ordinance shall be met;
- f.** In addition to the requirements of Section 8.3, the site plan shall clearly show forested and open areas, water bodies, proposed building footprints and limits of clearing, and road and driveway locations. Photographs of the site shall be attached to the site plan showing the area where development will occur as seen from public highways.
- g.** A narrative shall be prepared by the applicant and submitted to the Zoning Board of Adjustment at least 21 days prior to the public hearing. Said narrative shall include the following:
 - i.** Impact on surface water quality;
 - ii.** Impact on ground water quality;
 - iii.** Effects on important wildlife habitats, botanical features, geologic and archaeological features, and scenic resources;
 - iv.** Capability of soils, natural characteristics of the site, vegetation cover, and proposed erosion control efforts to support the proposed development without danger of erosion, silting, or instability;
 - v.** The protection or loss of timber resources;
 - vi.** The impacts on the Town providing services such as, but not limited to, roads and schools;
 - vii.** The nature of existing or proposed roads and access to the development;
- h.** Protection of scenic resources by ensuring that the following conditions are satisfied:
 - i.** Adequate vegetation will be retained to provide a visual backdrop and to soften and screen the façade of buildings. Particular attention should be given to the impacts associated with removal of extensive areas of vegetation downslope from development sites.
 - ii.** Development shall be sited so that no building or structure constructed on any lot shall exceed the height of land serving as the visual and physical backdrop to the site as viewed from a public highway.
 - iii.** Outdoor lighting should not be directed toward or illuminate off-site locations. Lighting to highlight architectural features is prohibited.

- iv. Materials utilized for the exterior of any structures shall be of a kind and positioned on structures so as to minimize glare to avoid undue adverse visual impact. Particular attention may be given as to the number, position, and type of window and door glass, skylights, etc. so as to minimize glare, without undue cost or burden.
- v. Construction of or improvements to access roads, to the extent possible, shall follow the contour of the land. Access roads and driveways should be located within existing forest or forest fringe areas and not in open spaces, when and where possible.
- vi. Development should maintain the sense of order or harmony of the natural landscape formed by the ridgeline, mountainside, forests, open spaces, or agricultural fields. Buildings should not be located in open spaces, but rather in existing forested areas or at the forest-field fringe when possible.

The Board of Adjustment may impose conditions to minimize the potential for adverse impacts on any of the items identified above.

- 2. Customary home occupations as defined in this bylaw, provided that, if required by this bylaw, a conditional use permit has been granted for the residential building.

6.4 Accessory Uses and Buildings Permitted in F2 Districts:

- 1. Accessory uses customarily incidental to a permitted or conditional use on the same lot. Accessory buildings shall not be used for dwelling purposes, except that accessory dwelling units are permitted within 250 feet of a town road.

6.5 Dimensional Requirements - F2 Districts:

	<u>Principal Building or Use</u>	<u>Accessory Building</u>
Minimum lot area	25 acres	N/A
Minimum lot area per dwelling unit	25 acres	N/A
Minimum lot width	500 feet	N/A
Minimum front yard <i>(setback from the center line of the traveled portion of the road)</i>	75 feet	50 feet
Minimum side yard <i>(setback)</i>	50 feet	50 feet
Minimum rear yard <i>(setback)</i>	50 feet	50 feet
Minimum from stream bank *	100 feet	100 feet

* See Section 7.3.1

SECTION 7 - SPECIAL REGULATIONS

7.1 Nonconforming Uses and Non-complying Structures:

1. Nonconforming Uses:

Any nonconforming use of a building or premises which was lawfully existing at the time of adoption of this bylaw, or any pertinent amendment thereto, may be continued, and any building so existing which was designed, arranged, intended for, or devoted to a

nonconforming use, may be reconstructed and structurally altered, and the nonconforming use therein changed, subject to the following regulations:

- a. A nonconforming use may not be changed, except to a conforming use, or with the approval of the Board of Adjustment, to another nonconforming use not more objectionable in character.
- b. If a nonconforming use is changed into a conforming use, it shall not be changed back into a nonconforming use.
- c. No nonconforming use shall be extended or expanded, except with the approval of a site plan by the Planning Commission and with the approval of the Board of Adjustment, provided that said Board shall have found that such extension or expansion will have no adverse effect upon the public health, safety, and upon property values in the vicinity, and where, in the opinion of the Board, strict enforcement of this bylaw would result in exceptional and unnecessary hardship on the owner of an established nonconforming use.
- d. No nonconforming use, which has been discontinued for a period of one year, shall be resumed thereafter.
- e. Nothing herein shall require the discontinuance of use of a building that does not comply with the requirements of this bylaw if such use lawfully conformed to all prior bylaws or ordinances of the town.

