

*(Proposed)*  
**TOWN OF STRATTON**

**ZONING ORDINANCE**

**(2016)**

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Adopted on: \_\_\_\_\_ Date

Attest: \_\_\_\_\_ Stratton Town Clerk \_\_\_\_\_ Date:

# *Town of Stratton Zoning Ordinance*

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Note: The Zoning application and Certificate of Completion Notice are stand-alone documents to be developed by the Planning Commission separately from this Zoning Ordinance.

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## **Article I: ENACTMENT AND PURPOSE**

### **100 ENACTMENT**

In accordance with § 4401(b) Vermont Planning and Development Act, Title 24 V.S.A., Chapter 117, hereafter referred to as “the Act”, the Town of Stratton hereby reestablishes a Zoning Ordinance for said Town, which is set forth in the text and map that constitute this document. This document shall be known as the Town of Stratton Zoning Ordinance, also known as the Ordinance or the Zoning Bylaws.

### **110 PURPOSE**

The purpose of this Ordinance is to provide for orderly community growth while protecting public health, safety, and welfare; and to further the purposes established in the Act.

### **120 APPLICATION OF THE ORDINANCE**

The application of this Ordinance is subject to the Act. Except as hereinafter provided, no “land development,” as the term is defined within this Ordinance, may be commenced in the Town of Stratton unless it is in conformity with the regulations herein specified for the district in which it is located. Any use not permitted by this Ordinance shall be deemed prohibited.

### **130 INTERPRETATION**

This Ordinance is intended to repeal the previous Stratton Zoning Ordinances but is not intended to repeal, annul, and/or impair any other regulation or permit issued. Where this Ordinance imposes a greater restriction upon the use of a structure or land than is required by any other statute, rule, ordinance, or regulation, the provisions of this Ordinance shall control and apply. In any case where the restrictions within this Zoning Ordinance overlap or conflict in their application to a particular structure, use, or parcel of land, those provisions which would impose the greater restriction upon such structure, use, or parcel of land shall control.

### **140 USES NOT PERMITTED**

In all districts, the following uses are not permitted: commercial slaughtering houses; rendering plants; hide tanning or curing plants; manufacture or processing of fertilizer; bone; rubber; asphalt; ammonia; chlorine; cement; chemical processing of pulp for paper; storage of explosives except for temporary construction uses under State standards.

### **150 SEPARABILITY**

The invalidity of any Article or Section of this Ordinance shall not invalidate any other part of the Ordinance.

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## **Article II: DEFINITIONS**

Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. References for terms undefined are *Webster's New Twentieth Century Dictionary*, *The Illustrated Book of Development Definitions*, and *The Language of Zoning: A Glossary of Words and Phrases*. Words used in the present tense shall include the future; the singular includes the plural; the word "lot" includes "plot;" the word "building" includes "structure;" the word "shall" is mandatory; "occupied" or "uses" shall be considered as though followed by "or intended, arranged or designed to be used or occupied;" "person" includes individual, partnership, association, cooperative, corporation, company, organization or any governmental body.

### **ACCESSORY USE OR STRUCTURE:**

A use or building customarily incidental and subordinate to the principal use or building and located on the same lot.

### **ACT, THE:**

Title 24 Municipal and County Government, Chapter 117. Municipal and Regional Planning Development, also known as the Vermont Planning and Development Act.

### **ALTERATION:**

Includes structural changes, rearrangement, change of location, or addition to a building and other repairs and modification in building equipment.

### **AGENCY OF TRANSPORTATION (AOT):**

Also known as VTrans, administers right-of-way permits on State Highways and is involved in airport and junkyard permits.

### **ANTENNA:**

Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure, or is portable or movable. Antenna includes devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

#### **Antenna - Directional**

An antenna which transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees.

#### **Antenna - Facade Mounted**

Any antenna directly attached or affixed to the elevation of a building, tank, tower, or other structure.

#### **Antenna - Ground Mounted**

Any antenna with its base, single or multiple posts, placed directly on the ground or a mast less than 15 feet tall and six inches in diameter.

#### **Antenna - Omnidirectional**

An antenna which transmits and/or receives radio frequency signals in a 360 degree radial pattern.



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## **Antenna - Parabolic (also known as “satellite dish antenna”)**

Any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, bowl or cornucopia shaped and is used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern.

## **Antenna - Portable**

Any device used to transmit and/or receive electromagnetic or radio frequency communication signals in a specific directional pattern, located on a portable or moveable base designed to be placed either for temporary or long-term use at a given site.

## **AUXILIARY STRUCTURE:**

Includes barns, sheds, sugar shacks, workshops, dog houses, pool house, and garage. A structure not connected with a primary residence on a parcel of property.

## **BASE FLOOD:**

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

## **BASE FLOOD ELEVATION (BFE):**

The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

## **BASEMENT:**

The substructure or foundation of a building, or the lowest habitable story of a building, usually below ground level.

## **BED & BREAKFAST:**

An existing residential building that is used as a residence and which contains not more than eight sleeping rooms, with or without individual sanitary facilities, for rental accommodations to tourists, for durations less than one month, which serves breakfast to guests and may serve other meals to guests. An accessory building to a Residence is not a “Bed and Breakfast” facility, but instead shall be classified as a Motel.

## **BED & BREAKFAST, TRADITIONAL:**

Meets the definition of Bed & Breakfast, but limited to a maximum of three bedrooms, and also meets the definition of Home Occupation (business use is 50% or less of the total square footage of the structure).

## **BOARDING AND RIDING STABLES:**

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

## **BUFFER:**

Space (land) and other elements (plants, berms, fences, or walls, the purpose of which is to physically separate and visually screen adjacent land uses that are not fully compatible.

## **BUILDING:**

A walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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## **BUILDABLE AREA:**

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

## **BUILDING HEIGHT, MAXIMUM:**

The vertical distance measured from the average elevation of the proposed finished grade of the perimeter of the footprint of the building to the highest point of the roof. For development on top of a parking structure, the maximum building height is defined as the vertical distance from the uppermost level of such parking structure upon which the building is constructed to the highest point of the roof.

## **CALIPER:**

### **Caliper, Single Stem:**

The thickness of a tree measured in inches at a particular place on the stem. A caliper measurement for a tree shall be measured 12 inches above the soil line, or across the stump if the tree has been severed at less than 12 inches above the soil line.

### **Caliper, multi-stem**

The equivalent area of the multi-stem shall be made by use of a circumference to diameter conversion tape and is calculated as follows:

1. square the diameters of each stem;
2. multiply each of the numbers from step 1 by 0.7854;
3. add all the products determined by step 2 and multiply total by 1.2732;
4. take the square root of the product from step 3.

## **CAMP:**

A single structure such as a cabin, travel trailer, shelter, houseboat or other recreational accommodation that must meet all standards for residential development in the district.

## **CAMP OR CAMPGROUND:**

Land on which is located a cabin, travel trailer, shelter, houseboat or other recreational accommodation for seasonal or temporary living, excluding mobile or manufactured homes.

## **CAMPERS, TRAILERS, AND RECREATIONAL VEHICLE PARKS:**

Three or more campers and/or trailers (registered or unregistered with DMV) set up for either short-term or long-term occupancy on a single parcel of land for any period of time. Also, any parcel set up for accommodating more than two campers and/or trailers. (i.e., having pads and electrical connections) regardless of the existence of campers or trailers.

## **CHILD CARE FACILITY:**

See **FAMILY CHILDCARE**

## **CLUSTER DEVELOPMENT:**

See **PLANNED UNIT DEVELOPMENT (PUD)**.

## **COLOR RENDERING INDEX (CRI):**

A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from 0 to 100.

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## **CONDITIONAL USE:**

Uses specified within this Ordinance allowed only under certain circumstances as approved by the ZBA.

## **COMMERCIAL ANIMALS:**

Animals kept, used or raised for profit and involving the general public such as kennels, riding centers, boarding stables and zoos but does not include animals used for wool, meat or food production.

## **COMMON LAND:**

Land owned and used in common and restricted in purpose by covenant for residents or users of cluster buildings or planned unit developments.

## **CONDOMINIUM:**

A building or group of buildings in which units are owned individually, while the outer structure (e.g., façade, etc.), common areas, and facilities are owned by all the owners on a proportional, undivided basis. Condominiums may be residential or commercial, industrial or office in nature.

## **COMMUNITY ASSOCIATION:**

A community association that administers and maintains the common property and common elements of a community. Also known as an Owners' Association.

## **CORRAL:**

The primary enclosure for confining livestock. A fence-type structure consisting of vertical posts and horizontal members, and so constructed that 75 percent or more of the vertical surface is open. Chain link or other similar types of wire fences are not intended to be included in this definition and shall be classified as a fence or wall.

## **COVERAGE:**

That percentage of a lot area covered by roofed structures.

## **CUPOLA - ACCESSIBLE:**

A small structural appendage used as a lookout, the interior of which is accessible for any type of occupancy.

## **CUPOLA - DECORATIVE:**

A non-livable, ornamental, small structural appendage on top of a building, which may be used to provide ventilation and light, but shall be inaccessible from the roof or attic. It usually crowns a larger roof or dome.

## **CURB CUT:**

The providing of vehicular access (ingress and / or egress) between property and an abutting public or private road.

## **CUT-OFF FIXTURES:**

A type of lighting fixture that is the most effective in controlling glare and sky-glow. Cut-off fixtures control glare by directing light well below the horizontal, keeping the light out of the viewer's line of sight. Specifications for cut-off fixtures have been established by the Illuminating

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Engineering Society of North America. Wall-mounted fixtures also are manufactured with cut-off features. Such fixtures shine light down and outward from a building wall.

**Semi-cut-off Fixtures:** In this classification of luminaire, 20 percent of the light shines above the 80 degree line and ten percent of the light shines above the horizontal. Because the lamp is only partially shielded, minimal glare control is provided.

**Non-cut-off Fixtures:** Some luminaires control brightness only through the use of a segmented lens surrounding or covering the lamp. These frosted or prismatic lenses diffuse some of the light, but few such lenses are effective against glare. Some luminaires in the non-cut-off category are designed to be decorative or historic. If the luminance is low enough, the effect of glare will be minimal.

## **DECK:**

A structure directly adjacent to a principal building that is above grade. The deck may be completely or partially roofed, either by beams or lattice work.

## **DEER WINTERING AREA**

Concentrated habitat which is identifiable and is demonstrated as being decisive to the survival of this species at any period in its life; deer wintering areas include, among other characteristics, dense evergreen tree cover and steep southern facing woodlands.

## **DENSITY:**

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

## **DESIGN HELICOPTER:**

A generic helicopter which reflects the maximum weight, overall length, rotor diameter, etc. of any helicopter expected to operate at the heliport.

## **DEVELOPMENT:**

The division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement on any building or other structure; site work; any mining or excavation or landfill; any change in the use of any building or other structure; or the change of use of land.

## **DEVELOPMENT REVIEW:**

Zoning Administrator, Planning Commission or ZBA review of applications, site plans and supporting documents for a development covered under this Ordinance.

## **DIGITAL FLOOD INSURANCE RATE MAP (DFIRM):**

An official map of a community, on which the Federal Insurance Administrator has delineated the special flood hazard areas.

## **DIAMETER AT BREAST HEIGHT (DBH):**

The tree trunk diameter measured in inches at a height of 4.5 feet above the ground. If a tree forks into multiple trunks below 4.5 feet, the trunk is measured at its narrowest point beneath the forks. Measurements shall be made by use of a circumference to diameter conversion tape.

## **DRIP LINE:**

The vertical line extending from the outermost edge of the roof overhang of a building or the outermost edge of any structure or the outermost branches of a tree, to the ground.

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## **DWELLING UNIT:**

A building or part thereof used as living quarters for one family containing independent cooking, sanitary, and sleeping facilities. It shall include prefabricated and modular units and mobile homes, but shall not include motels, hotels or similar structures.

## **ELEMENT:**

Component of a plan or bylaw.

## **ENVIRONMENTAL COURT:**

The Environmental Division is a trial court with statewide jurisdiction. It hears appeals from state land use permit decisions (Act 250), from state environmental permits and other decisions of the Agency of Natural Resources, and from municipal land use zoning and planning decisions. The Court also hears municipal land use enforcement cases, and enforcement actions brought by the Agency of Natural Resources and Natural Resources Board. Almost all cases are heard de novo, with an evidentiary trial, and are scheduled for a courtroom in the county in which the case arises.

## **FAMILY:**

One or more persons occupying a single dwelling unit, the people do not have to be legally related by blood, marriage or adoption.

## **FAMILY CHILD CARE HOME OR FACILITY:**

Family child care home or facility means a home or facility where the owner or operator is to be licensed or registered by the State for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 3511(7), shall be considered to constitute a permitted use of property but requires site plan approval. A family child care facility serving more than six full-time and four part-time children requires Conditional Use Review.

## **FARM STRUCTURES:**

A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with "farming" is defined in 10 V.S.A. §6001(22), but excludes a dwelling for human habitation. A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the secretary of agriculture, food and markets. No municipal permit for a farm structure shall be required. See Title 10 V.S.A.

## **FEDERAL AVIATION ADMINISTRATOR (FAA):**

The federal authority which administers helicopter and tower regulations.

## **FEDERAL COMMUNICATION COMMISSION (FCC):**

The federal authority which administers communication tower regulations.

## **FEDERAL INSURANCE ADMINISTRATION (FIA):**

The federal authority which administers flood hazard insurance and related issues.

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## **FINAL APPROACH AND TAKEOFF AREA (FATO):**

A defined area over which the final phase of the approach to a hover, or a landing is completed and from which the takeoff of a helicopter is initiated. This area is called the “takeoff and landing area” in some FAA publications.

## **FLOODPLAIN:**

The land area susceptible to inundation by water as a result of a flood.

## **FLOOD HAZARD AREA OR AREA OF SPECIAL FLOOD HAZARD:**

The land in the floodplain within a community subject to a one percent or greater chance of flooding in a given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM) after detailed ratemaking has been completed in preparation for publication of the Digital Flood Insurance Rate Map (DFIRM).

## **FLOOD INSURANCE STUDY (FIS):**

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e. mudflow) and / or flood related erosion hazards.

## **FLOOD-PROOFED:**

A process by which any combination of structural and nonstructural additions, changes or, adjustments to structures reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

## **FLOODWAY:**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

## **FLOODLIGHTING:**

Lighting designed to light a scene or object to a luminance greater than its surroundings. The beam spread of floodlights may range from narrow field angles of 10 degrees to wide angles (more than 100 degrees).

## **FLOOR AREA:**

The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage, excluding unfinished attics.

## **FOOT-CANDLES:**

A unit of luminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

## **GLARE:**

A strong, dazzling light or reflection of that light.

**Direct Glare:** Glare resulting from insufficiently shielded light sources or areas of excessive luminance within the field of view.

**Glare Disability:** The effect of stray light in the eye whereby visibility and visual performance are reduced.

**Glare Discomfort:** The effect of glare-producing discomfort. It does not necessarily interfere with visual performance or visibility.

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## **HELIPAD PROTECTION ZONE:**

An area off the end of the FATO and under the approach/takeoff path to enhance the protection of people and property on the ground.

## **HELIPORT OR HELICOPTER LANDING FACILITY (HLF):**

The area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters, together with appurtenant buildings and facilities.

## **HISTORIC SITE:**

Any site, structure, district or archaeological landmark which has been officially included in the National Register of Historic Places and/or the State Register of Historic Places or which is established by testimony of the Vermont Advisory Committee on Historic Preservation or the Town of Stratton Selectboard as being historically significant.

## **HISTORIC STRUCTURE:**

Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

## **HOME OCCUPATION:**

An accessory use of a service or craft character conducted within an existing dwelling by its residents, which is clearly secondary to the dwelling uses for living purposes and does not change the character of the neighborhood. This definition is not to be interpreted as infringing upon the rights granted in the Act.

## **HOME/CONDO OWNERS' ASSOCIATION (a.k.a. Community Owners' Assoc., Homeowners' Assoc., Condominium Owners' Assoc., HOA or COA):**

An incorporated nonprofit organization operating under recorded land agreements through which: a) each lot/dwelling owner is automatically a member; and b) each lot/dwelling is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property.

## **HOSPITAL:**

Facilities which include sanitariums, clinics, rest homes, nursing homes or homes for the elderly.

## **ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA):**

An association of professionals in the field of lighting and related professions. Its membership is made up of engineers, architects, designers, manufacturers, contractors, distributors, utility personnel educators, students, and scientists. Information provided by this group is used in this Ordinance.

# ***Town of Stratton Zoning Ordinance***

## **INTERESTED PERSON:**

Any one of 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 municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.
- (3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, 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 persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
- (5) Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

## **JUNK MOTOR VEHICLE:**

A discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, or one other than an on-premise utility vehicle which is allowed to remain unregistered for a period of ninety days from the date of discovery.

## **JUNKYARD:**

See **SALVAGE YARD**

## **KENNEL:**

Any animal boarding facility or other establishment for the boarding of more than five dogs or other animals of a similar species over the age of six months. Animal hospitals maintained by a licensed veterinarian as part of the practice of veterinary medicine shall not be considered kennels.

## **LANDSCAPING:**

The modification of the natural environment. It covers all site work, including grading, drainage, erosion control, roads, walks, screening, planting and lighting.

## **LEGISLATIVE BODY:**

Selectboard in the Town of Stratton.

## **LIVING SPACE:**

A building or part of a building, containing living, sleeping, cooking and eating space, and sanitary facilities for occupancy by one or more people.



# *Town of Stratton Zoning Ordinance*

## **LOT:**

A parcel of 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 for a lot in the district in which such land is situated, and having frontage on a street, or other means of access as determined and approved by the Planning Commission.

**Lot Area:** Total area within the property lines.

**Lot Frontage:** Distance measured along the width of the lot parallel to the road right-of-way at the road right-of-way.

**Lot Depth:** Mean horizontal distance from the property line nearest the road right-of-way to the rear line.

**Lot Width:** Mean horizontal distance measured at right angles to the lot depth.

## **LOUNGE:**

An establishment serving beverages; also called a bar.

## **LOWEST FLOOR:**

The lowest floor of the lowest enclosed area (including basement). This does not include an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Title 44 CFR Section 60.3. (Code of Federal Regulations, Emergency Management and Assistance)

## **LUMENS:**

A measure of light energy generated by a light source. Manufacturers list lumen ratings for all their lamps. Average lumen ratings are slightly lower than initial lumen ratings.

## **MAINTAIN OR MAINTENANCE:**

In reference to planting includes pruning, mulching, mowing, spraying, fertilizing, propping, bracing, treating for disease or injury, snow removal and any other similar acts which promote the life, growth, health or beauty of the landscape vegetation for the duration of the plant's useful life.

## **MANUFACTURED HOME:**

A prefabricated dwelling unit that is designed for long-term and continuous occupancy; is designed to be moved on wheels, as a whole or in sections; is complete and ready for occupancy on arrival at the site, except for incidental unpacking, assembly, connections with utilities and placing on support or permanent foundation, or installation as a unit in a previously prepared structure; and contains the same water supply and waste disposal as immovable housing. For floodplain management purposes, the term includes park trailers, travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days. For insurance purposes, the term does not include park trailers, travel trailers and other similar vehicles.

## **MANUFACTURED HOME PARK:**

A parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate three or more manufactured homes. A new manufactured home park or subdivision is one for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

# *Town of Stratton Zoning Ordinance*

## **MEAN WATER MARK:**

Average yearly water level of a stream, lake, pond or wetland.

## **MINOR RESIDENTIAL BUILDING IMPROVEMENTS:**

Any repairs, reconstruction, or improvement of a structure, the cost of which is less than fifty (50) percent of the market value of the structure.

## **MOBILE HOME:**

See manufactured home.

## **MONOPOLE:**

A single pole support structure greater than 15 feet in height, erected on the ground or on a structure to support antennas and connecting appurtenances.

## **MOTEL:**

Building(s) containing rooms which are rented as sleeping units for tourists, including hotel, lodge, inn, and similar establishments.

## **MOTOR VEHICLE:**

All vehicles propelled or drawn by power other than muscular power originally intended for use on public roads.

## **MUNICIPALITY:**

A town, a city, or an incorporated village of an incorporated town. The Town of Stratton is the municipality most often referenced in the Ordinance.

## **NEW CONSTRUCTION:**

For the purposes of determining insurance rates in the NFIP (National Flood Insurance Program), structures for which the start of construction commenced on or after 2 March 1976 and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

## **NON-CONFORMING STRUCTURE:**

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

## **NON-CONFORMING USE:**

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

## **OVERLAY DISTRICT:**

A district established by ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.