2. Non-complying Structures:

Any building which does not conform to the dimensional requirements of this bylaw regarding area and width of lot, and required setbacks shall not be enlarged, moved or substantially altered (extension of building footprint or construction of additional usable floor area on an upper floor) unless such enlarged, moved or altered portion conforms to the regulations, including dimensional, use, and sewage regulations, applying to the district in which it is located. If such enlarged, moved or altered portion fails to conform to dimensional requirements, construction may only occur if a variance is approved by the Board of Adjustment.

7.2 Restoration and Reconstruction:

Upon application by the property owner, the Administrative Officer shall grant without fee a building permit for the restoration or reconstruction, within 18 months, of a non-complying structure damaged or destroyed by fire, explosion, accident, or by the public enemy, to its condition prior to such damage or destruction. Any other construction on the site or reconstruction after 18 months will be subject to all requirements of this bylaw.

7.3 Protection of Streams and Drainageways:

1. No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least one hundred (100) feet from the normal bank of any stream or watercourse, nor shall land within twenty-five (25) feet of any stream bank be stripped of natural vegetation, except with the approval of the Planning Commission. The requirements of this section shall not apply to agricultural uses, the normal maintenance of existing lawns, to the minimum amount of land development necessary for the installation or replacement of a residential well or sewage disposal system. This paragraph does not apply to the shoreline of ponds.

2. Notwithstanding paragraph 1 of this section, any land development which requires a Stream Alteration Permit under 10 V.S.A. Chapter 41 or a permit for construction of a dam under 10 V.S.A. Chapter 43 may receive a zoning permit from the Administrative Officer without the approval of the Planning Commission after presentation of evidence that all required State permits have been granted.
3. For all other land development described in paragraph 1 of this section application for approval shall be submitted to the Planning Commission with such surveys, maps, and other data as the Commission may require in order to reach its decision.
4. Prior to granting such approval, the Commission shall have found that the proposed construction, earth excavation, filling, or grading will not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on natural conditions, or on fish or wildlife habitat, nor interfere with present or planned storm water drainage system of the Town. The Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites and the Vermont Streambank Conservation Manual may be used as guides in meeting this requirement.

7.4 **Earth Product Removal:**

1. **Removal Restricted:** Except as otherwise provided in this subsection, there shall be no removal from the premises in any district of earth, sand, gravel, clay, or stone, except as surplus material resulting from a bona fide construction, landscape, or agricultural operation being executed on the premises, and provided that the disturbed soil is reseeded and mulched within one month of the completion of the extraction to prevent erosion by establishing a permanent vegetative cover.
2. **Permit for Removal of Earth Products:** The Board of Adjustment, after a public hearing, may grant a conditional use permit for the removal of earth, sand, gravel clay, or stone, under the following conditions:
 - a. The applicant shall submit a plan showing existing grades in the area from which the material is to be removed, together with finished grades at the conclusion of the operation.
 - b. The operator shall provide for proper drainage during and after completion of the operation, and any excavated bank shall be stabilized to prevent erosion or collapse. No removal shall take place within twenty feet of a property line, except that where the grade from a property line rises toward the lot where removal is to take place, materials lying above the grade at the property line may be removed.
 - c. In addition to the requirements of Section 7.3, and any applicable state regulations, when the extraction is wholly or partly from a stream bed, it shall be carried on in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section there shall be no increase in erosion or flood hazards.
 - d. Permits for removal of earth products will be issued on a maximum three-year basis and may be renewed by the Board of Adjustment at that time free of charge.
3. **Existing Sand and Gravel Operations:** Existing sand and gravel, or other extractive operations, must conform to State law where applicable.

4. **Surety Bond:** In accordance with the provisions of Section 4407 (8) of the Vermont Planning and Development Act, and before a permit is granted under this section, the applicant may be required to post a surety bond with the Treasurer of the Town in an amount and in a form approved by the Board of Adjustment as sufficient to guarantee conformity with the permit issued hereunder. Those operations existing prior to the adoption of this bylaw shall be exempt from posting a surety bond.

7.5 Mobile Home and Travel Trailer Occupancy and Mobile Home Parks:

1. General Regulations:

- a. No permit is required for a trailer, trailer coach, mobile home, bus, or travel trailer used as a temporary office or temporary shelter to a construction or logging operation on the premises, provided that all dimensional requirements for the district are satisfied.
- b. A registered travel trailer may be occupied on any lot by a non-paying guest of the occupant of such lot for a period not exceeding thirty days in any twelve-month period.