# *Town of Stratton Zoning Ordinance*

## **PARKING SPACE:**

Off-street space used for the temporary location of one licensed motor vehicle, the dimensions of which space are at least nine feet wide and 20 feet long (not including the access driveway). The space must have direct access to a street, alley or approved right-of-way.

## **PATIO OR PAVED SURFACE AREA:**

Ground surface, not a structure, covered with cobblestones, clay-fired bricks, concrete precise paver units (including, but not limited to, reinforced turf), poured concrete with or without decorative surface materials, blacktop, or other asphaltic or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

## **PERMITTED USE:**

Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

## **PERSON:**

An individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture or affiliated ownership. The word "person" also can mean a Town or State agency.

## **PLAN:**

A town or regional plan adopted under the Act.

## **PLANNED UNIT DEVELOPMENT (PUD):**

An area of land to be developed as a single entity for a number of dwelling units, and may contain commercial and industrial uses, the plan for which does not conform in lot size, bulk, type of dwelling, lot coverage and required open space to the regulations established in one or more districts created under provisions of this Town Zoning Ordinance. The density of development of the total parcel, however, shall conform to the density required in the district or districts in which it is located.

## **PLANNING COMMISSION (PC):**

A Planning Commission for a town created under Subchapter 2 of the Act. Within this Ordinance, Planning Commission refers to the Town of Stratton Planning Commission.

## **PRIVATE ROAD:**

A road privately owned and maintained that is used as the principal means of access to an abutting lot or lots or to more than two dwellings on a lot on which a private way is exclusively located.

## **PUBLIC NOTICE:**

The form of notice prescribed by the Act. (See, also, Section 340 HEARING PROCESS)

## **PUBLIC ROAD:**

Public way or proposed public way for vehicular traffic that affords the principal means of access to abutting properties.

# *Town of Stratton Zoning Ordinance*

## **PUBLIC WATERS:**

Navigable waters except those waters in private ponds and private preserves as set forth in Title 10 V.S.A. § 1422(6).

## **RADIAL PLOTS FOR TELECOMMUNICATIONS:**

The result of drawing equally spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. A threshold plot would show what point would be strong enough to provide adequate coverage.

## **RECEIVING AREA:**

A development receiving an increase in density on a plot of land due to transference of the development rights from another location within the Town.

## **RECREATIONAL VEHICLE:**

A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

## **REGIONAL PLAN:**

A regional plan adopted under the Act. In this Ordinance it refers to the Windham Regional Plan.

## **RENEWABLE ENERGY:**

Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat, and geothermal sources.

## **REQUIRED AGRICULTURAL PRACTICES (RAP):**

Agricultural practices as defined by the Vermont Commissioner of Agriculture and updated from time to time.

## **RETAIL STORE:**

An enclosed shop or store for the sale of retail goods, department stores and banks. It shall exclude any drive-up service (not including banks), free-standing retail stand, gasoline service and motor vehicular repair service, new and used car sales and service, trailer and mobile home sales and service, and boat, snow and/or all-terrain vehicles sales and service.

## **SALVAGE YARD:**

1) Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. 2) Any place of outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway, navigable water, or boundary from adjacent property owner.

## **SCHOOL:**

Parochial, non-profit, private, public, nursery school, pre-school, college, university and accessory uses.

# *Town of Stratton Zoning Ordinance*

## **SENDING AREA:**

A plot of land where development rights are reduced for the benefit of a development in another part of Town.

## **SERVICE STATION:**

A facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories. In addition, such a facility may provide minor vehicle servicing, minor repairs, and maintenance, including engine rebuilding but not reconditioning of motor vehicles, collision services such as body, frame, or fender straightening and repair, or overall painting of automobiles. Such a facility might also offer for sale prepackaged food items and tangible consumer goods, primarily for self-service by the consumer. Hot beverages, fountain-type beverages, and pastries may be included in the food items offered for sale.

## **SETBACKS:**

The minimum distance by which any building or structure must be separated from a road or right-of-way center line or adjacent lot line. Setbacks are to be measured to the drip line of a structure.

## **SHORELAND:**

The area within 500 feet of the normal mean watermark of any lake, pond or impoundment which exceeds 20 acres in size or which is particularly valuable as a wildlife, recreational or aesthetic resource. All wetlands of any size are considered to have particular value, including, but not limited to water supply, flood control, erosion, sedimentation control, water pollution control, fisheries, wildlife habitat and aesthetics.

## **SHORELINE:**

The land adjacent to the waters of lakes, ponds, reservoirs and rivers. Shorelines shall include the land between the mean high water mark and the mean low water mark of such surface waters.

## **SHORT-TERM RENTAL HOME**

Rental accommodation with lease of less than one month.

## **SIGN:**

Any structure, display, device or representation which is designed or used to advertise or call attention to any person, place, thing, business, or activity and is visible from the road. It does not include pennants or flags of nation, state or town.

## **SIGNAL PROPAGATION STUDIES OR COVERAGE PLOTS:**

Computer-generated estimates of the signal emanating, and prediction of coverage from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations.

## **START OF CONSTRUCTION:**

For floodplain management purposes, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a

# ***Town of Stratton Zoning Ordinance***

foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

## **STEEP SLOPES:**

Slopes in excess of 15 percent. Areas of steep slope that are less than 4,000 square feet shall be exempted from these standards.

## **STRUCTURE:**

An assembly of materials or for occupancy or use, including, but not limited to, a building, mobile home or trailer, billboard, tower, sign, (except a wall or fence). The term structure does not include a personal satellite dish.

For floodplain management purposes, a walled and roofed building including but not limited to a building, manufactured home, mobile home, gas or liquid storage tank that is principally above ground. Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

## **SUBDIVISION:**

The division of any parcel of land for the purpose of conveyance, transfer of ownership, improvement, building, development or sale, whereby two or more lots, blocks, or parcels are created. The term "subdivision" includes re-subdivision and adjustment of lot lines. Partition of a parcel of land, whether by sale, gift or inheritance, between members of a family who have customarily lived on that parcel, shall be considered a subdivision.

*Note: Under its Subdivision Regulations, the Town of Stratton uses a different definition for the threshold of jurisdiction of a subdivision. (See the subdivision bylaw.)*

## **SUBSTANTIAL COMPLETION:**

A stage of a construction or building project or a designated portion of the project that is sufficiently complete, in accordance with the construction contract documents, so that the owner may use or occupy the building project or designated portion thereof for the intended purpose.

## **SUBSTANTIAL DAMAGE:**

Any damage of any origin sustained by a structure whereby the cost of restoring the structure to its "before damage" condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

# *Town of Stratton Zoning Ordinance*

## **SUBSTANTIAL IMPROVEMENT:**

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the Market value of the structure before the "start of construction" of the first improvement. This term also includes repair or restoration of structures that have incurred substantial damage, regardless of the actual repair work performed. The cost of improvement, repair or restoration shall be based on all improvements commencing on and subsequent to the first improvement. The term does not however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (2) Any alteration of a structure listed on the National or State Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as an historic structure.

## **SWALE:**

A shallow depression which directs the flow of water.

## **TAXIWAY:**

A defined path established for the ground taxi of helicopters from one part of a heliport to another.

## **TELECOMMUNICATIONS FACILITY:**

See Wireless Telecommunication Facility.

## **TOWER:**

A mast, pole, monopole, lattice tower, or other structure designed and primarily used to support antennas. A ground or building mounted mast greater than 15 feet tall and six inches in diameter supporting one or more antenna, dishes, arrays, etc. shall be considered a telecommunications tower.

## **TOWER (LATTICE):**

A support structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.

## **TRUSS (SYMBOL):**

In building construction, a structural frame usually fabricated from pieces of metal or timber to form a series of triangles lying in a single plane. Trusses have been used extensively in roofing and bridges. The symbol is used to inform fire departments that the roof and/or floor are made of trusses.

## **UNIFORMITY RATIO:**

The ratio of average illumination to minimum illumination, also known as uniform lighting ratio.

## **VARIANCE:**

Deviation from the standards of this ordinance, as provided for in 24 V.S.A. § 4469.

## **VETERINARY FACILITY:**

A facility for the medical examination and treatment of animals by licensed veterinarians.

# *Town of Stratton Zoning Ordinance*

## **VIOLATION:**

Noncompliance with the zoning regulations.

## **VIOLATION (FLOODPLAIN):**

The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

## **WAIVER**

A waiver of certain dimensional requirements of this Ordinance which may be applied for when seeking approval for development that would not otherwise be allowed. (See Section 320.3.4.2)

## **WETLANDS:**

Those areas of the state that are inundated by surface or ground water with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas where food or crops are grown in connection with farming activities. In addition, it is an area defined by the State of Vermont Wetlands Division and U.S. Army Corps of Engineers.

## **WHOLESALE BUSINESS:**

An establishment for the sale of goods and merchandise in wholesale lots including wholesale storage.

## **WIND ENERGY SYSTEM (SMALL):**

A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 50kW and which is intended to primarily reduce on-site consumption of utility power. Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

## **WIRELESS TELECOMMUNICATION FACILITY OR TELECOMMUNICATION FACILITY:**

A facility that transmits and/or receives electromagnetic signals, including antennas, microwave dishes, parabolic antennas, directional antennas and other types of equipment for the transmission or reception of such signals, towers or similar structures supporting the equipment, equipment buildings, shelters, cabinets, parking area, and other accessory development.

**Wireless Telecommunication Facility - Co-located:** A telecommunication facility owned or operated by a telecommunication service provider which is located on the same tower, building or property as another telecommunication facility owned or operated by a different telecommunication service provider.

**Wireless Telecommunication Facility - Multiple User:** A telecommunication facility comprised of multiple telecommunication towers or buildings supporting one or more antennas owned or used by more than one public or private entity, excluding research and development industries with antennas to serve internal uses only.



## *Town of Stratton Zoning Ordinance*

### **YARD:**

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

### **ZONING ADMINISTRATOR (ZA):**

A municipal official nominated by the Planning Commission and appointed by the Selectboard for a term of three years, promptly when a vacancy exists. The Zoning Administrator administers the Zoning Ordinance literally and shall not have the power to permit any land development that is not in conformance with that Ordinance.

### **ZONING BOARD OF ADJUSTMENT (ZBA):**

Administrators appointed by the Selectboard to hold hearings for extension of construction completion dates, conditional use permits, variances and other business as required.

# *Town of Stratton Zoning Ordinance*

## **ARTICLE III – ZONING APPLICATIONS**

### **310 JURISDICTION**

No land development or alteration may be commenced within the Town of Stratton without a permit issued by the Zoning Administrator (ZA) except as described in the Act.

A Zoning Permit is required for the following:

1. The construction, reconstruction, conversion of use (e.g., creating new living space), structural alteration, relocation or enlargement of any building or other structure except as described in Section 310.1;
2. Any mining, excavation or landfill;
3. Any change in the use of any building or other structure (including the conversion to living space), or land; and
4. The extension of the use of land or structure beyond the time the use was permitted.

Additional information about jurisdiction over specific types of development is included in Article VIII Standards for Special Uses.

#### **310.1 JURISDICTION EXEMPTIONS**

(This does not alleviate the applicant from any water/wastewater requirement, or other state and/or federal requirements.) Property owners have the option to request a permit even if exemptions apply, as it may alleviate unforeseen complications due to a lack of documentation for a project.

The following activities shall not require a Zoning Permit (with exception of the Greenbelt Overlay):

1. The interior repair, alteration or renovation of any building or structure, as long as the activity does not change the lawful use of the building or structure;
2. The construction of structures of less than 100 square feet in area and/or less than ten feet in height, and additions less than 100 square feet to structures, provided that such accessory buildings or structures comply with all aspects of this Ordinance;
3. The continued use or the repair, restoration or rebuilding of a structure (including non-conforming buildings) damaged by fire or other casualty, or if it becomes structurally unsound, provided that such repair restores the building or structure so it does not exceed its original footprint, height or use, and is restored within two years of the damage, except as provided in Section 330;
4. The excavation or fill of 200 cubic yards or less incidental and accessory to a use of land that is lawful under this Ordinance, e.g., for a short driveway, provided that the excavation or fill does not violate any provisions of this Ordinance or constitute a change in the use of the land;
5. The clearing of trees and stumps from the land, unless other jurisdictional restrictions apply;
6. The repair and/or renovation of ski lifts and snowmaking equipment;
7. The construction, repairs and maintenance of fences and chimneys (fences within a right-of-way will require permission of all parties of interest or with jurisdiction);
8. The construction of any exterior repairs, renovations or maintenance that do not change the existing footprint, the lawful use of the building, or the height of the building.
9. Agricultural structures - construction or alteration of any building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

# *Town of Stratton Zoning Ordinance*

10. Patios and paved surface areas are not considered structures and are therefore exempt from setback restrictions.

## **320 APPLICATION PROCEDURE**

Once a property owner decides to move forward with a project, the property owner or their agent shall obtain a "Zoning Permit Application" from the Town, which will be available on the Town's website or at the Town Office.

The Town of Stratton shall provide a Zoning Permit Application for applicants, upon which basic details about the project are to be provided, including the owner / applicants' name(s) and contact information, the location of the property, details about the project, the estimated cost of the project and a list of fees associated with the submittal. This document shall also include "status" determinations (approval or rejection) and accompanying signatures from appropriate board chairs and the Zoning Administrator. *(Once finalized, this document will be considered the "Permit." The Permit, documentation for the project, and accompanying paperwork shall be filed with the Town. The Permit and associated report, if one was produced, shall be recorded in the Land Records and posted appropriately).*

To ensure that the project application will be properly submitted with all necessary information, it may be necessary for the applicant to meet with the Zoning Administrator to discuss the process. After determining that the application has been filled out appropriately and any fees have been collected, the Zoning Administrator will classify the project for either Administrative Review, Site Plan Review, and/or Conditional Use Review and start the review process as described below. *Permit fees are established by a resolution of the Stratton Selectboard. The Stratton Selectboard may set such reasonable fees for filing of notices of appeal and other acts as it deems proper, the payment of which shall be a condition of accepting a complete application.*

No permit may be issued by the Zoning Administrator unless it conforms to this Ordinance.

### **320.1 PRELIMINARY "SKETCH PLAN" REVIEWS**

An applicant may submit a preliminary "sketch plan" of their project to the Planning Commission prior to creating and submitting a formal application for development review, and request an informal discussion of the project at a regularly scheduled meeting without scheduling a hearing as long as there are no decisions made at that time by the board; but the meeting must be open to all parties and be conducted in a manner that parties have an opportunity to be heard. This is to be an informal exchange of ideas and the suggestions are not binding. The discussion is not intended to produce approvals or denials of development plans, nor does it imply approval or denial when formal application for site plan approval is made.

### **320.2 APPLICATION REVIEW**

An applicant for development review under this Ordinance shall file the original zoning permit application forms and one copy of site plans and supporting materials with the Zoning Administrator. The Zoning Administrator will determine whether the application shall be reviewed under Administrative, Conditional Use and/or Site Plan Review procedures. For all applications requiring either Conditional Use or Site Plan Review, the applicant will submit these documents at least three weeks prior to the date of the planned hearing date.

The Chair of the applicable board will determine when the public hearing will be held. The applicant needs to be proactive in obtaining any other documents from State Agencies during preparations for the hearing.

Site visits: If project review requires a public hearing there may be a site visit.

# *Town of Stratton Zoning Ordinance*

- 1) An informal site visit, off the record, may occur before the public hearing. Its purpose is to familiarize all parties with potential issues.
- 2) A formal site visit, on the record, may be required as part of the hearing. Its purpose is to resolve issues under review needing detailed input on site conditions/issues.

**Combined Review:** As stated in the Act: If more than one type of review is required for a project, the reviews, to the extent feasible, shall be conducted concurrently. Process or sequence of review and issuance of decisions is as follows: Site Plan Review by the Planning Commission may take place concurrently with Conditional Use Review by the ZBA, if the Chairs of each board agree it is prudent to do so. In this instance all conditions must be incorporated into the Planning Commission's final report for the project and the ZBA will work with the Planning Commission to ensure the report is complete to comply with the Act.

**Separate Review:** If separate reviews are to be held, applications will not be considered complete for the Planning Commission Site Plan Review until all necessary Conditional Use Review hearings have been concluded and variances or waivers have been granted by the ZBA and made part of the application. In the case when the application goes to the ZBA, a date for a hearing is determined by the Chair of the ZBA for a time that complies with the notice requirements in Section 340.

## **320.3 DEVELOPMENT REVIEW**

New projects or amendments to previously permitted projects are classified for appropriate level of review by the Zoning Administrator. After review by the ZA or the appropriate municipal panel, the ZA shall issue a zoning permit or deny the application.

### **320.3.1 ADMINISTRATIVE REVIEW (BY ZONING ADMINISTRATOR)**

A. The Zoning Administrator (ZA) may issue a permit if an application meets any of the following criteria, provided it meets all other requirements of this Ordinance:

1. Construction or enlargement of any single-family or two-family dwelling, or a building accessory to such dwelling, that meets the minimum standards by land use district in Article V;
2. Change of use to customary home occupations as defined in Section 719 of this Ordinance that do not require construction;
3. Construction of decks, signs, or other amenities requiring permits;
4. The application meets the requirements for residential development, auxiliary structures associated with a residence, or excavations exceeding 200 cubic yards of earth removal for developments within a Residential or Commercial Residential District.
5. Structures and/or an addition to an existing residence or an auxiliary structure on an existing, individually owned lot.
6. A second dwelling on an individual lot provided the living space is 45% or less of the living space square footage of the main dwelling structure on the site.

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## **320.3.2 SITE PLAN REVIEW (BY PLANNING COMMISSION)**

*Single and two-family home construction is exempt from Site Plan Review, unless other circumstances apply that may require Site Plan Review.*

All applications not meeting the thresholds for Administrative Review shall be reviewed by the Planning Commission (PC), or in some cases the ZBA as specified.

An application shall be determined to be a Site Plan Review if it meets any of the following criteria:

1. The type of project is on the list of site plan uses by land use district;
2. The proposed development requires additions to, or changes in any public utility or facility including streets, roads and sidewalks;
3. The proposed development is determined to have a significant effect upon either traffic generation or traffic patterns in the area of the development or will create a negative impact in an extended heavy traffic area;
4. The development may affect public rights to or enjoyment of any historic or scenic area;
5. The project is a Planned Unit Development;
6. The development may significantly impact the Town's natural landscape, the Mountain Road Greenbelt or rights of abutting property owners;
7. The site is located within 50 feet of significant streams, ponds, lakes, wetlands or deer wintering areas and/or within 500 feet of ridge tops, or significant wildlife habitats.

If the Application meets the criteria for Site Plan Review, then the Zoning Administrator shall forward the application to the Planning Commission.