2. Mobile Home as a Dwelling:

- a. A mobile home may be used as a one-family dwelling provided that it is located on a lot meeting all of the requirements of this bylaw applicable to a one-family dwelling in the district in which it is located, is suitably anchored to a permanent concrete foundation, and complies with the provisions of the Town Sewage Ordinance.
- b. A mobile home shall be enclosed by some form of permanent skirting.
- c. A mobile home may be used as a dwelling, without meeting the setback requirements of the district in which it is located, by the owner of the lot upon which the mobile home is located, for a period not exceeding one year, provided that the owner is actively constructing a residence thereon for which a valid building permit has been obtained.

3. **Mobile Home Park:** No person shall construct or occupy a mobile home park without first obtaining site plan approval from the Planning Commission and conditional use approval from the Zoning Board of Adjustment, as well as any required state permits. The following additional requirements also apply to any mobile home park:

- a. The lot occupied by a mobile home park shall be not less than 2 acres.
- b. The maximum density allowed in a mobile home park is 4 mobile home units per acre of lot area.
- c. Mobile home parks shall provide for individual mobile home lots, access driveways, parking, and recreation and open space.
- d. Each mobile home site must have frontage onto an access driveway which must include a right-of-way of at least 50 feet in width, and have a gravel surface at least 24 feet in width and a compacted gravel base of at least 12 inches.
- e. At least 8,000 square feet of lot area for each mobile home site shall be provided. Each mobile home shall be located a minimum of 15 feet from its individual lot line.

- f. At least two vehicle parking spaces per mobile home shall be provided. Pedestrian walkways must be provided to allow for safe movement within the mobile home park.
- g. A buffer strip of land, at least 50 feet in width, shall be maintained as a landscaped area abutting all property lines and public road frontage of the mobile home park. No structures shall be permitted within this buffer strip.
- h. Each mobile home site must have an approved water supply and sewage disposal system.
- i. The base of each mobile home shall be adequately skirted.
- j. Open space occupying not less than 10 percent of the gross area of the mobile home park shall be required, conveniently located to all mobile home sites. Such open space shall be suitably landscaped and equipped for recreational purposes.
- k. The operator of a mobile home park shall maintain all parts of the facility in good condition and shall provide for the collection and removal of waste and garbage.
- l. The operator of the mobile home park shall provide for snow removal from all roads and driveways and shall maintain safe conditions on roads and driveways at all times.

7.6 Cluster Subdivision:

1. **Purpose:** The purpose of cluster subdivision is to enable and encourage flexibility of design and development of tracts of land for one and two-family dwellings in groups, so as to promote the most appropriate use of land, to facilitate the economical provision of streets and utilities, and to enhance the environmental quality of the area through maximum preservation of open space.
2. **Where Permitted:** Cluster subdivision may be permitted by the Planning Commission in accordance with all applicable sections of this bylaw and the municipal subdivision regulations in Rural Residential (RR) and Forest #1 (F1) zoning districts.

Cluster subdivisions may include reserved open space on that portion of a tract of land that is located within the Forest # 2 (F2) zoning district; all development must occur within the RR or F1 districts, although land in the F2 district may be considered in calculating the density of dwellings, as provided in Section 7.6.4.

3. Permitted Uses in Cluster Subdivisions:

- a. One-family dwellings and two-family dwellings;
- b. Customary home occupations;
- c. Any other permitted use in the district in which the cluster subdivision is located. Uses conditionally permitted in the underlying district are conditionally permitted in cluster subdivisions in accordance with the provisions of Section 3.7;
- d. Accessory uses conforming to the requirements of the district in which the subdivision is located.

4. **Density of Dwellings:** In cluster subdivisions, the total number of dwelling units shall not exceed the number which could be permitted if the parcel were subdivided into lots conforming to the provisions of Section 4.5 (Rural Residential District) or Section 5.5 (Forest #1 District), or Section 6.5 (Forest #2 District). For tracts of land lying in more than one district, the maximum number of dwelling units shall be determined by calculating the number of lots that could be permitted within each district individually, and then adding those results together. (See example below)

Example:

Lot X includes 10 acres of land in the RR district (2 acre minimum lot size), 32 acres of land in the F1 district (5 acre minimum lot size), and 110 acres of land in the F2 district (25 acre minimum lot size). The maximum number of dwelling units allowed in a cluster subdivision would be:

RR:	10 acres/ 2 acres per D.U.=	5 dwelling units
F1:	32 acres/5 acres per D.U.=	6 dwelling units
F2:	110 acres/25 acres per D.U.=	4 dwelling units
<u>TOTAL:</u>		<u>15 dwelling units *</u>

**Must all be located within the RR or F1 District.*

5. **Lot Dimensional Requirements:** Individual lots in a cluster subdivision may be reduced in required area, width, and yard dimensions in conformance with local sewage and state health regulations. The minimum area for a lot in a cluster subdivision shall be one (1) acre.
6. **Sewage Disposal:** The method and installation of facilities for sewage disposal on every lot shall be subject to all of the applicable provisions of state and local sewage regulations.
7. **Open Space:** The land area not included in building lots or in streets or parking areas shall be permanently reserved as open space for recreation, conservation, or agriculture. Such open space shall be of character, size, extent, and shape suitable for the above purposes. Such open space shall contain not less than 50 percent of the gross area of the subdivision. No future development of land designated as open space shall be permitted for other than recreation, conservation, or agricultural uses.
8. **Ownership of Open Space:** Land to be reserved as open space in cluster subdivisions shall be dedicated to a community association or other entity, as herein provided.

As a condition of the approval of the site plan for a cluster subdivision, the applicant shall organize a non-profit community association, corporation or cooperative, organized under the laws of the State of Vermont, composed of all present and future owners of lots in such subdivision, and shall submit a set of deed restrictions or covenants that run with the land and shall record the same in the Sandgate Land records. Such non-profit community association, corporation, or cooperative shall be responsible for maintenance of all common open space, roadways, and other common elements of the development.

7.7 Satellite Television Antennas, Windmills and Solar Collectors:

No zoning permits shall be required for the erection of a satellite television antenna, windmill, or solar energy collector as an accessory to a permitted use of the land, provided its height does not exceed 50 feet.

7.8 Communication and Digital TV Towers:

Refer to Sandgate “ Wireless Telecommunication Facility Ordinance”

7.9 Agricultural Buildings:

Agricultural Buildings will not require municipal permits, but notification in writing will be filed with the town clerk “of the intent to build a farm structure and shall abide by setbacks approved by the commissioner of agriculture, food and markets before any construction. ‘Farm structure’ means a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, as ‘farming’ is defined in Section 600(22) of Title 10, but excludes a dwelling for human habitation.” (T.24, Section 4495). *

*See Appendix

7.10 Family Child Care Facility

Pursuant to 24 V.S.A. Section 4413(5), a state licensed or registered family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time and four part-time children, as defined in 33 V.S.A. Section 4902(3)(A), shall be considered to constitute a permitted single-family residential use of property, but shall be subject to site plan approval pursuant to Section 8.3 of this Bylaw. A family child care home serving in excess of six full-time and four part-time children may be permitted as a conditional use in the RR and F1 Districts only.

SECTION 8 - ADMINISTRATION AND ENFORCEMENT

The provisions of this bylaw shall be administered by the Administrative Officer, appointed by the Planning Commission with the approval of the Board of Selectmen, as provided by law. The Administrative Officer shall literally enforce the provisions of these regulations, inspect land developments, maintain records of all actions, and perform all other necessary and required tasks to carry out the provisions of these regulations and the duties of the office.

8.1 Permits:

1. Before any land, building, or accessory building is devoted to a new use or changed use, or before the erection, expansion, or relocation of any building or accessory building, a zoning permit therefor shall be obtained from the Administrative Officer. Application for such permit shall be made on a prescribed form accompanied by a fee as set by the Board of Selectmen. Before issuing any such permit, the Administrative Officer shall certify that the proposed building or use complies with all the provisions of this bylaw.
2. Any development requiring a new or approved access drive onto a town road requires an access permit from the Sandgate Board of Selectmen.
3. The Administrative Officer shall maintain a full and accurate record of all applications, permits, and violations acted upon, which records shall be filed with the Board of Listers of the Town and the Secretary of the Board of Adjustment. Permits shall be voided in the event of misrepresentation or failure to undertake construction within 12 months of the date of approval.