## **320.3.3 ADDITIONAL SUPPLEMENTAL DOCUMENTATION REQUIREMENTS FOR APPLICATIONS REQUIRING SITE PLAN REVIEW**

1. Site plans and/or maps prepared by a registered professional engineer or surveyor or licensed architect or landscape architect at a scale of one inch equals 20 feet, on standard 24" x 36" sheets, with continuation on 8.5" x 11" sheets as necessary for written information, including the following:
2. A location map at a scale no less than 1 inch equals 500 feet;
3. Names and addresses of all owners of record of abutting parcels;
4. All existing lot lines, easements, and rights-of-way. Include area in acres and square feet, abutting land uses, and the location and use of structures within 100 feet of the site on abutting properties including those across public and private roads;
5. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated additions and alterations;
6. The location and dimensions of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, paths, landscaping, walls and fences;
7. The location of all present and proposed utility systems including:
  - A. Sewers or sewage disposal systems;
  - B. Water supply system;

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- C. Telephone, cable and electrical systems;
  - D. Fuel storage structures (above or below grade);
  - E. All other site mechanical equipment (e.g. HVAC, generators, etc.);
  - F. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, end-walls, hydrants, manholes, and drainage swales; and
  - G. Storm runoff calculations for large or environmentally sensitive developments may be requested (A storm water runoff permit may be required by the State);
8. Plans to prevent the pollution of surface or groundwater, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable;
  9. Existing and proposed topography at a twenty-foot contour interval;
  10. Any portion of the parcel within the 100-year floodplain with base flood elevations. All elevations shall refer to the nearest United States Coastal and Geodetic Benchmark;
  11. Areas within the proposed site and within 50 feet of the proposed site where soil removal or filling is required;
  12. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and proposed changes to these features including size and type of plant material. Water sources shall include ponds, lakes, brooks, streams, springs, wetlands, floodplains, and drainage retention areas;
  13. Zoning district boundaries within 300 feet of the site's perimeter on a separate plot plan drawn at a maximum scale of one inch equals 500 feet (Can be shown on the location map);
  14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site. The Planning Commission may require a detailed traffic study for large developments or for those in heavy traffic areas to include:
    - A. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
    - B. The projected traffic flow pattern including vehicular movements on all major intersections likely to be affected by the proposed use of the site;
    - C. The existing and projected level of service (LOS) at the project intersection(s) and other adjacent intersections; and
    - D. The impact of this traffic upon existing adjacent public and private ways relative to existing road capacities, existing and proposed daily and peak hour traffic and road capacity levels shall be provided as well:
  15. For new construction or alterations to any existing building, the following information must be included:
    - A. Area of building to be used for each particular use such as retail operation, office, storage, etc.;
    - B. Maximum number of employees;
    - C. Maximum seating capacity, where applicable; and
    - D. Number of parking spaces existing and required for intended new use;
  16. Elevation plans to scale for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used;
  17. Request for modification of specific performance standards.
  18. Diagram of internal traffic patterns and how they connect to the existing Town road system. Make special note of emergency vehicle access, loading areas and provisions for snow removal;

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19. The location, height, intensity, and bulb type (e.g., fluorescent, sodium, LED, incandescent) of all external lighting fixtures. The direction and height of illumination and methods to eliminate glare onto adjoining properties;
20. The location, height, size, materials, illumination, and design of all proposed signage;
21. Location, type, and screening details for all parking lots, loading areas and waste disposal containers;
22. Erosion control detail before, during and after construction;
23. For condos or PUD's with common lands, etc., a summary of the proposed declaration of covenants, bylaws and agreements, i.e., road maintenance agreements (should be submitted as an attached 8 1/2" X 11" document);
24. If the property to be developed falls within the location of the Mountain Road Greenbelt, the applicant must provide "before" photos of the property's frontage within the Greenbelt before any construction commences;
25. During the hearing process it may be required that the applicant provide documentation from State Agencies. It would be prudent for the applicant to apply for this documentation prior to the hearing.

Additional or more specific information as determined by the Planning Commission on any of the above criteria or on some areas normally covered in a Site Plan Review may be required;

The Zoning Administrator may waive certain requirements as listed above if it is determined that the specific information is not significant or necessary in reaching a decision on the development. The Zoning Administrator shall include a written report for the Planning Commission specifying what waivers have been given and the reasons for them.

### **320.3.4 SITE PLAN REVIEW WITH CONDITIONAL USE, AND/OR APPLICATIONS REQUIRING WAIVERS OR VARIANCES (BY ZBA)**

An application that has been submitted for a project involving a Conditional Use, Waiver, or a Variance must undergo a review by the ZBA. If it is for a Conditional Use, the application will also be considered by the Planning Commission.

Allowable Conditional Uses vary, and are listed separately under each zoning district. Certain conditions may allow for waivers or variances to the zoning as determined by the ZBA.

If an application requires both site plan and conditional use or waiver or variance review, the Chairs of the Planning Commission and ZBA will, to the extent practicable, conduct coordinated hearings on the application.

#### **320.3.4.1 CONDITIONAL USE REVIEW (BY ZBA)**

An application that has been submitted for a project involving a Conditional Use must undergo a review by the ZBA for specific consideration of the Conditional Use as well as a review by the Planning Commission.

The ZBA first considers the scope and size of the development in relationship to the district and surrounding developments. This process allows the ZBA to place conditions on certain uses of land within a district to mitigate or alleviate possible or perceived negative effects.

The project is then reviewed for compatibility with the Town Plan and the zoning district in which the project will take place. If it complies with the Town Plan, the ZBA shall make findings upon the following general standards as they are affected by the proposed development:

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1. The capacity of existing and planned community facilities;
2. The character of the area affected;
3. Traffic on roads and highways in the vicinity;
4. Bylaws in effect at the time of review; and
5. Utilization of renewable energy resources.
6. Specific standards of review may include requirements or conditions with respect to:
  - Minimum lot size;
  - Distance from adjacent or nearby uses;
  - Minimum off-street parking and loading facilities;
  - Landscaping and fencing;
  - Design and location of structures and service areas;
  - Size, location, and design of signs; and
  - Such other factors as may be found in the zoning regulations, i.e., flood hazard area (650.5).
7. The lot size and density, frontage, setbacks, coverage, height and any other general requirements for the zoning district in which the proposed use will be located shall be considered minimum requirements for application consideration.

### **320.3.4.2 DIMENSIONAL WAIVERS REVIEW (BY ZBA)**

Dimensional waivers may be applied for when seeking approval for development that is not otherwise allowed under this ordinance. In applying for a waiver, the burden of proof is on the Applicant to demonstrate that the waiver request meets waiver criteria. The ZBA may require a survey if essential to verify the location of property lines.

In the event that a waiver is granted, the permittee must comply with all other requirements of this Bylaw.

#### A) Dimensional Waivers Criteria

*(Structural enlargements that do not increase the degree of non-conformity do not require a waiver.)*

The ZBA may grant a waiver to a dimensional requirement, other than density, after considering the criteria below:

1. Reasonable use of the property is only possible if the ZBA grants a waiver of the dimensional requirement.
2. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
3. The proposed project will still conform to the Town Plan and the purpose of the zoning district in which the land development is located.
4. The proposed project will not have an undue adverse effect on the following:
  - a) The appropriate use or development of surrounding properties;
  - b) The character and aesthetics of the neighborhood, as defined by the purpose of the district in which it is located;
  - c) Traffic patterns and circulation;



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- d) Public health, safety, and utility services;
  - e) Storm water management;
  - f) Water and wastewater capacity;
  - g) The preservation of open space or scenic vistas.
5. The need for a waiver was not intentionally self-created by past decisions of the applicant.
  6. The waiver is not to the detriment of the public welfare, including the safety and maintenance of the Town and State highways.

### B) Dimensional Waiver Application and Review Process

1. An application to the ZBA for a waiver to reduce a dimensional requirement may be made as part of, and simultaneously with, an application for Conditional Use Review or as a separate application if Conditional Use Review is not otherwise required.
2. Pursuant to 24 V.S.A. 4460(e), the application shall come to the ZBA either as an appeal of a decision made by the Zoning Administrator or as a referral from the Zoning Administrator.
3. The application for a waiver shall follow the same procedure used for Conditional Use Review, approvals, and appeals. (Section 320.3.5.1)
4. The ZBA shall consider the impact on abutters in deciding whether to grant the waiver, or to place conditions on the waiver approval.
5. In granting a decision in favor of the Applicant, the ZBA may attach reasonable conditions including mitigation by design, screening, or other remedy.
6. Any waiver granted under this section shall be limited to the specific property to which it has been granted. A waiver on one property shall not be construed as a general guideline or standard for any other property.
7. All work shall be substantially completed (as shown on any approved plan) before the expiration date. Waiver approvals shall expire if work is not substantially completed within two (2) years from the date they are approved. The ZA may grant an extension if an Application for an Extension is submitted prior to expiration of the Waiver.

### **320.3.4.3 VARIANCE REVIEW (BY ZBA)**

An application that has been submitted for a project which does not meet criteria for a Waiver, but instead requires a Variance must undergo a review by the ZBA for specific consideration of the Variance.

The ZBA may request that a surveyed plan signed by a licensed surveyor is to be included, along with supporting data which may help the ZBA arrive at a proper decision.

For a structure that is **NOT** primarily a renewable energy resource structure, the ZBA shall grant Variances and render a decision in favor of the appellant, if all the following facts are found, and the finding is specified in its decision:

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

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generally created by the provisions of this Ordinance in the district 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 this Ordinance and that the authorization of a Variance is therefore necessary to enable the reasonable use of the property;
3. That the unnecessary hardship has not been created by the appellant;
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 that will afford relief and will represent the least deviation possible from this Ordinance and from the Town Plan.

For a structure that **IS** primarily a renewable energy resource structure the ZBA may grant that variance and render a decision in favor of the appellant if all the following facts are found, and the finding is specified in its decision:

1. That it is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with this Ordinance.
2. That the hardship was not created by the appellant.
3. 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, or be detrimental to the public welfare.
4. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Ordinance and from the Town Plan.

### **320.3.5 ZBA DELEGATION TO AGENT**

Any of the powers granted to the ZBA by the Act may be delegated by it to a specifically authorized agent or representative, except in situations where the Municipal Administrative Procedure Act applies. (See the Act.)

*An example of delegation to an agent is when the ZBA appoints a hearing officer to run a hearing where procedure is very important. Another example is when an investigation may be made by a member of the ZBA and a designated representative such as the Zoning Administrator, who will then report back to the full Board.*

### **320.3.6 ZBA FINAL ACTION AND DECISION**

1. The ZBA shall make written findings upon the standards as detailed below and applicable to the proposed Conditional Use. This decision is then forwarded to the Planning Commission to become part of their findings.
2. In granting a Conditional Use the ZBA may attach reasonable conditions as necessary to implement the Ordinance.
3. Findings of the ZBA must be specified in its decision.

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4. The Conditional Use is used as part of a complete application to the Stratton Planning Commission. The Planning Commission shall incorporate the conditions of the permit in its Zoning Permit.

## **330 APPLICATION REQUIREMENTS**

The following information is required for a complete application:

Application Form.

Supplemental Documentation

1. Provide a sketch of the project showing the property lines and dimensions, including the source of information, general location and dimensions, such as building envelope, front, side and rear yard setbacks from structures, paved areas, porches and decks. More details may be required dependent on the scope of the project; all the following should be shown on the sketch;
2. Any easements that cross the property or other pertinent legal features, including sidewalks, streets and public utilities;
3. Identification of adjacent streets (by name), alleys or other adjacent public property;
4. Location, size and shape of any structures present on the site and proposed for construction;
5. The location and size of all parking areas, loading areas, and driveways (existing and proposed), the layout of parking spaces and their dimensions, and traffic circulation;
6. Existing and proposed water wells, septic tanks, leach fields, and drain culverts;
7. An arrow pointing north;
8. Permits or variances from the ZBA; if applicable
9. Letter of review from any appropriate State agencies; if applicable

The Zoning Administrator may waive certain requirements as listed above if it is determined that the specific information is not significant or necessary in reaching a decision on the development.

## **340 HEARING PROCESS**

### **340.1 PUBLIC NOTIFICATION**

Once the ZA turns over the application as being complete, the application is warned for a hearing. The PC or ZBA will coordinate and warn a public hearing in accordance with Chapter 117 requirements.

*Routinely the PC holds public hearings at its regularly scheduled monthly meetings. The ZBA warns hearings as necessary.*

When a public notice is required for any public hearing required in this Ordinance for conditional use review, variances, administrative officer appeals, and final plat review for subdivisions, it shall be given not less than 15 days prior to the date of the hearing by:

- 1) publication of the date, place and purpose of the hearing in a local newspaper of the Planning Commission's choosing;
- 2) the posting of the same information in three or more public places within the Town of Stratton in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made; and
- 3) written notification to the applicant and to owners of all properties adjoining the property subject to development, including the owners of properties

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which would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way and, in any situation in which a variance is sought regarding setbacks from a State highway, also including written notification to the Secretary of Transportation. The notification shall include a description of the proposed project and shall be accompanied by 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.

Public notice for hearings on all other types of development review, including site plan review and waivers, shall be given not less than seven days prior to the date of the public hearing by methods 2 and 3, above. (See 24 V.S.A. § 4464)

The application shall:

- 1) conform with the description of the district in which the project takes place
- 2) conform with other provisions of the Ordinance
- 3) comply with appropriate sections of the Stratton Town Plan, Town Road Construction Ordinance and Traffic Ordinance, and;
- 4) comply with all applicable rules and regulations of state and federal agencies.

### **340.2 REVIEW FOR COMPLETENESS**

The PC's or ZBA's first action is to confirm that the Zoning Administrator was correct in determining that the application is complete. The PC or ZBA shall review for the need for other Town permits and letters of review from State agencies in making this confirmation. If additional information is required, the timing for review of the application is delayed until the missing information is added to the application and received by the Zoning Administrator. If the application is complete, the review continues.

### **340.3 DETERMINE REVIEW CRITERIA AND PROCESS WAIVERS**

After determining that the application is complete, the PC or ZBA determines what criteria of the review apply and which criteria are not applicable. In addition, requests for modifications or waivers from review requirements are considered at this point in the process. In reviewing the proposed development, the PC or ZBA shall take into consideration, and may impose appropriate conditions and safeguards with respect to the Article VII General Regulations. The PC or ZBA shall examine the impact throughout the Town, as well as site-specific considerations. The PC or ZBA may at any time during its review decide to expand or restrict its examination to meet the requirements of this Ordinance.

### **340.4 REQUESTING MORE INFORMATION**

The PC or ZBA usually reviews the required items in order. During in-depth review of the development, the PC or ZBA may find that its inquiries take a direction that was not previously obvious and may ask for more information. The PC or ZBA may recess the proceedings on any application pending submission of additional information. The hearing may remain open as long as necessary to make an adequate determination. As necessary, hearings may be recessed to a date, time and place specific and reconvened.

### **340.5 TECHNICAL REVIEW**

Upon submission of an application for a permit under this Ordinance, the Stratton PC or ZBA may hire independent consultants. Per 24 V.S.A. § 4440(d) the town may require an

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applicant to pay for reasonable costs of an independent technical review of the application. The Selectboard may establish procedures and standards for requiring an applicant to pay such costs. These consultants shall be qualified professionals with an appropriate combination of training, record of service, and/or certification in an appropriate field or fields relating to the area needing clarification. The timelines for review as stipulated in the Act still apply.

## **340.6 REVIEW TIME LIMIT**

The panel should close the evidence promptly after all parties have submitted the requested information. If the PC or ZBA is satisfied with the information available, it will close the hearing, deliberate, and make a decision to approve or disapprove during a regular meeting. If more information is required, however, the PC or ZBA will describe what is needed and recess the hearing. Once the hearing is closed, the PC or ZBA must issue a decision within 45 days after the adjournment of the hearing. Failure of the panel to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

## **350 FINALIZING THE PERMIT**

### **350.1 CONDITIONS TO THE PERMIT**

The PC or ZBA shall determine applicable conditions for the permit to include in their approval. Conditions may include:

- Requiring a bond or other approved surety in an amount sufficient to cover the full cost of landscaping and other required improvements and their maintenance for a period of two years after completion as estimated by the PC, ZBA, or Zoning Administrator.
- Requiring the applicant to sign a development agreement with the Selectboard and/or post a bond or other similar performance guarantee to ensure compliance with the plan, erosion controls, planting and landscaping plan, and stated conditions of approval.
- Requiring an as-built site plan after the development is completed to substantiate that conditions of approval have been met.
- Having additional information submitted to the Zoning Administrator, PC or ZBA as directed, for review and approval prior to the start of construction.

### **350.2 FINAL TOWN ACTION**

The Planning Commission's or ZBA's final action report is rendered in writing within 45 days of the close of the hearing, and shall consist of:

1. Approval of the application based upon a determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this Ordinance and Town Plan; or
2. Denial of the application based upon a determination that the proposed project does not meet the standards for review as set forth in this Ordinance and Town Plan; or
3. Approval of the application subject to conditions, modifications and restrictions that will ensure the project meets the standard for review; or
4. Denial of the application and the project without prejudice with a request for a new application when the required information is available.

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Decisions shall be issued in writing (a report) and shall include a statement of the factual bases on which the ZBA or PC has made its conclusions and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection.

The report for each Zoning Permit issued shall contain a statement of the period of time within which an appeal may be made. Once the report has been approved by the board, the ZA shall approve or deny the permit as determined by the PC, or ZBA and send it to the applicant.

Within three days of the date of the written decision regarding the application by the PC or ZBA, the Zoning Administrator shall:

1. Approve or deny the permit as determined by the Planning Commission, or ZBA;)
2. Deliver a copy of the Permit to the Listers of the Town of Stratton;
3. Post a copy of the Permit/decision in at least one public place in the Town for at least 15 days after the date the Permit/decision is issued;

Within 30 days of the date of the written decision regarding the application by the Planning Commission or ZBA, the Zoning Administrator shall:

1. Deliver the original Permit and associated report to the Town Clerk for recording in the land record.
2. File a copy in the Town Office where all permits shall be kept.

### **350.3 PERMIT EXPIRATION**

Development permits are recorded in the land records, and are applied to the land. Unless otherwise specified, the Permit and its conditions are requirements for each successive owner of the land and are the responsibility of the owner of the land.

### **350.4 APPLICANT RESPONSIBILITIES**

The applicant shall, within three days, post a copy of the Zoning Permit at the construction site before any development begins. The Permit shall remain posted until construction has been completed and a Certificate of Completion is issued by the Zoning Administrator.

### **350.5 AMENDMENTS**

The Zoning Administrator shall make the initial determination whether or not a proposed amendment is administrative or requires PC or ZBA review.

Administrative amendments are those amendments which do not involve changes to curb cuts, internal or external traffic circulation patterns, and pedestrian circulation. They may be approved by the Zoning Administrator. The Zoning Administrator must report such amendments to the PC or ZBA. If the Zoning Administrator determines the change to be a site plan amendment, it shall require review by the Planning Commission. There shall be an additional public hearing held by the Planning Commission as Site Plan Review. If an amendment affects a condition established by the ZBA, the ZBA shall hold a public hearing.

### **350.6 CERTIFICATE OF COMPLETION**

A Certificate of Completion shall be required to finalize an application. This shall be in the form of a letter from the Zoning Administrator stating that the approved project has been "completed." *In this regard, "completed" also means "substantially completed," and signifies that the permitted project is within compliance of the Zoning Regulations and that any remaining work left to complete the project is superficial and, therefore, cannot feasibly generate*

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*violations to the Zoning Regulations.* This document shall be filed with the Town and recorded in the Land Records as proof of closure.

All construction should be determined substantially complete by the ZA to close out the permit. This should occur within two years from the date the permit is approved, except for Zoning Permits that also require an Act 250 Permit. When the applicant needs an Act 250 Permit, the date of construction completion is two years from the date the Act 250 Permit is issued, unless the Act 250 permit is issued prior to the town permit.

## **350.7 EXTENSION OF DEADLINE FOR CERTIFICATE OF COMPLETION**

### **Construction Completion:**

Extensions beyond the original construction completion date may be granted by the Zoning Administrator prior to the end of the two-year construction period. If judged necessary by the Zoning Administrator, phased developments may be granted longer construction completion periods. Dates shall be specified for each phase.

If the project is substantially complete, the ZA may decide to designate the project “substantially complete” and issue the Certificate of Completion.

At the two-year deadline, if no request for a Certificate of Completion has been submitted by the owner, the ZBA may determine it to be substantially complete; however, if construction has not been completed and has not been extended before the original two-year construction period has expired, it must be reviewed by the ZBA. In ZBA review of requests for the extension of construction completion dates when the original construction completion date has expired, the ZBA shall consider the following:

1. Compliance with the application materials and the conditions of the Zoning Permit;
2. Season of the year of the request;
3. Percentage of the project meeting substantial completion (see definition for Substantial Completion);
4. Time needed to complete the construction; and
5. The reasons for not completing the project in two years.

The ZBA may approve the extension, approve the extension with conditions or deny the extension.

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## **ARTICLE IV: APPEALS**

### **400 RE-EVALUATION OF DECISION**

#### **400.1 RECONSIDERATION BY PLANNING COMMISSION**

The applicant may request a reconsideration of the application by the Planning Commission if there is new information available that was not available at previous Planning Commission hearing(s).

#### **400.2 CONSIDERATION OF REPEAT APPLICATIONS**

To assure the finality of decisions, once an application has been denied permit approval, new applications for the same parcel must be substantially different in content or show that there have been significant changes in circumstances as determined by the ZA.

### **410 APPEALS**

#### **410.1 APPEALS OF A ZONING ADMINISTRATOR DECISION OR ACT**

An interested person may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal with the Secretary of the ZBA or Stratton Town Clerk if no secretary has been elected. With respect to a decision or act of the Zoning Administrator, such notice of appeal must be filed within 15 days of the date of such decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator. Zoning Administrator decisions may not be appealed directly to the Environmental Court. Such an appeal may only be made after an appeal to the ZBA.

The ZBA shall set a date and place for a hearing of an appeal under The Act that shall be within 60 days of the filing of the notice of appeal (24 V.S.A. § 4468). The ZBA 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 as stated in the Act. The ZBA may request any appropriate testimony or exhibits to make its determination. The decision shall be in writing.