4. If the Administrative Officer fails to act with regard to an application for a permit within 30 days from the date of receipt of a complete application, a permit shall be deemed issued on the 31st day,
5. Each zoning permit issued shall contain a statement of the period of time within which an appeal may be taken. No permit shall take effect until the time for appeal has passed, as provided for in 24 V.S.A. 4465. If an appeal is taken, the permit shall not take effect until final adjudication of the appeal by the appropriate municipal panel or environmental court, as provided for in 24 V.S.A. 4449. Within three days of the issuance of a zoning permit, the Administrative Officer shall post the permit on the town bulletin boards in Sandgate and file a copy with the Board of Listers. Permits shall remain posted for at least 15 days from the date of issuance. A notice of permit also shall be posted at a location within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal has passed.
6. Permit forms may be obtained from the Administrative Officer or the Town Clerk.
7. No zoning permits shall be issued for a building or structure, the useful occupancy of which requires a sewage disposal system, until the Sandgate Sewage Officer has granted a permit.
8. No zoning permit shall be issued for a building, structure, or use on a lot created in violation of any zoning, sewage, or subdivision regulation of the Town of Sandgate, until such time that all valid permits required for the creation of such lots are obtained and submitted to the Administrative Officer.

8.2 Interpretation of Bylaws: In their interpretation and application, the provisions of this bylaw shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not intended by this bylaw to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of any law or ordinance, or any rules, regulations, or permits previously adopted or issued, which shall be adopted or issued pursuant to any law or ordinance, relating to the use of buildings or premises; nor is it intended by this bylaw to interfere with or abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that where this bylaw imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger yards, courts, or other open spaces than are imposed or required by existing provisions of law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provisions of this bylaw shall control.

8.3 Site Development Plan: Where required by provisions of this bylaw, a site development plan shall be submitted with an application for a permit or other approval. No permits shall be issued until the Planning Commission or the Board of Adjustment has approved the site development plan in the case of conditional use applications. Such site development plan shall be at a scale prescribed by the Planning Commission or Board of Adjustment and shall show, where applicable, the boundaries and area of the lot, existing and proposed buildings on the lot and on adjacent lots within a distance of 200 feet from the subject lot, proposed vehicular circulation and parking, proposed pedestrian circulation, open space, park and playground facilities, landscape details, proposed drainage and natural drainage-ways and water-courses, existing contours, land conditions, and such other information as the Planning Commission or Board of Adjustment may require.

- 8.4 Variances:** On an appeal from the decision of the Administrative Officer, where a variance from the strict requirements of this bylaw is requested, the Board of Adjustment must adhere to and act strictly within the limitations of 24 V.S.A. Section 4469. The Board may render a decision in favor of the appellant only if it makes a positive finding on all of the following facts:
1. That 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 such conditions and not the circumstances or conditions generally created by the provisions of this bylaw in the district or neighborhood in which the property is located;
 2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 3. That the appellant has not created the unnecessary hardship;
 4. That 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
 5. That the variance, if authorized, will represent the minimum variance affording relief and will represent the least deviation possible from the zoning bylaw and the town plan.
- 8.5 Appeals:** An interested person, as defined in 24 V.S.A. 4465, may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal, accompanied by the appropriate fee as set by the Select Board, with the Secretary of the Board of Adjustment. Such notice of appeal of a decision of the Administrative Officer must be filed within 15 days of the decision or act, and a copy of the notice of appeal shall be filed with the Administrative Officer.
- 8.6 Penalties and Remedies:** Any person who violates the provisions of this bylaw shall be subject to the penalties and remedies prescribed in 24 V.S.A 4451 and 4452.
- 8.7 Validity:** If any section or provision of this bylaw is adjudged to be unconstitutional or otherwise invalid such decision shall not affect the validity of this bylaw as a whole, or any part thereof other than the part so adjudicated.
- 8.8 Public Notice:** Any public notice required for public hearing under this bylaw shall be given as required by law.
- 8.9 Board of Adjustment:** There shall be a Board of Adjustment created as provided by Section 4460 through Section 4471 inclusive, of the Vermont Planning and Development Act, as amended, with the power and duties as provided therein.
- 8.10 Amendments:** This bylaw, or the boundaries of zoning districts established herein, may be amended from time to time after a public hearing, as provided by Sections 4441, 4442, and 4444 of the Vermont Planning and Development Act.

APPENDIX

VERMONT DEPARTMENT OF AGRICULTURE, FOOD AND MARKETS POLICY ON SETBACK DETERMINATIONS PURSUANT TO 24 V.S.A. Section 4495 April 2, 1996

On June 28, 1994, 24 V.S.A. section 4495 was amended to exempt farm structures from the requirements to obtain a municipal zoning permit for their construction. The amended law now requires that anyone proposing to build a farm structure must notify the municipality prior to construction. The law further requires that the structures must be built in accordance with setbacks approved by the Commissioner of Agriculture, Food and Markets (the Commissioner).