In addition to review with a hearing as described in these Sections, the ZBA may reject an appeal without hearing and render a decision. The decision shall be written and include findings of fact within 10 days of the date of filing of the notice of appeal if the ZBA considers the issues raised by the appellant in the appeal have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of that appellant. (24 V.S.A. § 4470)

If the ZBA considers that the issues raised by the appellant in the appeal have already been decided in an earlier appeal or represent the same issues with substantially or materially the same facts, the decision shall be rendered as above and shall constitute a decision of the ZBA for the purpose of the Act.

#### **410.2 APPEAL OF PLANNING COMMISSION AND ZBA DECISIONS**

ZBA or Planning Commission decisions may be appealed to the Environmental Court. Appeals must be submitted to the Environmental Court within 30 days after a written decision has been issued.



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### **410.3 RELEASE OF A VIOLATION NOTICE FROM THE LAND RECORDS**

Upon request by the owner of record, the ZA shall review a request for the release of a Notice of Violation or a Municipal Ticket from the land records. The ZA shall request any information or testimony required to show that the violation notice is in error or that the reason for the violation notice has been resolved.

A decision shall consist of written findings and a letter releasing the violation notice which is to be recorded in the land records by the Town Clerk, effectively voiding the violation notice.

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## **ARTICLE V: LAND USE DISTRICTS AND DIMENSIONAL REQUIREMENTS**

### **500 DISTRICTS**

For the purpose of this Ordinance, the Town of Stratton is divided into the following land use districts.

C	Conservation
REC	Recreation
R	Residential
C-R	Commercial - Residential (Three Areas)
P	Public, Quasi-Public, Public Utility Land

*Any land in the Town of Stratton may be used for agricultural or forestry purposes. This includes the display and sale of produce raised on the premises.*

### **510 CONSERVATION DISTRICTS**

These districts contain lands which are essentially undeveloped and are predominantly forested, and have substantial physical limitations for development. These districts are shown on the Official Stratton Zoning Map.

Conservation District lands shall be used for forestry, low-density development and open space. They shall be withheld from intensive development until there is a demonstrated public need for their development, until public utilities and services can be provided to these lands and until it can be determined that overriding benefits to the community would accrue from their development at higher densities.

There are three Conservation Districts, as shown on the Official Stratton Zoning Map. Two of these Conservation Districts lie adjacent to the Dover-Stratton town line and include all lands above 2,500 feet. The third Conservation District lies west of Range 5 and generally includes all lands above 2,500 feet, as well as some lands of lower elevation. The latter is based on the following descriptions: 1) to the north of the Stratton-Arlington Road it includes all lands west of the approximate west line of Range 5 above 2,500' with the exception of the Stratton Resort Recreation parcel on Stratton Mountain and include those lands within the Winhall River watershed that fall below 2,500' elevation; 2) to the south of the Stratton-Arlington Road it includes all lands west of Range 9.

*Note: All construction including removal or alteration, above 2,500 feet requires Act 250 consideration.*

#### **510.1 Minimum Requirements**

Lot Size: 25 acres

Frontage: 600 feet on public or private road

Setback: 150 feet from property lines and 175 feet from center line of road or right-of-way

Height: maximum 35 feet above the average grade level with exception of a Decorative Cupola. *See diagram in Section 560.*

For fire protection, safe ladder access shall be available to all roofs at the drip-line (with exception of cupolas), see section 716.

# *Town of Stratton Zoning Ordinance*

## **510.2 Permitted Uses**

Conservation  
Forestry  
Single-family dwelling unit

## **510.3 Site Plan Uses**

Recreation  
Small Wind Energy Systems

## **510.4 Conditional Uses**

Mineral and earth extraction  
Public utilities and facilities  
Telecommunication facilities  
Campers, Trailers, or Recreational Vehicle Parks

## **520 RECREATION DISTRICT**

This district includes lands above 2,500 feet, presently used by Stratton Ski Area. It may be used for ski lifts, trails and related recreational purposes. This district is located to the west and south of Stratton Ski Village.

### **520.1 Minimum Requirements**

Lot Size: 25 acres  
Frontage: 600 feet on public or private road  
Setback: 150 feet from property lines and 175 feet from center line of road or right-of-way  
Height: maximum 35 feet above the average grade level with exception of a Decorative Cupola. *See diagram in Section 551.*  
For fire protection, safe ladder access shall be available to all roofs at the drip-line (with exception of cupolas), see section 716.

*Note: All construction including, removal or alteration, above 2,500 feet requires Act 250 consideration.*

### **520.2 Permitted Uses**

Conservation  
Forestry  
Recreation

### **520.3 Site Plan Uses**

Accessory uses related to primary uses requiring Site Plan Review.  
Small Wind Energy Systems  
Structures supporting ski resort infrastructure

### **520.4 Conditional Uses**

Mineral and earth extraction  
Public utilities and facilities  
Telecommunication facilities

# *Town of Stratton Zoning Ordinance*

## **530 RESIDENTIAL DISTRICT**

This district contains lands which are already committed to rural residential development or which appear capable of accommodating a significant proportion of the expected growth for the Town of Stratton. Generally the lands have slight or moderate physical limitations to development and are readily accessible by existing or proposed public highways. Generally they are suitable for residential and associated uses.

The Residential District is roughly a mile-and-a-half-wide strip along the Stratton/Jamaica border with a finger of land going west along Stratton-Arlington Road.

### **530.1 Minimum Requirements**

Lot Size: 2 acres

Frontage: 200 feet on a public or private road

Setback to structures (including decks): 50 feet from property lines and 50 feet from center line of road or right-of-way

Height: maximum of 35 feet above the average grade level with exception of a Decorative Cupola. *See diagram in Section 560.*

For fire protection, safe ladder access shall be available to all roofs at the drip-line (with exception of cupolas), see section 716.

### **530.2 Permitted Uses**

Agriculture

Conservation

Forestry

Customary home industry

Mobile home (single-family residential use)

One-family dwelling

Playground and/or picnic area

Two-family dwelling

Traditional Bed & Breakfast

Short-term rental homes

Family child care home serving six or fewer children

### **530.3 Site Plan Uses**

Accessory uses incidental to primary uses requiring Site Plan Review.

Cemetery

Floating affordable housing

Greenhouse

Nursery

Multi-family dwelling

Planned unit development (see Section 630)

Solid waste collection facility

Small wind energy systems

Family child care home serving no more than six full-time children and four part-time children

### **530.4 Conditional Uses**

Art center

Church

Commercial animals

# *Town of Stratton Zoning Ordinance*

Family child care facility serving more than six full-time and four part-time children  
Helicopter landing pad  
Library  
Mineral and earth extraction  
Mobile home park  
Museum  
Public utilities and facilities  
Private and/or commercial water and/or sewer systems  
Restaurant and/or lounge  
Retail business  
School  
Telecommunication facilities  
Waste handling and recycling facilities  
Camps, Trailers, or Recreational Vehicle Parks

## **540 COMMERCIAL - RESIDENTIAL DISTRICTS, 1, 2 & 3**

Most of the expected development and growth will take place in three Commercial-Residential Districts shown on the Official Stratton Zoning Map.

*Commercial-Residential District 1* -- land has convenient access to the Stratton Resort Complex and appears suitable for well-planned and controlled residential subdivision and commercial uses that can serve either visitors or permanent residents. This district is the designated growth area for the Town of Stratton. Housing development has taken place on steep slopes in excess of 15 percent. The in-fill of land ignored in the development process is encouraged. Developments should be designed so that structures are clustered together, roads minimized and intrusions into sensitive wildlife locations minimized. The use of Planned Unit Development (PUD) is encouraged. Appropriate development and performance standards shall be applied to ensure that the high scenic quality of this area is maintained, to discourage commercial strip development, to avoid traffic congestion and to minimize undue noise and other problems that would damage the resort-related values of this area.

*Commercial-Residential District 2* -- land is located in a small section of the southeastern portion of Stratton with access to Scenic Byway Route 100. This land may offer advantages for well-planned residential and commercial uses. Review of development in this area should include provisions that will minimize impact on sensitive deer and bear habitats, maintain the scenic quality of Route 100, and avoid the appearance of continuous or strip development directly related to Mount Snow.

*Commercial-Residential District 3, also known as the Village District* -- land is located at the junction of West Jamaica Road and Stratton-Arlington Road and is defined to promote a village area, in the Vermont tradition, surrounding the Town Hall, Town Offices, Old Stratton Meetinghouse and Schoolhouse #5. It extends approximately a half-mile from the intersection along those roads, which would place the boundaries of the district at the intersection of Old Forrester Road and Stratton-Arlington Road, at the intersection of Plimpton Road and Stratton-Arlington Road and at the intersections of Ball Farm Road/Old Town Road with the West Jamaica Road, to include all lots or portions of lots in the area, extending 1000 ft. back from either side of Stratton-Arlington Road and West Jamaica Road to these intersections, excluding any U.S. Forest Service Land.

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## **540.1 Minimum Requirements For Commercial-Residential Districts 1 & 2**

Lot Size: 2 acres

Frontage: 200 feet on a public or private road.

Setback to structures (including decks): 50 feet from property lines and 50 feet from center line of road or right-of-way

Height: maximum of 35 feet above the average grade level with exception of a Decorative Cupola. *See diagram in Section 560.*

For fire protection, safe ladder access shall be available to all roofs at the drip-line (with exception of cupolas), see section 716.

## **540.2 Permitted Uses for Commercial-Residential Districts 1 & 2**

Agriculture

Customary home industry

Conservation

Forestry

One-family dwelling

Playground and/or picnic area

Two-family dwelling

Traditional Bed & Breakfast (in CR2 only)

Short-term rental homes

Family child care home serving six or fewer children

## **540.3 Permitted uses requiring Site Plan Review for Commercial-Residential Districts 1 & 2**

Accessory uses incidental to permitted uses

Art center

Bowling alleys

Cemetery

Chairlifts, tows, tramways, alpine slides

Church

Family child care home serving no more than six full-time children and four part-time children

Floating affordable housing

Financial institution

Gas station

Greenhouse

Hospital, clinic, or nursing home

Library

Motel/hotel and/or motor inn with a restaurant

Multi-family dwelling

Museum

Office building

Other group activities and services

Planned Unit Development

Professional or business office

Public utilities and facilities

Restaurant

Retail store or stand

Sales and sales rooms

Service station

School

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Skating rinks  
Theater  
Bed & Breakfast (in CR2 only)

## **540.4 Conditional Uses for Commercial-Residential Districts 1 & 2**

Earth and mineral extraction  
Fuel storage over 5,000 gallons  
Helicopter landing facility  
Mobile home park  
Private and/or commercial water and/or sewer systems  
Telecommunication facilities  
Waste handling and recycling facilities  
Commercial Animals  
Campers, Trailers, or Recreational Vehicle Parks  
Veterinary facility  
Family child care facility serving more than six full-time and four part-time children

## **540.5 Minimum Requirements For Commercial-Residential District 3 (Village District)**

Lot Size: 1 acre  
Frontage: 100 feet on a public or private road.  
Setback: 25 feet from property lines, and 50 feet from center line of road or right-of-way  
Height: maximum of 35 feet above the average grade level with exception of a Decorative Cupola. See diagram in Section 560.  
For fire protection, safe ladder access shall be available to all roofs at the drip-line (with exception of cupolas), see section 716.

## **540.6 Permitted Uses for Commercial-Residential District 3 (Village District)**

Agriculture  
Customary home industry  
Forestry  
One-family dwelling  
Playground and/or picnic area  
Two-family dwelling  
Traditional Bed & Breakfast  
Family child care home serving six or fewer children

## **540.7 Site Plan Uses for Commercial-Residential District 3 (Village District)**

Accessory uses incidental to permitted uses  
Art center  
Church  
Family child care home serving no more than six full-time children and four part-time children  
Floating affordable housing  
Financial institution  
Gas station  
Greenhouse  
Hospital, clinic, or nursing home

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- Library
- Lounge
- Motel/hotel and/or motor inn with a restaurant
- Multi-family dwelling
- Museum
- Office building
- Other group activities and services
- Planned Unit Development
- Professional or business office
- Restaurant/lounge only
- Retail store or stand
- Sales and sales rooms
- School
- Skating rinks
- Theater
- Bed & Breakfast
- Small wind energy systems

## **540.8 Conditional Uses for Commercial-Residential District 3 (Village District)**

- Underground storage tanks less than 2,500 gallons
- Private and/or commercial water and/or sewer systems
- Telecommunication facilities
- Waste handling and recycling facilities
- Mobile Home Park
- Campers, Trailers, or Recreational Vehicle Parks
- Veterinary facility
- Family child care facility serving more than six full-time and four part-time children

## **550 PUBLIC, QUASI-PUBLIC, PUBLIC UTILITY DISTRICTS**

These lands are owned by public or quasi-public organizations and are used for purposes which might preclude their use for other development. Shown on the Official Stratton Zoning Map.

### **550.1 Minimum Requirement**

- Lot Size: 2 acres
- Frontage: 200 feet on a public or private road
- Setback: 50 feet from property lines, and 50 feet from the center line of road or right-of-way
- Height: maximum of 35 feet above the average grade level with exception of a Decorative Cupola. See diagram in Section 560.
- For fire protection, safe ladder access shall be available to all roofs at the drip-line (with exception of cupolas), see section 716.

### **550.2 Permitted Uses**

- Agriculture
- Conservation
- Forestry
- Low-impact recreation

### **550.3 Site Plan Uses**

- Playground and/or picnic area



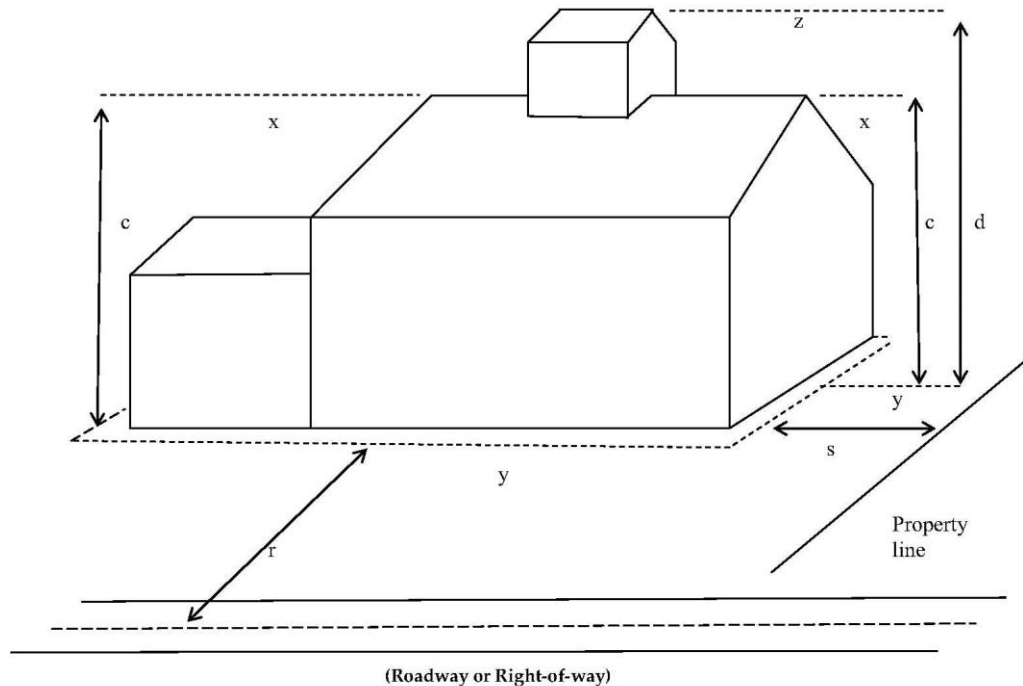
# Town of Stratton Zoning Ordinance

Public utilities and facilities  
High-impact recreation  
Small Wind Energy Systems

## 550.4 Conditional Uses

Private community water and sewer systems  
Earth and mineral extraction  
Campers, Trailers, or Recreational Vehicle Parks

## 560 CONSTRUCTION RESTRICTIONS



### General Zoning Restrictions:

**Height restrictions:** If the cupola shown above is an "accessible cupola," then the maximum height "d" from the average finished grade around the entire structure "y" to the highest roofline (represented here by "z") cannot exceed 35'. The average grade is defined as an average level, foot by foot, of the ground surface against the foundation, around the entire perimeter of the structure.

If the cupola shown above is a "decorative cupola," then the maximum height "d" from the average finished grade around the entire structure "y" to the roofline of the "decorative cupola" cannot exceed 45'. In this case, the maximum height of the roofline (represented by "x") still cannot exceed 35' "c."

**Setbacks:** Setbacks vary district to district. All setbacks are measured to the closest drip edge of a structure. In this case, "y" in the above drawing represents the drip line of the structure and includes porches and decks. For example, in the Residential District, the minimum setback to any property line "s" is 50' and the minimum setback to the road or right-of-way "r", measured to the centerline, is 50'.

For lots less than 2-acres (pre-existing non-conforming small lots or CR-3 district [1 acre] lots), the minimum setback to any property line is reduced proportionally as compared to the standard 2-acre lot (lot size divided by 2 acres multiplied by 50 ft.). (i.e. a 1-acre lot minimum setback is 25 ft.). The minimum setback of 50' to a road or right-of-way remains the same regardless of the lot size.

In some cases concerning minimum setbacks, waivers may be acceptable and authorized by the ZBA; however, in no instance shall a waiver be given that allows a structure to be placed within a right-of-way.

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## **ARTICLE VI: OVERLAY DISTRICTS**

### **600 SPECIAL AREAS OR OVERLAY DISTRICTS**

These districts are created to permit development on sensitive lands and areas of the Town. The regulations and criteria have, in some cases, been mandated by other levels of government; in other cases these districts have been determined through careful analyses and processes intending to balance the needs and desires of development with those of land use protection.

**Requirements:** Any proposed use in an Overlay District must meet all the standards and criteria for development in the underlying district, after which it must meet the requirements of the Overlay District. The requirements of the Overlay District supersede those of the underlying district and may render otherwise permitted uses conditional or non-permitted.

#### **Overlay Districts:**

- Greenbelt District
- Floating Affordable Housing Districts
- Planned Unit Development (PUD)
- Ski Planned Unit Development (SkiPUD)
- Flood Hazard Areas
- Shoreland Areas

### **610 GREENBELT DISTRICT**

This District safeguards the area along Mountain Road from suburban development and strip development, and protects its natural beauty. This district is defined as all lands 125 feet from the center line of Mountain Road (Town Highway #8) on both sides of the road. The district begins at the point where Mountain Road and the West Jamaica Road intersect and continues in a northerly direction along Mountain Road to the intersection of Mountain Road and Sunbowl Road.

#### **610.1 GREENBELT CONSTRUCTION LIMITATIONS**

##### **Controlled Timber Harvest**

Selective Cutting. Trees smaller than 4" DBH+ should be left standing in place. The Town of Stratton may recommend consultation with a Vermont State Forester before cutting.

##### **Landscape Improvement**

Management of natural vegetation to enhance and preserve the aesthetic quality of the Greenbelt. If vegetation is disturbed or removed during construction, the area should be restored to a natural vegetative condition as per pre-construction.

Any landscape improvements that include man-made structures, including stone walls or utility structures, shall undergo Site Plan Review as stated in section 320.3.2, Site Plan Review (by Planning Commission) by the Planning Commission.

##### **Access**

Each parcel of land, fronting on Mountain Road, legally recorded in the Stratton Town Land Records, prior to March 3, 1981, shall be entitled to one access road or driveway. Additional accesses may be allowed, provided they are located more than 2,000 feet from any existing access on the same side of the road. This shall apply to any future subdivision. Any lot created with road frontage on Mountain Road that does not meet this criterion must be accessed from a different location and this statement: "No Mountain Road access permitted" must be recorded on the subdivision survey and in the deed for said lot(s).

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Further access to any parcel of land subdivided from a lot of record after March 3, 1981 shall be provided by a permanent easement or right-of-way, 50 feet wide, over an existing access road or driveway. The continuation of the access to the new lot(s) shall not fall within the Greenbelt.

Any land outside of the 50-foot access boundary shall be left to natural growth.

No land shall be subdivided unless an adequate Access greater than 2000 feet from existing accesses can be permitted per the road Crossing and Access Ordinance, unless access is shared with a qualifying or existing access. This may require a permit to develop a private road.

A new access to and from Mountain Road requires in order:

1. Preliminary approval by the Planning Commission. See Section 320 Application procedure;
2. An access Permit from the Selectboard;
3. Final approval by ZA.

**Utilities:** If possible, utilities should be brought onto the property without encroaching on the Greenbelt; however, if utilities must be brought in through the Greenbelt, utilities shall be located within the right-of-way of Mountain Road and/or within the 50-foot limit of construction of the access road or driveway. If within the Greenbelt, it is preferred that utilities be buried.

**Road Maintenance:** The Town will maintain the Mountain Road right-of-way as per Town standards and may remove thick vegetation to keep old stone walls visible, and ditches clear.

## **620 FLOATING AFFORDABLE HOUSING DISTRICT**

The purpose of this district is to assure housing in the Town of Stratton for low to moderate income people. Because land values have increased so rapidly since the development of the resort industry, the low to moderate income population is in danger of being excluded from housing in the Town.

This overlay district may be on lands that can support a density of housing greater than usually permitted in the Residential District or in the Commercial-Residential District.

### **Requirements**

Floating Affordable Housing is a Conditional Use in the Residential and Commercial-Residential Districts. The density of building in this district may be increased to five dwelling units per acre provided that:

1. A wastewater disposal plan is approved by the State of Vermont;
2. An environmental impact statement is developed showing that the following will not be subject to negative impacts:
  - Wildlife;
  - Aquifer recharge areas;
  - Wetlands;
  - Prime agricultural soil;
  - Aesthetic quality of the landscape;
3. A buffer zone of 50 feet is maintained around the total parcel;
4. All units are clustered so that as much open space is preserved as possible.
5. Homeowners association bylaws or a similar document guaranteeing continued maintenance of common facilities has been approved by the Planning Commission, and recorded in the land records of the Town;

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6. This housing shall be limited to families with low to moderate incomes as defined by the Agency of Development and Community Affairs;
7. Homeowners in this district shall limit the resale of the units only to people in the low to moderate income brackets as defined by the Agency of Development and Community Affairs.

## **630 PLANNED UNIT DEVELOPMENTS (PUD)**

Planned Unit Developments encourage new communities, innovation in design and layout, and more efficient use of land; facilitate and encourage flexibility of development of large parcels of land; facilitate the adequate and economical provision of streets and utilities; preserve a maximum of open space preserving the natural and scenic qualities while permitting multiple uses thereof; integrate productive uses related to tourism and recreation; and add to business and employment opportunities and the economic base of the community. PUDs must meet the overall area requirements of the district. (See 640.6 below.)

### **630.1 PERMITTED USES**

The following uses are permitted in a PUD:

1. Dwelling units in detached, semi-detached, or multi-storied structures, or any combination thereof;
2. Any nonresidential use permitted under this Ordinance;
3. Public and private educational facilities; and
4. Industrial uses and buildings.

## **640 SKI PLANNED UNIT DEVELOPMENTS (SKI PUD)**

The purpose of a SKI PUD is to encourage and enable innovation in design and layout and flexibility in development of ski resorts; to encourage a more efficient use of land, including greater density or intensity of development within some sections while maximizing open space within other sections of land. This designation was intended to accommodate the ski resort in CR-1.

### **Review Requirements**

1. There shall be a minimum of 1,000 contiguously owned acres. For purposes of density requirements, and notwithstanding anything to the contrary in other provisions of these Ordinances, all land lying within the contiguously owned property including all slopes, trails, parking areas and buildings, regardless of elevation and zoning districts, shall be considered.
2. There shall be supplementary fire and police protection.
3. The maximum building height shall be 35 feet above average grade level, unless the applicant can demonstrate that existing fire equipment garaged in the Town is adequate to access a taller building. A confirmation letter from the Stratton Fire Chief is required. In no instance shall the building be taller than 75 feet above average grade level. (No exceptions for decorative cupolas)
4. Along the outside perimeter of the project, even if overlapping in more than one town, there shall be buffers of such dimensions as approved by the Planning Commission.
5. Maximum building coverage of the site shall be as expressly approved by the Planning Commission.
6. Residential dwelling units shall require a density of not less than one dwelling unit per two acres.

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7. Compliance with Article VII, off-street Parking Requirements, except in certain concentrated areas of development within the SKI PUD, the minimum off-street parking requirements for dwelling units with two bedrooms or less shall be one space per dwelling unit.
8. There shall be conformance to the specific requirements for landscaping, screening and lighting under Article VII.

## **650 FLOOD HAZARD AREA**

### **Authorization**

To effect the purpose of 10 V.S.A. Chapter 32, and in accordance with the Act, there are hereby established Flood Hazard Area Regulations for those areas subject to flooding in the Town of Stratton.

### **Purpose**

It is the purpose of these Regulations to: promote the public health, safety and general welfare; prevent increases in flooding caused by the uncontrolled development of lands in flood hazard areas; minimize losses due to flooding and to maintain eligibility of citizen participation in the National Flood Insurance Program.

*Note: Development in Flood Hazard Areas may impact the property owner's flood insurance policy. It is the responsibility of the applicant and/or property owner to ascertain what, if any, insurance ramifications are entailed.*

### **Application of Regulations**

Any proposed use or structure in the Flood Hazard Area must meet all the standards and criteria for development in the zoning district in which it is located, after which it must meet the requirements of these Flood Hazard Area Regulations. The requirements of the Flood Hazard Area Regulations supersede those of the zoning district and may render otherwise permitted uses conditional or not permitted.

### **Precedence of Regulations**

The provisions of these Regulations shall take precedence over any conflicting and less restrictive local laws.

### **Warning of Disclaimer of Liability**

These Regulations do not imply that areas outside the Flood Hazard Area, or land uses permitted within such areas will be free from flooding or flood damage. These Regulations shall not create liability on the part of the Town of Stratton, town officials, or employees thereof for any flood damages that may result from reliance on these Regulations or any administrative decision made there under.

### **Validity and Severability**

If any portion of this ordinance is held unconstitutional or invalid by a competent court, the remainder of this ordinance shall not be affected.

# *Town of Stratton Zoning Ordinance*

## **650.1 PERMITS**

### **Permits Required**

A Zoning Permit or Conditional Use Approval is required in Areas of Special Flood Hazard or the Floodway for all development as defined in Section 310 JURISDICTION.

### **Permitted Use**

A Zoning Permit may be issued by the Zoning Administrator for residential accessory structures and minor residential building improvements and other uses listed in and meeting the provisions of Section 320.3.1 ADMINISTRATIVE REVIEW (BY ZONING ADMINISTRATOR).

### **Conditional Use Approval**

Conditional Use Approval by the ZBA is required for new construction, the substantial improvement of existing buildings or any development within the Floodway, in accordance with Section 320.3.4.1 CONDITIONAL USE REVIEW (BY ZBA).

## **650.2 FLOOD HAZARD AREA MAP AND BASE FLOOD ELEVATIONS AND FLOODWAY LIMITS**

### **Flood Hazard Area Map**

These regulations shall apply to all areas in the Town of Stratton identified as areas of Special Flood Hazard identified in and on the most recent flood insurance studies and Digital Flood Insurance Rate Maps (DFIRMs) published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

### **Base Flood Elevations and Floodway Limits**

- a. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.
- b. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations.
- c. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

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## **650.3 IMPROVEMENTS TO PRE-EXISTING STRUCTURES IN THE SPECIAL FLOOD HAZARD AREA**

**Application and procedures** –The Zoning Administrator may approve a Zoning Permit in the Flood Hazard Area for those uses and activities outlined in Section 320.1.2. Upon receipt of such an application, the Zoning Administrator shall transmit one copy to the Vermont Department of Environmental Conservation Agency of Natural Resources (VT DEC ANR). A Zoning Permit may be issued only following receipt of comments from the VT DEC ANR or the expiration of thirty (30) days from the date the application was submitted to the VT DEC ANR whichever is sooner. The Zoning Administrator shall apply all guidelines and recommendations received from the VT DEC ANR.

### **Permitted Uses**

- a. Small residential accessory structures such as sheds and detached garages and improvements to such structures not located on compacted fill which has been elevated to a level at or above the base flood elevation are subject to compliance with the following criteria: [*Special note: Small accessory structures located in Flood Hazard Areas and not elevated may impact the property owner's flood insurance policy. It is the responsibility of the applicant to ascertain what, if any, insurance ramifications are entailed.*]
  - The structure must only be used for parking and storage,
  - The structure must have the required openings to allow floodwaters in and out,
  - The structure must be constructed using flood resistant materials below the Base Flood Elevation,
  - The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
  - All building utility equipment including electrical and heating must be elevated or flood-proofed.
- b. Small residential accessory structures such as sheds and detached garages and improvements to such structures located on compacted fill which have been elevated to a level at or above the base flood elevation.
- c. Minor residential building improvements as defined in this Bylaw. In determining whether an improvement is a minor building improvement the Zoning Administrator may confer with the Town Listers, consider the recommendations of the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section, and consider other applicable provisions of this Bylaw.
- d. Any development for residential purposes except construction of new residential buildings and substantial improvement of existing residential buildings.
- e. A permit is required for removal of a structure, in whole or in part and the resulting debris is to be contained or removed from the site within 60 days.

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## **650.4 APPLICATION AND PROCEDURES FOR CONDITIONAL USE**

### **Conditional Use Approval**

Conditional Use Approval by the ZBA is required for the following:

- a. New Construction.
- b. Substantial improvement of a structure.
- c. Development which is not a permitted use pursuant to Section 320.3.2 SITE PLAN REVIEW (BY PLANNING COMMISSION)
- d. Development in a floodway.

Application for a Zoning Permit for land development requiring Conditional Use Approval in a Flood Hazard Area shall be made to the Zoning Administrator, who shall refer the application to the ZBA for review as provided by these Regulations. Unless waived or varied by the Zoning Administrator and ZBA Chair, the application and accompanying documents shall include, but are not limited to:

- a. The elevation, consistent with the datum of the elevation on the National Flood Insurance Program (NFIP) maps, of the lowest floor, including basement, of new buildings or buildings to be substantially improved;
- b. Where flood-proofing is proposed, the elevation (consistent with the datum of the elevation on the NFIP maps) to which the building will be flood-proofed;
- c. Plans drawn to scale showing the existing and proposed land contours, buildings, structures, streams, roads and other pertinent physical features;
- d. Base flood elevations data for subdivisions or other proposed developments which contain at least fifty (50) lots or five (5) acres, whichever is the smaller.
- e. Such other information deemed necessary by the ZBA for determining the suitability of the site for the proposed development

### **Application Submission and Requirements**

#### **Procedures**

- **State Review**

Prior to issuing a Zoning Permit for any development in a Flood Hazard Area, a copy of the application shall be submitted to the State National Floodplain Insurance Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with Section 4424 of the Act. A Zoning Permit may be issued only following receipt of comments from the Agency or the expiration of thirty (30) days from the date the application was submitted to the Agency, whichever is sooner.
- **Notification**

Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least thirty (30) days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.



# *Town of Stratton Zoning Ordinance*

- **State and Federal Approvals**

Prior to approval by the ZBA, proposed development shall be reviewed by the ZBA to assure that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

## **650.5 ZBA REVIEW**

### **Criteria:**

When reviewing an application, the ZBA shall consider:

- a. The evaluation of the Vermont Department of Environmental Conservation.
- b. The availability of alternative locations not subject to flooding for the proposed use.
- c. The susceptibility of the proposed improvements to flood damage.
- d. The safety of access to the property in times of flood by ordinary and emergency vehicles.
- e. The potential for damage to the property caused by erosion.
- f. The danger of materials being swept onto other lands and causing damage to others.
- g. The proposed water supply and sanitation systems and the ability of these systems to minimize the spread of disease, contamination and unsanitary conditions during and after flooding.
- h. The costs of providing governmental and public facilities and services during and after flooding.
- i. Such other factors as are relevant to the purposes of this Bylaw.

### **Standards:**

The ZBA may grant a Conditional Use Approval for development provided:

- a. All necessary permits are obtained from those governmental agencies from which approval is required by Federal or State law; and
- b. The development standards of Sections 320.3.2 SITE PLAN REVIEW (BY PLANNING COMMISSION) are met or exceeded, as well as all other provisions of this Stratton Zoning Bylaw.

### **Floodway Areas:**

- a. Development within the Floodway, as determined by the NFIP map is prohibited unless a registered professional engineer certifies that through hydrologic and hydraulic analyses performed, that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
- b. Storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the Floodway.

### **Flood Hazard Areas:**

- a. All development, including subdivisions, shall be designed as follows:
  - Structures must only be used for parking and storage,
  - Structures must have the required openings to allow floodwaters in and out,
  - Structures must be constructed using flood resistant materials below the Base Flood Elevation,

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- Structures must be adequately anchored to resist flotation, collapse, and lateral movement, and
- All building utility equipment, including electrical and heating, must be elevated or flood-proofed.

*Note: this list is distinguished from the same list under Permitted Uses as this list in this section applies to ALL uses.*

- b. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- c. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- d. On-site waste disposal system shall be located to avoid impairment to them or contamination from them during flooding. The lowest elevation of the wastewater distribution field shall be located at least 1 foot above the base flood elevation.
- e. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.
- f. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 49 inches in height above grade and be securely anchored to an adequately anchored system to resist flotation, collapse, and lateral movement.
- g. The lowest floor, including the basement, of all new buildings shall be at least one (1) foot above the base flood elevation.
- h. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of Section 650.4.
- i. The substantial improvement of any commercial, industrial or other non-residential structure shall either meet the requirements of Section 650.4 or together with attendant utility and sanitary facilities be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

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*Note: while buildings need only be flood proofed to the base flood elevation for floodplain management purposes, the building must be flood proofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes.*

- j. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage. All new construction and substantial improvements with fully enclosed areas below the lowest floor (such as crawl spaces) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
- A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - The bottom of all openings shall be no higher than one (1) foot above grade;
  - Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- k. Storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited in the fringe areas unless the area is filled to at least one (1) foot above the base flood elevation.
- l. Recreational Vehicles placed in the Flood Hazard Area shall either:
- Be on the site for fewer than 180 consecutive days, or
  - Be fully licensed and ready for highway use, or
  - Meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" of Section 60.3(c)(6) of said regulations.
- m. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:
- Shall not be used for human habitation,
  - Shall be designed to have low flood damage potential,
  - Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,
  - Shall be firmly anchored to prevent flotation, and
  - Shall have service facilities such as electrical and heating equipment elevated or flood-protected.
- n. Such additional conditions as deemed necessary by the ZBA in order to meet the purpose and Flood Hazard Area management requirements of this Bylaw.

## **650.6 ADMINISTRATION AND VARIANCES**

### **Zoning Administrator**

The Zoning Administrator (ZA) shall maintain the following records in the Town's zoning files:

- a. All permits issued for development in areas of special flood hazard;

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- b. The elevation, consistent with the datum of the elevation on the NFIP maps, of the lowest floor, including basement, of all new construction or substantially improved structures;
- c. The elevation, consistent with the datum of the elevation on the NFIP maps, to which the structure is flood-proofed; and
- d. All flood-proofing certifications required under this Regulation;
- e. All variance actions, including justification for their issuance.

## **Variances**

Variances shall be granted by the ZBA only in accordance with 24 V.S.A. Section 4469 and in accordance with the criteria for granting variances found in 44 CFR Section 60.6 of the National Flood Insurance Program regulations.

## **650.7 ZBA SECRETARY**

### **Notification**

The Secretary of the ZBA or Town Clerk shall notify the applicant that:

- a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance; and
- b. Such construction below the base flood elevation increases risks to life and property.

### **Record Keeping**

The Secretary of the ZBA or Town Clerk shall:

- a. Maintain a record of all variance actions, including justification for their issuance; and
- b. Report such variances issued under Section 650.6 as mandated.

## **650.8 ENFORCEMENT**

In addition to the standard enforcement proceedings established in Article XI, Enforcement, the ZA shall take the following action:

If the structure is still noncompliant after the opportunity to cure has passed, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

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## **ARTICLE VII: GENERAL REGULATIONS**

In accordance with the Act, the general regulations are intended to include: nonconformities, access and parking, performance standards, lighting, signs, etc., as described in this Section, together with all applicable State standards, all of which must be met in all districts. These general regulations are in effect whether or not a particular standard is emphasized as a condition of a permit. If a landowner or applicant wants to deviate from these general regulations, a formal request shall be made to the Zoning Administrator so the ZA may act upon it as appropriate. No land or structure in any Zoning District shall be used or occupied in any manner that will create dangerous, injurious, noxious or otherwise objectionable conditions, or in such amounts as to adversely affect the reasonable use of the surrounding area or adjoining properties. *The ZA may grant waivers within the ZA's jurisdiction or direct requests to the ZBA for consideration.*

### **700 PROTECTION OF NATURAL RESOURCES**

The project shall protect natural resources of town-wide importance as described in the Town Plan. These include: scenic views, geological formations, unstable soils, slopes over 15 percent, waterfowl habitat, deer wintering areas, fisheries, significant wildlife habitats, significant bear and moose use areas, aquifer recharge areas. Property owners should minimize intrusion of human activity into corridors along reservoirs, streams, ponds, wetlands and lakes.

If it is determined to be necessary or desirable, coordination with State agencies responsible for protection of Natural Resources may be recommended.

### **701 DAMAGE TO EXISTING TREES**

Per PUD's, subdivision developments, and/or commercial developments, if a tree is designated and shown on the approved plan as protected and is damaged or destroyed, the developer shall be required to pay to the Town of Stratton the assessed value of the tree, to a maximum of \$2,500 per tree, the cost to be determined by guidelines in the latest revision of a *Guide to Professional Evaluation of Landscape Trees, Specimens, and Evergreens*, 1982, International Society of Arboriculture, Urbana, Illinois.

### **702 RENEWABLE ENERGY RESOURCES**

The proposed development shall not adversely affect the ability of adjacent properties to use renewable energy resources and shall maximize energy efficiency within the development.

#### **Review Requirements**

No adverse effect on the ability of adjacent properties to use renewable energy resources such as growing or cutting wood, wind use or solar collection shall exist.

Energy efficiency on the site is maximized through the

- 1) type of energy used,
- 2) building location, and
- 3) building design and insulation.

### **703 WATER QUALITY**

Water/Wastewater is regulated by the Agency of Natural Resources (ANR), therefore water/wastewater permits must be addressed by ANR for any new projects or changes. If chemicals, waste or other liquid pollutants are on site, the landowner or developer shall ensure safe practices are used to handle and maintain them.

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## 704 NOISE AND VIBRATION

*This regulation applies to noise or vibration produced by an approved use of the property, such as a home business or commercial facility. This regulation is not used to enforce noises that fall within “disturbance of the peace.”*

*Exceptions to this regulation are areas within the SkiPUD with noise and vibration resulting from snowmaking or live music. Noise at unreasonable hours shall be muffled so that it is not objectionable because of its intermittence, beat frequency, shrillness, or volume.*

### 704.1 NOISE

The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this Ordinance shall be as established by the time of day and type of Land Use Districts listed below. Sound pressure levels shall be measured at all major lot lines, at a height of at least four feet above the ground surface. Sound from any source controlled by this Ordinance shall not exceed the following limits at the property line of the source.

<b>TABLE 1: Sound Pressure Level Limits Measured in dB(A)s</b>		
	<b>7 am – 10 pm</b>	<b>10 pm – 7 am</b>
<b>Commercial / Residential Districts</b>	<b>70</b>	<b>65</b>
<b>Residential / Recreation Districts</b>	<b>65</b>	<b>55</b>
<b>All Other Districts</b>	<b>55</b>	<b>45</b>

Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise.

The levels specified may be exceeded by 10dB(A) for a single period, no longer than 15 minutes in any one day.

Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute, ANSI S1.2-1962 *American Standard Meter for the Physical Measurements of Sound*.

### 704.2 VIBRATIONS

Uses that cause or result in any noticeable vibration of or on the property of another landowner shall be prohibited.

## 705 DUST, FUMES, VAPORS, GASES AND ODORS

*Occasional burning of brush is not a zoning issue. Burn permits are issued by the Fire Warden. Complaints associated with burning should be directed to the Fire Warden or the Health Officer as appropriate.*

Uses that cause or result in any noticeable emissions of dust, dirt, fly ash, fumes, vapors or gases which could be injurious to human health, animals, or vegetation; detrimental to the enjoyment of adjoining or nearby properties; or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited.

In addition, no permitted use shall be allowed to produce harmful, offensive, or bothersome odors, scents, or aromas, (such as, but not limited to, those produced by manufacturing processes, food preparation, food processing, fish sales, rendering, fermentation processes,

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decaying organic matter, and incinerators) perceptible beyond their lot lines, either at ground or habitable elevation.