Stated in full, 24 V.S.A. section 4495 is as follows:

Section 4495. Accepted Agricultural and silvicultural practices.

- a. For purposes of this section, "farm structure" means a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, as "farming" is defined in section 6001(22) of Title 10, but excludes a dwelling for human habitation.
- b. No plan or bylaw adopted under this chapter shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the commissioner of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under sections 1021(f) and 1259(f) of Title 10, and Section 4810 of Title 6.
- c. A person shall notify a municipality of the intent to build a farm structure, and shall abide by setbacks approved by the commissioner of agriculture, food and markets. No municipal permit for a farm structure shall be required.

The definition of farming contained in 10 V.S.A. Section 6001(22) (Act 250) is as follows:

- a. The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
- b. the raising, feeding or management of livestock, poultry, equines, fish or bees;
or
- c. the operation of greenhouses; or
- d. the production of maple syrup;
- e. the on-site storage, preparation and sale of agricultural products principally produced on the farm; or
- f. the on-site production of fuel or power from agricultural products or waste produced on the farm.

Agricultural practices that are governed by these regulations include, but are not limited to the following:

- a. The confinement, feeding, fencing, and watering of livestock.**
- b. The handling of livestock wastes and by-products.**
- c. The collection of maple sap and production of maple syrup.**
- d. The preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops.**
- e. The ditching and subsurface drainage of farm fields and the construction of farm ponds.**
- f. The stabilization of farm field streambanks constructed in accordance with the United States Department of Agriculture Natural Resources Conservation Service standards and specifications or other standards approved by the Commissioner.**

It is the policy of the Commissioner that the setbacks established in the municipal zoning ordinance of the town in which the structure will be built shall automatically be the setbacks approved by the Commissioner pursuant to 24 V.S.A. Section 4495. If the farmer believes that the structure cannot meet the ordinance setbacks of the town or if the Commissioner considers those setbacks to be unreasonable or inconsistent with other setbacks found in the municipality the Commissioner may establish alternate setbacks for the farm structure. The Commissioner may also deny approval for construction in a floodplain unless the structure conforms to Federal Emergency Management Agency standards for floodplain construction. A denial may also be issued for construction in a location violating state or federal laws.

A person may request a waiver for an ordinance setback from the Commissioner for a farm structure. In reviewing a request for a waiver to the ordinance setback, the Commissioner will consider the following:

- 1. Are physical constraints, such as natural features or topographic features present that would prevent locating the structure in conformance with the ordinance setback?**
- 2. Will conformance with the ordinance setback create insurmountable farm operational constraints?**
- 3. Will encroachment of the ordinance setback(s) create an unreasonable nuisance for the adjoining property owner, or otherwise unreasonably impair the use of the adjacent property?**
- 4. Is conformance with the ordinance setback impossible due to a self-created hardship, such as a building design that does not meet the setback requirements when other appropriate designs would?**
- 5. The waiver, if granted, will allow for the introduction of modern day technology but at the same time will reasonably maintain the character of the neighborhood.**
- 6. Will granting the waiver be detrimental to the public health, safety and welfare?**
- 7. What is the minimal deviation from ordinance setbacks that will provide all parties with practical relief?**

A person proposing to construct a farm structure will not be required to notify the Commissioner of his or her intent to build provided the structure will conform to the ordinance setbacks. If, however, the person wishes to use less restrictive setbacks, he or

she must request a waiver in writing from the Commissioner. The request must include this information: a statement of the reason or reasons less restrictive setbacks are necessary; a copy of the zoning ordinance governing the tract on which the structure will be build; a sketch plan of the proposed structure(s) showing the distance from all property lines; and a description of the adjoining land uses.

The Commissioner will notify the municipality in writing of his or her intent to consider a waiver. The notice shall be sent by certified mail. The Commissioner requests that the notice be posted in a public place in the municipal office. Any comments resulting from this posting or from the municipality must be received in writing at the Department by 4:30 p.m. on the seventh business day following receipt of the notice.

Comments should be sent to:

Vermont Department of Agriculture, Food and Markets
116 State Street
Drawer 20
Montpelier, Vermont 05620-2901
TELEPHONE: (802)-828-2500

The Commissioner will notify the farmer in writing of his or her decision to grant or deny a waiver and will send a copy of the decision to the municipality.