The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be shown on the site plan and accompanying description of the source dust, fumes, etc.

## **706 THERMAL POLLUTION**

*Note: Snowmaking in the PUD is exempt.*

Uses that noticeably cause, create or result in any release of heat, cold, moisture, mist, fog, precipitation, or condensation beyond the boundaries of the property or to a height likely to be detrimental to the public health, safety and welfare shall be prohibited.

## **707 ELECTROMAGNETIC DISTURBANCE**

Uses that cause or result in any noticeable electromagnetic disturbance beyond the property lines shall be prohibited. Uses that cause, create, transmit, or release any electronic emission or signal which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals beyond the property lines shall be prohibited.

## **708 LIGHTING**

*(Note: Seasonal decorations are generally accepted.)*

Control of lighting levels and direction of lighting that is dangerous, annoying, or excessive shall be controlled to avoid the production of strong, dazzling light or reflection of light beyond the lot lines of the subject property.

### **708.1 PARKING LOT LIGHTING**

Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to prevent or minimize glare or direct illumination onto adjacent properties or streets.

Parking area lighting in all districts except Commercial/Residential and Residential Districts shall not be illuminated unless specific hazardous conditions exist which make illumination necessary. In such cases, the lighting shall meet the standards for the next higher lighting district.

All lighting fixtures serving parking lots shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA).

Alternatives: The design for an area may suggest the use of parking lot lighting fixtures of a particular "period" or architectural style, as either alternatives or supplements to the lighting described above. If such fixtures are not cut-off fixtures as defined by IESNA, the maximum initial lumens generated by each fixture shall not exceed 2,000 (equivalent to one 50 watt incandescent bulb). Mounting heights of such alternative fixtures shall not exceed 15 feet.

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<b>TABLE 2: Parking Lot Lighting Standards</b>		
	<b>Commercial / Residential District</b>	<b>Residential</b>
<b>Mounting Height Maximum</b>	<b>25 feet</b>	<b>20 feet</b>
<b>Maximum illumination level (at darkest spot in parking area)</b>	<b>No more than 0.5 foot-candles</b>	<b>No more than 0.3 foot-candles</b>
<b>Uniformity Ratio</b>	<b>4:1</b>	<b>4:1</b>
<b>Minimum CRI</b>	<b>65</b>	<b>70</b>

### **708.2 STREET LIGHTING STANDARDS**

#### **Commercial/Residential Districts**

General levels of illumination shall be consistent with guidelines published by the IESNA, provided that the average illumination level may not exceed that specified in those guidelines by more than 0.2 foot-candles.

The uniformity ratio shall not exceed 4:1.

#### **Residential District**

Street lights shall be located in the public right-of-way. If the street has a sidewalk along one side, the street lights shall generally be located on the sidewalk side of the street.

*Fixtures:* All street lighting fixtures shall be cut-off fixtures as defined by IESNA. If necessary, fixtures shall include “house side shields” to minimize light directed to the rear of the fixtures.

*Alternatives:* The design for an area may suggest the use of street lighting fixtures of a particular “period” or architectural style, or there may be existing historical fixtures to be retained. In such cases, the non-cut-off fixtures may be used either as alternatives or supplements to street lighting described above.

For fixtures that do not meet the “cut-off” criteria, the maximum initial lumens generated by each fixture shall not exceed 2,000 (equivalent to one 50-watt incandescent bulb).

*Mounting Heights:* Where historic fixtures are being retained (and/or extended) mounting height shall be that of the existing fixtures and every effort shall be made to use brackets that match existing brackets.

<b>TABLE 3: Recommended Street Lighting Standards</b>		
<b>District</b>	<b>Commercial / Residential District</b>	<b>Residential</b>
<b>Mounting Height Maximum</b>	<b>30 feet</b>	<b>25 feet</b>
<b>Spacing</b>	<b>600 feet, and at intersections, or 300 feet in the SkipUD</b>	<b>600 feet, and at intersections</b>
<b>Maximum Initial Lumens</b>	<b>15,000</b>	<b>15,000</b>
<b>Minimum CRI</b>	<b>65</b>	<b>75</b>



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### **708.3 GASOLINE STATION / CONVENIENCE STORE APRON AND CANOPY LIGHTING**

Lighting levels on gasoline station/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the business. Signs allowed under Section 709 of this Ordinance shall be used for that purpose.

Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas listed in Section 708.1. If no gasoline pumps are provided, the entire apron shall be treated as a parking area.

Areas around the pump islands and under canopies shall be illuminated so that the minimum horizontal luminance at grade level is at least 1.0 foot-candle and no more than 5.5 foot-candles. The uniformity ratio (ratio of average to minimum luminance) shall be no greater than 4:1, which yields an average illumination level of no more than 22.0 foot-candles.

Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than 85 degrees from vertical.

As an alternative (or supplement) to recessed ceiling lights, indirect lighting may be used where light is beamed upward and then reflected down from the underside of the canopy. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

Lights shall not be mounted on the top or sides (fascia) of the canopy, and the sides (fascia) of the canopy shall not be illuminated.

### **708.4 LIGHTING OF EXTERIOR DISPLAY OR SALES AREAS**

Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the business. Signs allowed under Section 708.1 of this Ordinance shall be used for that purpose. The applicant shall designate areas to be considered display/sales areas and areas to be used as parking or passive vehicle storage areas. These designations must be approved by the Planning Commission during Site Plan Review.

Areas designated as parking or passive vehicle storage areas shall be illuminated in accordance with the requirements for parking areas listed in Section 708. Areas designated as exterior display/sales areas shall be illuminated so that the average horizontal luminance at grade level is no more than 5.0 foot-candles. The uniformity ratio (ratio of average to minimum luminance) shall be no greater than 4:1. The average and minimum shall be computed for only that area designated as exterior display/sales area.

Light fixtures shall meet the IESNA definition of cut-off fixtures, and shall be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent streets or properties.

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Fixtures shall be mounted no more than 25 feet above grade, and mounting poles shall be located either inside the illuminated area or no more than 10 feet away from the outside edge of the illuminated area.

### **708.5 LIGHTING OF OUTDOOR PERFORMANCE FACILITIES**

Outdoor nighttime performance events (concerts, athletic contests, etc.) have unique lighting needs. Illumination levels vary, depending on the nature of the event. The regulations in this Section are intended to allow adequate lighting for such events while minimizing sky glow, reducing glare and unwanted illumination of surrounding streets and properties.

**Design Plan:** A lighting design plan shall be submitted which shows in detail the proposed lighting installation. The design plan shall include a discussion of the lighting requirements of various areas and how those requirements will be met.

**Dual System:** The main lighting of the event (spotlighting or floodlighting, etc.) shall be turned off no more than 45 minutes after the end of the event. A low level lighting system shall be installed to facilitate patrons leaving the facility, cleanup, nighttime maintenance, etc. The low level lighting system shall provide an average horizontal illumination level, at grade level, of no more than 3.0 foot-candles with a uniformity ratio (average to minimum) not exceeding 4:1.

**Primary Playing Areas:** Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be specified, mounted, and aimed so that their beams fall within the primary playing area and immediate surroundings, and so that no direct illumination is directed off the site.

**Parking Areas:** Lighting for parking areas shall meet the requirements listed in Section 708.1.

**Pedestrian Areas:** Areas intended solely for pedestrian circulation shall be provided with a minimum level of illumination of no less than 0.1 foot-candles and no more than 0.2 foot-candles. A uniformity ratio of average to minimum illumination shall not exceed 4:1.

### **708.6 SECURITY LIGHTING**

*Note: Single family and two-family homes are exempt.*

The need for security lighting (i.e., lighting for safety of persons and property) must be demonstrated as part of an overall security plan which includes at least illumination, surveillance, and response, and which delineates the area to be illuminated for security purposes. To the extent that the designated area is illuminated for other purposes, independent security lighting installations will be discouraged.

In addition to the application requirements set forth in the general provisions of this Section, applications for security lighting installations shall include a written description of the need for and purposes of security lighting, a site plan showing the area to be secured and the location of all security lighting fixtures, specifications of all fixtures, the horizontal and vertical angles in which light will be directed, and adequate cross-sections showing how light will be directed only onto the area to be secured.

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All security lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and not cast on other areas. In no case shall lighting be directed above a horizontal plane through the top of the lighting fixture, and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures shall be discouraged.

Security lighting may illuminate vertical surfaces (e.g. building facades and wall) up to a level eight feet above grade or eight feet above the bottoms of doorways or entries, whichever is greater.

Security lighting fixtures may be mounted on poles located no more than 10 feet from the perimeter of the designated secure area.

Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder within five feet of the perimeter.

Security lighting standards in Commercial-Residential and Residential Districts are shown in Table 4.

<b>TABLE 4: Recommended Security Lighting Standards</b>		
	<b>Commercial / Residential District</b>	<b>Residential</b>
<b>Mounting Height Maximum</b>	<b>25 feet</b>	<b>20 feet</b>
<b>Average horizontal illumination level on ground</b>	<b>No more than 1.5 foot-candle</b>	<b>Nor more than 1.0 foot-candle</b>
<b>Average illumination level on vertical surface</b>	<b>No more than 1.5 foot-candle</b>	<b>No more than 1.0 foot-candle</b>
<b>Minimum CRI</b>	<b>65</b>	<b>70</b>

## **708.7 LIGHTING OF WALKWAYS OR BIKEWAYS AND PARKS**

Where special lighting is to be provided for public or commercial walkways, bikeways, or parks, the following requirements shall apply:

The walkway, pathway, or ground area shall be illuminated to a level of at least 0.3 foot-candles and no more than 0.5 foot-candles.

The vertical illumination levels at a height of five feet above grade shall be at least 0.3 and no more than 0.5 foot-candles.

Lighting fixtures shall be designed to direct light downward, and light sources shall have an initial output of no more than 1,000 lumens.

In general, lighting of walkways shall be consistent with the guidelines presented in the IESNA Lighting Handbook.

## **709 SIGNS**

*Note: Signage requirements only apply to signage visible from public roadways.*

It is the intension of this Section to allow signs necessary to conduct business while maintaining the rural character of the Town. For the purpose of these regulations, signs are classified as outdoor advertising. The following regulations shall apply.

1. Signage shall be located on the property where the business is conducted.
2. Each side of a sign shall not be larger than 16 square feet in area, including appendages.

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3. There shall be only one sign structure on a lot that pertains to the use of the lot or the conduct of a profession, unless otherwise approved by the Planning Commission.
4. On-premise directional signs, to direct customers, shall not exceed six square feet.
5. *Real Estate, For Rent or For Sale* signs shall be limited to one per property per separate road frontage, and shall not exceed six square feet. These signs shall be located on the property being offered.
6. The only sources of illumination for a sign shall be as permitted in this section.
7. Signs shall not interfere with traffic visibility and access.
8. Signage, other than traffic control signs, that are put into the town right-of-way must meet requirements of the Town of Stratton *Road Crossing and Access Ordinance*. Traffic signs fall under the jurisdiction of the Selectboard only.
9. All non-conforming signs existing as of the date of this Ordinance shall be permitted as long as:
  - a. There is no change in business use on property where the sign is located;
  - b. The non-conforming signs are not moved, enlarged, or altered other than for normal maintenance and repair;
  - c. In the event that there is a change of business use of the property, any non-conforming signs must be removed at the time of the change of use.
  - d. Non-conforming signs may be repaired but not rebuilt.

### **709.1 SIGN LIGHTING**

It is the intent of this Section to allow illuminated signs but to ensure that they do not create glare or unduly illuminate the surrounding area. Internally illuminated signs are not permitted. The applicant shall provide sufficient technical and design information to demonstrate that the following provisions are met.

The average level of illumination on the vertical surface of the sign shall not exceed 3.0 foot-candles, and the uniformity ratio (the ratio of average to minimum illumination) shall not exceed 2:1.

Lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that light is directed only onto the sign facade. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.

Lighting fixtures illuminating signs shall be of a type such that the light source (bulb) is not directly visible from adjacent streets, roads, or properties.

To the extent practicable, fixtures used to illuminate signs shall be top mounted and directed downward (i.e. below the horizontal).

## **710 PROHIBITED SUBSTANCES**

### **710.1 UNTREATABLE WASTE**

Uses that cause, create, or result in liquid or solid wastes or refuse which cannot be disposed of by any available or existing methods without any undue burden on Stratton Town or Fire District facilities shall be prohibited.

### **710.2 IGNITABLE HAZARDS**

Uses that cause, create or may result in undue fire, safety, explosive or other hazard which significantly endanger adjacent properties or result in a significantly increased burden on the Town of Stratton facilities shall not be permitted.

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## **710.3 HAZARDOUS MATERIALS**

Uses that require the use of hazardous materials shall be prohibited, unless specifically allowed by this ordinance.

## **710.4 PESTICIDES, HERBICIDES AND FERTILIZERS**

Only pesticides, herbicides, and fertilizers approved by the State Department of Agriculture may be used closer than 200 feet to a streambank, pond, lake or wetland. These substances shall not be used within 50 feet of a stream.

## **711 LANDSCAPING AND SPECIFIC LANDSCAPE REQUIREMENTS**

*Note: Single family and two-family homes are exempt.*

The application shall provide for the optimum compatibility of objects within the project and protection of adjacent properties. It should also provide for the safety and visual pleasure of travelers moving past the developments.

### **711.1 RESPONSIBILITY FOR LANDSCAPES**

The term landscape includes earthwork, drainage, erosion control, paving, screening and fencing, as well as planting. The maintenance and care of the landscape is the responsibility of the land owner and is an ongoing requirement of this Ordinance. In land and building development, landscaping shall be provided and maintained.

During Site Plan Review, the Planning Commission may, if it believes it is warranted under the purpose of this Section as stated, require additional landscaping, planting and fencing, for example, to shield unsightly equipment from view.

### **711.2 NEW PLANTING**

New planting should take advantage of the site and create a look of natural growth. Planting should screen the use and reduce nuisances that might affect neighboring property owners and users. Minimum caliper of new planting canopy and understory trees shall be at least two inches diameter at breast height (DBH) at planting. Shrubs shall be at least two feet in height above the ground at planting, or in a minimum three-gallon container. Maintenance (especially watering, feeding and pruning) shall be continual for at least the first three years.

### **711.3 RECOMMENDED PLANT SPECIFICATIONS**

Three plant groupings are used in discussing landscaping: canopy trees, understory trees and shrubs and ground cover.

1. Canopy trees include deciduous or evergreen trees over 24 feet in height when fully grown under local conditions on the site.
2. Understory trees include any deciduous or evergreen tall shrub or tree 12 to 24 feet in height when fully grown under local conditions on the site. Understory shrubs include any deciduous or evergreen shrubs 12 feet or less in height when fully grown under local conditions on the site.
3. Ground cover includes grass.

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**Species:** Plants should be accustomed to Vermont weather, be non-invasive, have a minimum US Department of Agriculture hardiness of a cold Zone 4 and commonly known to thrive in this mountain community.

A partial list is given but it is by no means complete:

1. Canopy trees: Ash, Red Maple, Sugar Maple, Black Locust, Weeping Willow, Red Oak, Gray Birch, White Pine, Black Spruce, White Spruce, Hemlock;
2. Understory trees: Crab Apple, Hawthorn (thornless preferred), Serviceberry, Arbor Vitae;
3. Shrubs: Lilac, Barberry, Juniper, Merservae Holly, Mugho Pine, Viburnum.

Fruit and flowering trees may be used to comply with these requirements.

## **711.4 RECOMMENDED CR-1 DISTRICT LINE PLANTING**

Where any commercial or PUD development in a nonresidential district is along the line of a residential district, there should be created a minimum of 25 feet of grass area with a mix of canopy and understory trees used to buffer the residential uses from the nonresidential uses. It is recommended that this screening be planted along the property line regardless of the current use or status of the adjoining residential area. When the district line runs along or in the center of a roadway, the planting shall be at the edge of the right-of-way.

In any commercial or industrial use, a strip of land at least 25 feet wide should be maintained as a landscape and utility area in the front, side and rear yards of each occupied lot.

## **711.5 RECOMMENDED ROADSIDE TREES**

### **Removal of Trees**

It is recommended that removal of trees over five inches in diameter (DBH) be minimized, especially along roadways outside the ditching area. Removal of existing trees can usually be reduced by good planning of the site. Planting of new or replacement trees every 30 feet along roads is encouraged to reinforce rural character. The trees should be deciduous hardwoods, such as maple, oak, linden, sycamore, etc. (not conifers or flowering ornamentals which are shorter lived).

### **Roadside Tree Plantings**

Roadside tree plantings should meet the following criteria:

1. Cast moderate to dense shade in summer;
2. Be long-lived, that is, over 60 years;
3. Be tolerant of low temperatures, snow plow abuse and direct or reflected heat;
4. Require little maintenance, by being mechanically strong and insect- and disease-resistant;
5. Be able to survive two or more years with no irrigation after establishment; and
6. Be of native origin, provided that they meet the above criteria.

Where stonewalls exist, care should be taken to disturb these as little as possible, since they also act to retain the character of country roads. We encourage property owners to keep stonewalls clear and visible.

# *Town of Stratton Zoning Ordinance*

## **712 FENCES**

Fences may be required where new development has an adverse effect on neighboring properties.

### **712.1 SCREENED SERVICE AREAS**

All service areas shall be screened on all sides with either a wall, solid fence, or fence and evergreens to a height of at least five feet above grade level or higher as determined by the Planning Commission.

## **713 DRAINAGE AND EROSION CONTROL**

Following construction permanent streams, ponds and lakes shall remain in or be returned to their natural state. Road drainage shall be left in its original condition or improved when complete. The transport of soil and sediment through the on-site drainage system and the transport of soil and sediment off the site shall be minimized. The potential for the movement of soil shall be reduced by practicing proper erosion control.

Changes in the normal drainage patterns shall be avoided and appropriate protection shall be provided for trees if a grade change is necessary in the surrounding areas. All site development shall include provisions for the environmentally safe discharge of surface water. Drainage systems shall be designed so there is no increase in the peak discharge of water as a result of the development. Surface water shall be retained and or treated on the site if necessary. No increase in any flow levels to off-site adjoining properties, with the exception of roadside drainage systems, is permitted unless approved by the affected property owner and the ANR, where applicable. The Town's Road Foreman or Selectboard shall review and make recommendations on systems which use the Town's storm water system or are in any portion of the town right-of-way. For Site Plan Review development, the Planning Commission may require that the drainage system be designed and installed under the direction of a registered civil engineer.

### **Review Requirements**

Adequate provisions in the plans for reducing the amount of exposed earth, for controlling erosion and handling of sediment shall include the following:

- 1) Provisions for connecting to the Town road drainage system (culverts and ditches).
- 2) Provisions for drainage easements from adjoining property owner(s), and approved by the ANR, if/as necessary, if drainage is increased or redirected off the site.

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following "best management" practices:

1. Stripping of vegetation, soil removal, and re-grading or other development shall be accomplished in a way that minimizes erosion;
2. The duration of exposure of the disturbed area shall be kept to a practical minimum;
3. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;
4. Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable after construction ends in a particular area or phase;
5. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the town; and
6. The top of a cut or bottom of a fill section that changes the grade should not change the water drainage (flow) toward or away from any adjacent property. Any work

# *Town of Stratton Zoning Ordinance*

within 10 feet of a property line will require a review by the appropriate town authority.

*(Note: The Planning Commission may reference the latest edition of the USDA Natural Resources Conservation Service Construction and Material Specifications for Conservation Practices.)*

## **714 OFF-STREET PARKING AND DRIVEWAY REQUIREMENTS**

Driveway access to town roads are regulated under the *Town of Stratton Road Crossing and Access Ordinance*. These regulations should also be applied, in principle, to driveways entering private roads.

### **714.1 PARKING SPACE REQUIRED PER USE**

#### Residential Uses

One- or two-family dwelling or mobile, home	1 1/2 spaces per dwelling unit plus 1 additional space for each bedroom in excess of 2 bedrooms. (A garage or carport may be used to meet these requirements.)
Multi-family dwelling	1 1/2 spaces per dwelling unit plus 1/2 additional space for each bedroom in excess of 2 bedrooms. (A garage or carport may be used to meet these requirements.)
Professional, residential office, home occupations	1 parking space plus 1 additional parking space for every 300 square feet of operational space.

#### Non-residential Uses

Hotel, motel, lodge, inn, tourist home, boarding house, Bed and Breakfast, Traditional Bed and Breakfast	1 space per guest bedroom plus additional space for eating or drinking facilities (see below)
Restaurant and/or lounge	1 space for each 2 persons of rated capacity.
Nursing home, hospital	1 space for every 2 beds.
Places of public assembly	1 space per 4 seats or 1 per 200 square feet of seating area when fixed seating is not provided.
Business, professional	1 space for every 200 square feet of usable floor area within an office.



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Business, commercial	1 space for every employee and motor vehicle used in the business plus one space for every 200 square feet of usable floor area.
Industrial, wholesale, warehouse, storage, freight and trucking uses.	2 spaces per 3 employees on the premise at one time
Recreation facility	1 space per 3 users present at any one time.
Other uses	As required by the Zoning Board of Adjustment or Planning Commission under the permit approval process.

## **714.2 OFF-STREET LOADING SPACE REQUIREMENTS**

For every building hereafter erected, altered, extended, or changed in use for the purpose of business, trade, or industry, there shall be provided off-street space for loading and unloading of vehicles as follows:

Motels, hotels, etc.	1 space per 11,000 square feet of floor area within commercial business service and industrial establishments
Wholesale, warehouse,	1 space per 7,500 square feet of floor area freight and trucking use

## **714.3 SPECIAL PARKING AND LOADING REQUIREMENTS AND CONSIDERATIONS (Commercial, Public, or PUD development)**

All aisles within parking areas shall have a minimum width of 24 feet when parking spaces are at a 90 degree angle with the aisle; 18 feet when spaces are at 60 degrees; and 12 feet when spaces are at 45 degrees.

Aisles and turning areas shall provide good general circulation with adequate radii to assure ease of mobility, ample clearance, and convenient access and egress. In addition, lanes for fire equipment access shall be provided.

Physical improvements of off-street parking and loading areas shall include the following:

1. Curbs, paving, sidewalks and drainage facilities where necessary;
2. Adequate lighting in public parking areas to assure the general safety and convenience where necessary;
3. Screening for protection of adjacent properties, particularly along district boundary lines where necessary; and
4. Parking areas shall comply with setback regulations in each district.
5. Consideration for adequate snow removal.

As part of development review approval, the Planning Commission may require additional off-street parking and loading space for any use, if they find that the minimum spaces are not sufficient.

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As a part of development review, the Planning Commission may permit the required parking spaces to be located on another lot within a 300-foot radius of the main lot.

Parking spaces for any number of separate uses may be combined in one parking lot, but the required space assignment to one use may not be assigned to another at the same time, except under approval of the Planning Commission during development review.

Whenever possible, parking lots should be located in the side and rear of the lot.

Whenever possible, parking lots should take advantage of existing vegetation and changes of ground level to reduce the visual impact of the lot.

### **714.4 AMERICANS WITH DISABILITIES ACT (ADA) PARKING REQUIREMENTS**

A website for the most current ADA requirements per the United States Access Board ADA Standards is: (<http://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/ada-standards/chapter-5-general-site-and-building-elements>).

### **714.5 TRAFFIC CIRCULATION (Commercial, Public, or PUD development)**

The project shall:

1. Provide for the optimum safety of traffic entering and exiting the site by any mode, and the optimum safety of individuals transferring from one mode of transportation to another on the site and entering and exiting the buildings on the site.
2. Optimize traffic safety and capacity on Town roads beyond the immediate site or to other areas affected in Town.
3. Reduce the potential for increased accidents due to traffic from the development.
4. Provide adequate road capacity for the additional traffic for safe and efficient use (include a review of existing and proposed daily and peak hour traffic levels).
5. Optimize access to the Town road system.

*(Note: The Planning Commission may request a formal road capacity study and analysis. Any project affecting a town road requires approval from the Selectboard.)*

## **715 PRIVATE ROADS**

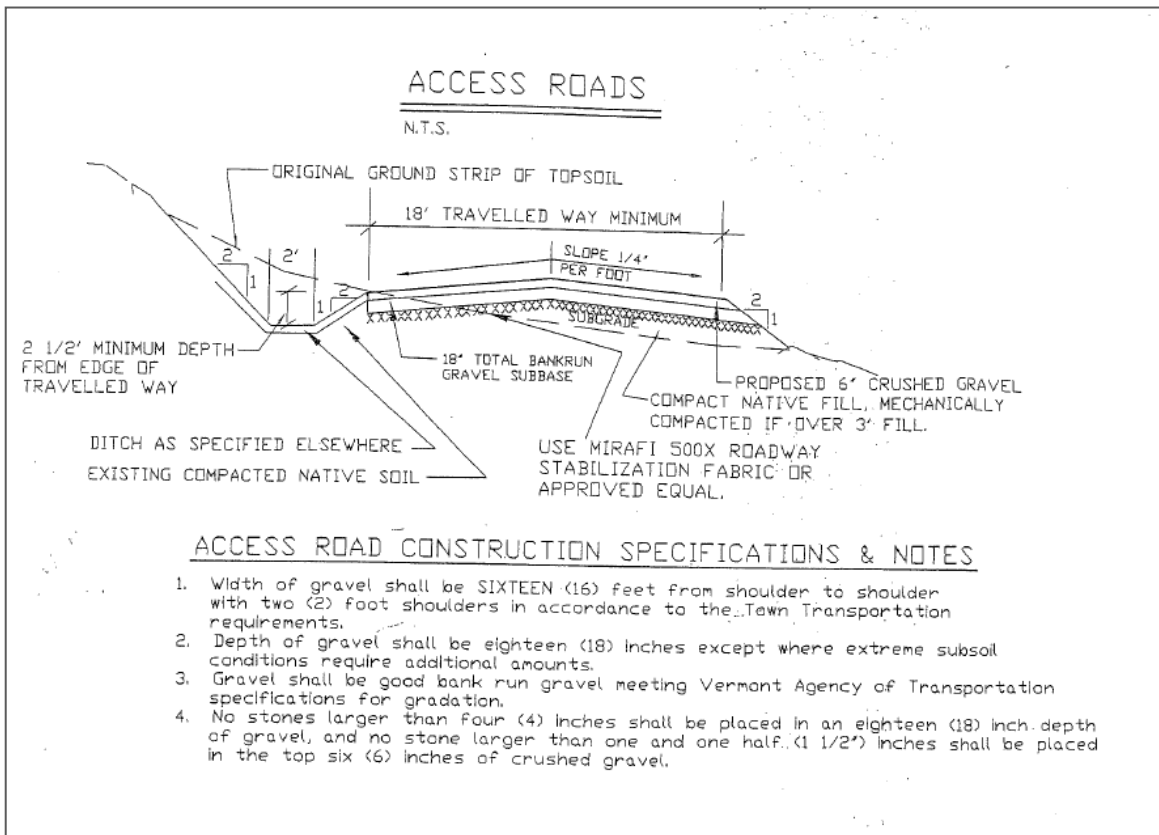
The building of private roads may be required as a condition of a subdivision permit or for projects where no individual access is planned or no existing access is adequate or available. The road itself is considered a construction project, and will require a zoning permit unless construction of the road is incorporated in another zoning permit. Generally though, when residential lots have been created, and the only additional infrastructure needed is a road, then the road will need to be approved under its own zoning permit. All private roads shall allow for adequate access for emergency vehicles with a minimum width of 18 feet of graveled surface, and a maximum grade of 10%. Roads should be built within a 50 foot wide right-of-way. All turn-arounds must be designed as hammer heads instead of cul-de-sacs.

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Private roads built for purposes of meeting zoning requirements (i.e., 200 feet of road frontage on lots) shall be effective for that purpose only if adjoined to Town Roads (as those recognized by the Agency of Transportation per the General Highway Maps of Stratton or adjacent Towns) rated Class 1, 2, or 3 by the Agency of Transportation or if adjoined to other Private Roads which have been built or upgraded at least to these same minimum standards for private roads, with these same standards continuing along the entire path to a junction with a Town Road rated as Class 1, 2 or 3 by the Agency of Transportation.

**Use the diagram below for specifications. (See also Section 718 - Required Frontage)**

*(Note: The Town will not take over roads unless they have been built to Town of Stratton Road Standards. It has been the policy of the Stratton Selectboard that no private road will be taken over by the Town.)*



*(Note: A qualified engineer may exempt the use of stabilization fabric.)*

# Town of Stratton Zoning Ordinance

## 716 FIRE PROTECTION

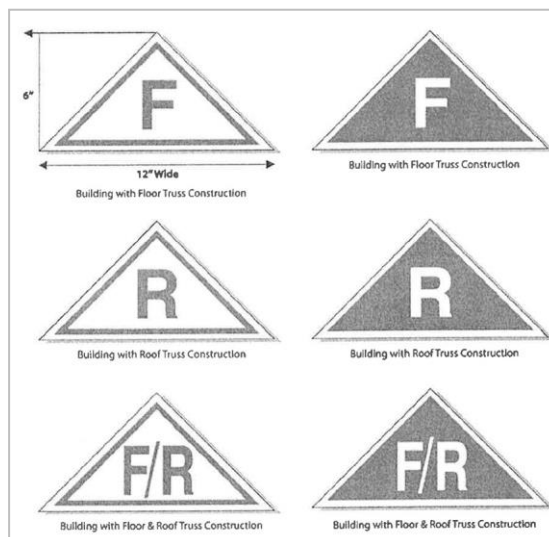
### Trusses

Properties with trusses are required to display the appropriate truss symbol at a visible location. *See diagram to the right.*

### Sprinkler Systems

Sprinkler systems are regulated in accordance with the National Fire Protection Association (NFPA).

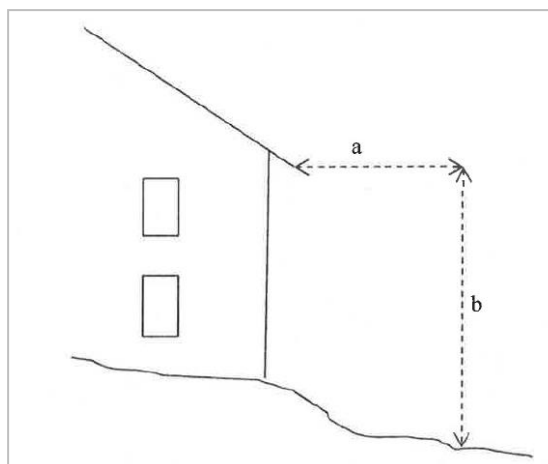
- 1) The requirement for residential fire sprinkler systems shall apply to all building permits for new residential multi-family dwellings of three or more units and anything occupiable in the SkiPUD. Multi-family dwellings shall include but are not limited to all projects within the SkiPUD. The requirements of this ordinance shall pertain if an existing non-conforming structure is destroyed and replaced by a new principal structure.
- 2) The requirement for interior sprinkler systems shall not apply to accessory or non-habitable structures such as carports, garages, sheds, etc.
- 3) Fire sprinkler systems shall be installed and maintained in accordance with the most recent version of the applicable fire sprinkler standard as promulgated by the National Fire Protection Association (NFPA) and as modified or amended from time to time. Design and installation of the sprinkler system shall be performed by a certified sprinkler company which shall supply proof of certification of the system prior to the issuance of a Certificate of Completion by the ZA.



### Fire Department Ladder - Accessibility Requirement

Safe ladder access shall be available to all roofs at the drip-line (with exception of cupolas). The following rule shall be applied in all zones:

- 1 The distance represented by "a" (*see diagram*) shall be greater than or equal to half of the height "b" from the terrain surrounding the structure at that distance (a) to the level of the drip-line. \*
- 2 \* At 15 feet from dripline (a) the height from ground (b) shall not exceed 30 feet.
- 3 (This rule may be exempted by the Stratton Mountain Volunteer Fire Dept. in CR1 if adequate accessibility for the ladder truck is continually maintained (i.e., appropriately located parking pads kept clear of vehicles and adequate snow removal maintained.)



### Automatic Fire Alarm and Security Gate Systems

All properties with automatic fire alarm systems must comply with the Town of Stratton *Regulation of Private Fire Alarm and Security Gate Systems*. This regulation requires Knox Box installations.

# *Town of Stratton Zoning Ordinance*

## **717 EXISTING SMALL LOTS**

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the enactment date of this Zoning Ordinance may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such a lot is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet.

1. If the lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot. However, the lot shall not be deemed merged and may be separately conveyed, if all the following apply:
  - A. On the effective date of this or previous zoning regulations, the non-conforming lots had each been developed with a water supply and wastewater disposal system;
  - B. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
  - C. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails. Failure means the system functions in a manner:
    - a. That allows wastewater to be exposed to the open air, pool on the surface of the ground, discharge directly to surface water, or back up into a building or structure unless the approved design of the system specifically requires the system to function in such a manner;
    - b. So that a potable water supply is contaminated or rendered not potable;
    - c. That presents a threat to human health; or
    - d. That presents a serious threat to the environment.
2. Setbacks are reduced proportionally for these lots. *i.e., since a one-acre lot is 50% of the minimum 2 acre requirement, the side setbacks may be reduced by 50% to 25 feet. The minimum setback of 50' to a road or right-of-way remains the same regardless of the lot size.*

## **718 REQUIRED FRONTAGE (See also Section 715 - Private Roads)**

No land development may be permitted on a pre-existing lot which does not meet minimum road frontage requirements on a private or public road, or public waters, unless it has adequate existing access, or with the approval of the Planning Commission. Access to such a road or waters by a permanent easement or right-of-way shall be at least 50 feet wide. This 50-foot requirement is subject to a possible dimensional waiver to be determined by a review of the ZBA.

## **719 PROTECTION OF HOME OCCUPATIONS**

A resident may use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located; otherwise, such a change is considered a "change of use" and the owner must apply for a zoning permit for the change.

## **720 EXISTING USE OF STRUCTURES AND LAND**

This Ordinance shall not apply to the use of structures and land in conformance with the previous zoning regulations (or previously recognized as non-conforming). However, once a non-conforming use is changed to a conforming use it cannot be changed back to a non-conforming use.

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A lot which conforms to this Ordinance by virtue of a variance or special exception (e.g., Waiver) shall not be altered without further variance or special exception being granted.

A non-conforming structure shall not be expanded, enlarged or moved within the district, without a waiver or variance, as applicable.

### **721 REDUCTION OF LOT AREA**

No lot shall be reduced in area so that the total area, lot width, frontage yards, coverage or other requirements of this Ordinance shall be less than prescribed for each district. The provisions of this Section shall not apply when part of a lot is taken for a public purpose or the non-conforming small lot is merged with a larger conforming lot.

### **722 BUILDING HEIGHTS (See also Section 716 Fire Protection)**

The maximum height of the building when completed shall not exceed 35 feet above the average "finished" grade level. The anticipated height of the finished building must be stated on the building permit application. Questionable heights may be challenged by the Zoning Administrator and may require the homeowner to hire the services of a certified surveyor to ensure the maximum height has not been exceeded after the exterior of the building and finished grading is completed. This shall be recorded as a condition of the permit.

No building or structure in any district shall exceed the height limit applicable to the district where it is located, but this limit shall not apply to spires, decorative cupolas, chimneys, weathervanes, ventilators, tanks or similar parts of a building, occupying in the aggregate not more than ten (10%) percent of the area of such building and not used for any human occupancy, nor to farm buildings, church steeples, flagpoles, or residential radio or television aerials. See Section 560.

# *Town of Stratton Zoning Ordinance*

## **ARTICLE VIII: STANDARDS FOR SPECIAL USES**

### **800 COMMERCIAL ANIMALS –**

#### **800.1 JURISDICTION AND EXEMPTIONS**

Commercial animal developments are those facilities that combine animals and the general public. Kennels, riding stables and petting zoos are some examples of commercial animal development.

The keeping of five or less cats and/or dogs as personal pets does not require a zoning permit. The keeping of more than five such animals older than six months makes the property a kennel. *Common pets smaller than cats are exempt.*

#### **800.2 APPLICATION SUBMISSION REQUIREMENTS**

Submission requirements are the same as for Site Plan Review with emphasis on views from public ways. Also required are the following:

1. Provide evidence of preliminary review by the appropriate State agencies;
2. Show enclosure locations on the site plan;
3. Describe how the development will comply with the Vermont Department of Agriculture's Required Agricultural Practices;
4. Provide noise level information.

#### **800.3 SPECIFIC REQUIREMENTS**

##### **800.3.1 ENCLOSURES**

Enclosures containing animals and related uses described in this Section include pens, coops, hutches, stables, barns, corrals, and similar structures and shall be subject to the following requirements.

1. All animals kept outside shall be provided with access to shelter protecting them from the sun, rain, snow, together with adequate bedding when the temperature falls below 50 degrees Fahrenheit.
2. Animal enclosures shall not be permitted in the required front or side yard setback areas for main buildings, unless the lot on which the animals are kept is located in the Conservation District or this requirement is modified by the Planning Commission.
3. All enclosures shall be adequate to contain the animals intended to use the enclosure and in all cases, animals shall be contained within the boundaries of the property on which they are housed.

##### **800.3.2 ELECTRICAL FENCING**

Low-voltage electrical fencing is permitted for containment of large animals subject to the following requirements.

1. Electrical fencing may be maintained on the property line at a maximum of six feet in height. When the electrical fence is adjacent to a public road or public access easement, the electrical fence shall be located on the inside of a non-electrical fence.
2. Appropriate signage shall be posted to give notice of the electrical fencing.

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## **800.3.3 MANURE**

All fresh excrement produced by animals shall be disposed of on a regular basis to prevent contamination of groundwater, control flies and odor, and comply with the Vermont Department of Agriculture's Required Agricultural Practices.

## **800.3.4 KENNEL REQUIREMENTS**

1. The premises shall be kept in a clean and sanitary manner by the daily removal of waste and by the use of pesticide and disinfectants to prevent the accumulation of flies, the spread of disease, or offensive odor.
2. Kennels shall conform to the regulations regarding noise found in Section 705.
3. A non-transparent fence at least six feet in height shall screen the kennel enclosure.
4. Where a kennel is located on property abutting any residential property, no enclosure shall be located within 100 feet of any interior side lot line or within 100 feet of the rear lot line.

## **800.3.5 BOARDING AND RIDING STABLE REQUIREMENTS**

1. Horses shall be maintained in a corral area containing at least 300 square feet for the first horse, and for each additional horse, an additional 200 square feet of corral area shall be provided.
2. The corral shall be at least 25 feet from the property line and conform to building setbacks from a public or private street.
3. The corral area shall consist of fences at least five feet in height and of appropriate strength to confine the horses.
4. In conjunction with the corrals, there shall be provided a structure consisting of at least a weatherproof roof and of the following area: first horse, 60 square feet; for each additional horse; an additional 36 square feet per horse. The stabling structure shall be constructed in accordance with the provisions of the building code of the Vermont Department of Labor and Industry and Federal Confinement Regulations.
5. The corral and stable areas shall be watered or otherwise treated to prevent the emanation of dust. Dust and drainage from the animal enclosure(s) shall not create a nuisance or a hazard to adjoining properties. Manure handling and storage shall conform to the Vermont Department of Agriculture's Required Agricultural Practices. There shall be adequate storage capacity for manure. Manure stockpiles shall be no closer than 300 feet from wells. All accumulation of manure, mud or refuse shall be managed to prevent the breeding of flies, contamination of groundwater and creation of odors. Animal wastes shall not pollute surface water.
6. Animal odor shall not be detectable beyond the lot lines of the property where the enclosure is located.
7. Noise levels shall comply with Section 705.

## **805 EXTRACTION OF SAND AND GRAVEL**

In accordance with the Act, in any district the removal of soil, sand or gravel for sale, except where incidental to the construction of a building or pond or roadway on the same premises, shall be permitted only upon PC or ZBA approval of the plan for rehabilitation of the site.

1. The owner of any new or extension to an existing sand or gravel operation shall submit a plan of proposed improvements to ensure that upon completion of the extraction operation the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare.



## *Town of Stratton Zoning Ordinance*

2. The removal of all material shall have due regard for the contours in the vicinity, grading, erosion control, replanting, surface drainage, topsoil and similar considerations.
3. Extension of an existing non-conforming operation may continue upon approval of the Planning Commission after development review.
4. The Planning Commission may attach any reasonable conditions to assure the safety and general welfare of the public.
5. The Planning Commission may attach any reasonable conditions for the rehabilitation of the operation including a bond, escrow account, or other acceptable surety.

### **810 GASOLINE AND/OR SERVICE STATIONS**

In Districts where permitted, gasoline and/or service stations shall comply with State and Federal underground storage regulations.

### **815 HELICOPTER FACILITY**

#### **815.1 JURISDICTION AND EXEMPTIONS**

Conditional Use permits and Site Plan Review permits and Selectboard approval shall be obtained from the Town of Stratton for all new facilities including taxi routes and stops. Permits are not required for emergency medical and/or rescue operations. Stratton Emergency Services may designate areas for emergency landings and mark the sites on a map for distribution to providers of emergency helicopter services in the area.

#### **815.2 REVIEW**

In districts where allowed, review is a four-step process. The project is submitted for preliminary approval by the Stratton Selectboard and the Vermont Aeronautics Operation Section. Then the proposal is reviewed by the ZBA under the Conditional Use Review, then by or in conjunction with the Planning Commission under the Site Plan Review process.

#### **815.3 APPLICATION REQUIREMENTS**

Application requirements are the same as for Site Plan Review with the additional items listed below:

1. A detailed site plan of the project showing the layout of the aircraft landing and aircraft parking spaces, landing surface, fire suppression equipment and fire access, control towers or facilities, wind indicator, taxiways, auto parking areas, fences, landscaping, lights, walkways, adjacent streets final approach and take off area(s), protection zones, tie down details, heliport markings, landing lights, terminal facilities, repair facilities, size and type of helicopters to be provided for, noise projections, air pollution modeling and other details which relate to the development standards listed elsewhere in this Ordinance.
2. Preliminary approval from the Selectboard. (Include in subsequent applications all comments and paperwork pertinent to preliminary approval of the heliport.)
3. Show on a 1:5,000 scale map with contours a radius of one half mile of the heliport, the approach/departure flight path locations, widths, lengths, slopes and other necessary details, as required by the State of Vermont Division of Aeronautics. Show the relationship of the site to natural flight corridors, such as roads and streams.
4. Operational information, such as the proposed hours of operation; the number, type and size of aircraft to be located at or expected to use the site; maximum number of

## ***Town of Stratton Zoning Ordinance***

helicopter trips on a daily, weekly, and annual basis; and the purpose of the helicopter trips and any resulting public benefits.

5. A copy of the State of Vermont Aeronautics Division provisional heliport approval, identifying and approving the following: direction, angles, and number of approaches; helipad size and surface; nearby obstructions; lighting and markings; tie-downs; number of trips; location; and fencing.
6. A copy of FAA Form 7480-1, "Notice of Landing Area Proposal," or equivalent, and evidence that it has been filed with the FAA.
7. The application shall include a discussion of preferred approach/departure flight paths, preferred approach/departure path slopes, preferred approach/departure air speeds, preferred times of use, and other relevant factors. In addition, the plan must include a discussion of the existing physical factors, such as topography and proposed physical barriers, such as walls, fences, structures or vegetation, and how these factors would be used to reduce noise impacts. If the proposal cannot meet the regulations of Section 704 NOISE AND VIBRATION of this Ordinance, a noise variance may be obtained from the ZBA as a substitution. A copy of the applicant's Airport Noise Impact Boundary Analysis and comments as provided by the State of Vermont Agency of Transportation Division of Aeronautics Operations Section shall be included.

### **815.4 SPECIFIC REQUIREMENTS**

1. The site area and physical facilities shall be able to accommodate aircraft parking and landing pads, motor vehicle and emergency equipment access and parking, buffering and screening, and sufficient helicopter parking spaces to allow the landing of approaching aircraft without delay.
2. The Planning Commission may impose setbacks and minimum distances from residential zones for Helicopter Landing Fields (HLF) as follows:
  - A. A distance of 200 feet will be used as a guideline for setbacks for all HLFs developed near residential areas. The distance in commercial and industrial areas is 50 feet;
  - B. All setbacks shall be measured from the edge of the landing pad. These distances may be increased or decreased by the ZBA or Planning Commission upon consideration of such factors as the number of flights, hours of operation, types of aircraft, number of aircraft, types of existing land uses in the area, topography, proximity to natural aircraft corridors, and type and nature of the proposed noise mitigation plan;
  - C. A 20-foot deep landscaped area must be provided around the HLF. The landscape standards are stated in Section 711 "Landscaping and specific landscape requirements." Trees must be located so as to not encroach into an 8 (horizontal) to 1 (vertical) flight path from the landing pad in all directions.
3. For HLFs which are primary uses, the amount of off-street parking required will be determined during the Conditional Use Review, based on the number of employees, type and number of flights, and type of facilities proposed. There are no additional off-street parking requirements for HLFs which are accessory uses.
4. Street trees may be required for all ground level facilities. Trees shall be located outside of an 8 (horizontal) to 1 (vertical) height from the landing path in all directions.
5. All take-off, landing, and parking areas of HLFs must be surfaced with a dust-proof material.
6. The FATO and the safety area should be kept free of snow.

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## **815.5 OPTIONAL REQUIREMENTS**

Where appropriate, the ZBA or Planning Commission may require one or more of the following items.

1. A log that shows the origin and destination of trips, the time and date, and purpose for each. The permittee will log any deviations from any conditions of approval and the reason for the deviation(s). A copy of the log shall be submitted to the Zoning Administrator every year and shall be available for inspection by the Zoning Administrator upon request.
2. Periodic testing of sound levels at the heliport and along the flight line may be required with copies of the reports sent to the Zoning Administrator and Vermont Agency of Transportation Aeronautics Section.
3. Periodic testing of air quality levels at the heliport shall be required with copies of the reports sent to the Zoning Administrator, Vermont Agency of Natural Resources, Air Quality Section and Vermont Agency of Transportation, Aeronautics Section.
4. Approvals may be made valid for a specific amount of time. A request for a continuation of the use may be required to be reviewed in a public hearing.

## **820 SALVAGE YARDS**

### **820.1 JURISDICTION AND EXEMPTIONS**

The provisions of this Section do not apply to incinerators, sanitary landfills, or open dumps wholly owned or leased and operated by a municipality for the benefit of its citizens, or to any private garbage dump or any sanitary landfill which is in compliance with the regulations of the Department of Health and Human Services and in compliance with the VT Solid Waste Management Program.

### **820.2 PRELIMINARY REVIEW REQUIREMENTS**

Before starting this process, preliminary discussion with the Stratton Selectboard is required and this project shall undergo Conditional Use Review. Prior to Zoning Board or Planning Commission review, the applicant shall get preliminary approval from the Agency of Transportation (AOT). A Conditional Use permit shall not be issued until the necessary AOT approvals are given.

### **820.3 APPLICATION REQUIREMENTS**

Submission requirements are the same as for Site Plan Review with a special consideration of views from public and private roads, and public right-of-ways.

In addition, the plans shall show:

1. The building(s) to be used in the operation, all doors, the service area, the parts storage area and the office plotted to scale;
2. Waste oil retention, antifreeze retention, battery fluid and other fluid retention facilities, showing capacities;
3. Gasoline pumps, if any;
4. Location and number of gasoline hoses and storage tank(s);
5. Approval for proposed location from the Agency of Transportation.

### **820.4 SPECIFIC REQUIREMENTS**

1. No salvage yard, shall be permitted to operate within 500 feet of a church, school, hospital, public building or place of public assembly.

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2. The site location shall minimize the potential effect of winds carrying objectionable odors or dust off-site.
3. Scrap yards or salvage yards shall be located no closer than 200 feet to any public street right-of-way line and shall otherwise have front, side and rear setbacks of at least 150 feet.
4. A minimum of a 50-foot wide strip within the 200-foot setback shall be planted for camouflaging purposes between the yard and the public or private road, or public right-of-way, according to the following specifications:
  - A. The 50-foot wide strip shall be planted with pine, Norway Spruce, or other plants of similar year-round screening capability.
  - B. Trees shall be planted on a staggered pattern with no more than 10 feet between trees.
  - C. The 50-foot wide planting strips shall be so located as to achieve the greatest screening or camouflaging effect, and no visual opening shall exist.
  - D. Trees should be planted that are at the optimum transplanting size and age while still being as large as possible to provide an effective screening of the salvage yard.
5. There shall be no burning of refuse, garbage or other waste materials. Only natural wood may be burned with permission of the fire warden.
6. Before use, a new salvage yard shall be completely surrounded with a fence at least eight feet in height which substantially screens the salvage yard. The fence shall be erected not nearer than 50 feet from a Town road. A suitable gate shall be closed and locked except during the working hours of the salvage yard or when the permittee is in the salvage yard. Upon approval of the Stratton Planning Commission, the fencing requirement may be reduced where suitable topography, natural vegetation or other considerations accomplish the purposes of this Ordinance.
7. All motor vehicles and parts stored by the permittee shall be kept within the enclosure of the salvage yard except when necessary to transport the vehicles or parts in the reasonable course of business. All wrecking or other work on motor vehicles and parts shall be accomplished within the enclosure.

### **825 MANUFACTURED OR MOBILE HOME PARKS**

No person shall construct, expand, or operate a manufactured/mobile home park without first obtaining Site Plan Review approval from the Planning Commission and a Conditional Use Permit from the ZBA.

#### **825.1 COMPLIANCE WITH MANUFACTURED HOME PARK STANDARDS**

All parks shall be constructed in conformance with the Vermont State Mobile Home Park Regulation (10 V.S.A., Chapter 153) and shall meet the minimum standards in Section 825.2.

#### **825.2 MINIMUM STANDARDS**

1. **Park Area:** The park shall not be less than five acres.
2. **Lot Area:** Each lot shall be at least 8,000 sq. ft. in area and at least 60 feet wide by 120 feet in depth.
3. **Access Driveways:** Access rights-of-way shall be at least 50 feet wide, with a gravel surface at least 24 feet wide and 12 inches deep of compacted gravel, and shall comply with private road standards. See Section 715.
4. **Parking:** There shall be at least two parking spaces for each home lot.
5. **Sewage Disposal:** The sewage disposal system and water supply for the park shall be approved by the Agency of Natural Resources.

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6. **Drainage:** Drainage of surface water and its disposal shall be approved by the Agency of Natural Resources.
7. **Setbacks:** The setbacks shall be at least 125 feet from the center line of any State highway or Town road and 100 feet from any property line.
8. **Landscaping:** A strip of land 25 feet wide shall be maintained as a landscaped area abutting all manufactured home park property lines and shall be planted with a screen of coniferous trees a minimum of five feet high.

### **830 STORAGE OF FLAMMABLE LIQUIDS AND GASES**

The storage of highly flammable liquids in tanks above ground with unit capacity greater than 550 gallons shall be prohibited, unless:

1. Above ground storage tanks greater than 550 gallons flammable shall be (limited to) 100 feet from existing buildings or buildable areas of adjacent lots (e.g., to include the setback limit of the adjacent lot).
2. Such tanks up to and including 10,000 gallon capacity are placed not less than 80 feet from all property lines; and
3. All such tanks of more than 10,000 gallon capacity are placed not less than 200 feet from all property lines.

Each tank having a capacity greater than 550 gallons shall have a surrounding catchment with a capacity not less than one and one half times the capacity of the tank it surrounds. The catchment may be an earth dike, metal, plastic or other appropriate container.

### **835 TELECOMMUNICATION FACILITIES**

#### **835.1 JURISDICTION AND EXEMPTIONS**

In districts where allowed, a Conditional Use permit is required for:

1. New tower construction or major modification of existing towers;
2. Telecommunications facilities or major modification of existing facilities or the addition of antennas mounted on a tower or structure;

In acting on the Conditional Use Permit application, the Stratton ZBA shall proceed in accordance with Section 320.3.4.1 Conditional Use Review (by ZBA).

The following wireless telecommunications facilities are exempt:

1. Police, fire, ambulance and other emergency dispatch equipment or facility;
2. Amateur (ham) radio; citizens band radio;
3. Any existing commercial radio tower;
4. Radio dispatch services for local businesses.

#### **835.2 APPLICATION REQUIREMENTS**

Application requirements are the same as for Site Plan Review. In addition, the following information is required.

1. Provide the exact legal name, address or principal place of business and phone number of the following:
  - A. Person to whom correspondence or communications in regard to the application are to be sent;
  - B. Person to be contacted in the event of an emergency involving the facility;  
(*Note: This should be someone available on a 24-hour basis who is authorized by the applicant to act on behalf of the applicant.*)

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- C. Owner of the property on which the proposed tower is to be located, and of the owner(s) of the tower or structure;
  - D. Written permission for the Town's independent consultant(s) to conduct site visit(s).
2. Provide evidence of need:
- A. Provide written documentation demonstrating that existing telecommunications facility sites and other existing structures of suitable height in Stratton, in abutting towns, and within a 30 mile radius of the proposed site cannot reasonably be made to provide adequate coverage and/or adequate capacity to the Town of Stratton.
  - B. Provide documentation for each facility site listed which is owned or operated by the applicant, the exact location (in longitude and latitude), ground elevation, height of tower or structure, type of antennas, antenna gain, height of antennas on tower or structure, output frequency, number of channels, power input and maximum power output per channel. Describe potential adjustments to these existing facility sites, including changes in antenna type, orientation, gain, height or power output. Include radial or tiled coverage plots showing each of these facility sites, as they exist.
  - C. Provide written documentation that there has been an analysis of the feasibility of repeaters in conjunction with all facility sites listed in compliance with "B" above to provide adequate coverage and/or adequate capacity to the Town of Stratton. Provide radial or tiled coverage plots of all repeaters considered for use in conjunction with these facility sites.
  - D. Demonstrate which portion of a tower or structure and which antennas, if any, are to reduce or eliminate reliance on land-lines, or otherwise provide communications capability to the applicant, as opposed to providing direct service to customers. Such provision of indirect service may be considered if reasonable alternatives are not available and the incremental effect is consistent with the purposes set forth in this Ordinance.
  - E. Provide a written five-year plan for the utilization of the proposed facility. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within the Town of Stratton.
3. Provide the following legal and technical documentation for telecommunications towers and facilities:
- A. Copies of all pertinent submittals and showings related to:
    - FCC permitting/licensing; Environmental Assessments and Environmental Impact Statements; all pertinent data, assumptions and calculations relating to service coverage; and all pertinent calculations and/or measurement data related to non-ionizing radiation emissions and exposure, regardless of whether Categorical Exemption from routine environmental evaluation under the FCC rules is claimed.
  - B. FAA Notice of Construction or Alteration; and aeronautical studies.
4. Provide a proposed method for financial surety as required in Section 350.1.
5. Provide a written, irrevocable commitment valid for the duration of the existence of the tower, to rent or lease available space for collocation on the tower at fair market prices and terms, without discrimination to other telecommunications providers.
6. Provide a copy of the lease/contract with the owner of the existing structure.
7. Provide proof that the applicant for a telecommunications tower or facility is a telecommunications provider or provide a copy of a lease/contract with an existing telecommunications provider. *A Conditional Use permit shall not be granted for a tower to be built on speculation.*
8. Provide signal propagation and radio-frequency studies, plots and related material, clearly identified and signed by a qualified radio frequency engineer.
9. Provide a copy of a portion of the most recent U.S.G.S. Quadrangle map, at a scale of 1:25,000, and showing the area within at least two miles of the proposed tower site.

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- Indicate the tower location and the exact latitude and longitude (degrees, minutes and seconds to the nearest tenth).
10. Provide a vicinity map at a scale of 1" = 416' (1: 5,000) with contour intervals no greater than 10 feet showing the entire vicinity within a 2,500-foot radius of the tower site; and include the topography of public and private roads and driveways; and topography around buildings and structures, bodies of water, wetlands, landscape features, historic sites, and habitats for endangered species. Indicate any access easement or right-of-way needed for access from a public way to the tower. Provide the names of all abutters or property owners along the access easement or who have deeded rights to the easement.
  11. Provide a plan of the proposed facility, site layout, grading and utilities, at the same scale or larger than the existing conditions plan, to include:
    - A. The proposed tower location and any appurtenances, including supports and guy wires (if any) and any accessory building (communication equipment shelter or other). Where protective fencing is proposed, indicate setback distances from the edge of the fencing.
    - B. Proposed spot elevations at the base of the proposed tower and at the base of any guy wires, and the corners of all appurtenant structures.
  12. Provide elevations of the proposed tower and appurtenances, as follows:
    - A. Show elevations, sections and details at appropriate scales, but no smaller than 1" = 10'.
    - B. Show two cross-sections through the proposed tower drawn at right angles to each other, showing the ground profile to at least 100 feet beyond the limit of clearing, and any guy wires or supports. Show all proposed antennas, including their location on the tower.
    - C. Show details of proposed tower foundation, including cross-sections and details. Show all ground attachments, specifications for anchor bolts, and other anchoring hardware.
    - D. Show a detailed proposed exterior finish of the tower.
    - E. Indicate relative height of the tower to the tops of surrounding trees as they presently exist, and the height to which the trees are expected to grow in 10 years.
    - F. Illustrate the modular structure of the proposed tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands.
  13. Provide a written description, developed by a professional structural engineer, of the proposed tower structure and its capacity to support additional or other communications facilities at different heights. Include a proposal to shorten the tower if future communications facilities no longer require the original height prepared.
  14. Provide a Proposed Equipment Plan: Plans, elevations, sections and details at appropriate scales, no smaller than 1" = 10', to include:
    - A. Number of antennas and repeaters, as well as the exact locations of antenna(s) and of all repeaters (if any) located on a map, as well as by degrees, minutes and seconds to the nearest tenth of latitude and longitude;
    - B. Mounting locations on tower or structure, including height above ground;
    - C. A description of available space on the tower, providing illustrations and examples of the type and number of telecommunications facilities which could be mounted on the structure.
  15. Provide information about antenna type(s), manufacturer(s) and model number(s) for each antenna, and information about the antenna gain and antenna radiation pattern, to include:
    - A. Number of channels per antenna, projected and maximum;
    - B. Power input to the antenna(s). Power output, in normal use and at maximum output for each antenna and all antennas as an aggregate; and

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- C. Output frequency of the transmitter(s).
16. Provide the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment when modifying an existing facility with multiple emitters.
  17. Provide visibility information to include the following:
    - A. Maps with a minimum of eight view lines in a zero to two mile radius from the site, shown beginning at true north and continuing clockwise at 45 degree intervals.
    - B. A map of the Town of Stratton on which any visibility of the proposed tower from a public way (including all existing public rights-of-way) shall be indicated.
  18. Provide for a mock tower visibility demonstration. Within 35 days of submitting an application, the applicant shall arrange to fly, or raise upon a temporary mast, a three-foot diameter brightly colored balloon at the maximum height of the tower and within 50 horizontal feet of the center of the proposed tower.
    - A. Dates, times and location of this test shall be advertised by the applicant, seven to fifteen days in advance of the test date in the newspaper of the Selectboard's choice. The applicant shall inform the Stratton ZBA, the Planning Commission, and abutting property owners in writing of the dates and times of the test, at least 15 days in advance. The balloon shall be flown for at least four consecutive hours between 9:00 a.m. and 5:00 p.m. on the test dates chosen.
    - B. Develop and submit a written analysis of the visual impact of the proposed tower. This analysis shall include photographs of the balloon test taken from at least 10 different locations within the Town of Stratton.

### **835.3 GENERAL TOWER REQUIREMENTS**

In addition to the normal Site Plan Review the Planning Commission shall ensure the following requirements are met.

1. To the extent practicable, roads shall follow the contour of the land, and be constructed or improved within existing forest or forest fringe areas, and not in open fields.
2. Utility or service lines shall be designed and located to minimize or prevent disruption to the scenic character or beauty of the area.
3. Screening shall be required at the perimeter of the site. A natural or planted vegetative screen of a minimum of 25 feet in depth and six feet in height shall be maintained at all times. Vegetation shall be of a type that has the potential to reach a height of at least 15 feet at maturity.
4. The area around the tower and communication equipment shelter(s) shall be completely fenced for security to a height of six feet and gated. Use of razor wire is not permitted.
5. A sign no greater than two square feet indicating the name of the facility owner(s) and a 24-hour emergency contact telephone number, either local or toll-free, shall be posted adjacent to the entry gate. In addition, "No Trespassing" or other warning signs, and the federal tower registration plate, where applicable, may be posted on the fence or as required to meet Federal requirements.
6. Communication equipment shelters and accessory buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.
7. New towers shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on the tower. Repeaters shall not be closer than 25 feet to the ground. Bulky antennas and platforms such as shields, dishes and cones shall be as close to the tree line as practical.
8. New towers shall have a galvanized finish unless otherwise required. The Stratton Planning Commission or ZBA may require that the tower(s) be painted or otherwise



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camouflaged to minimize the adverse visual impact. Large dish antennas (e.g., over six feet in diameter) are prohibited.

*For example, the tower could be put inside an artificial tree, a clock tower, a church steeple, or a flag pole. Wireless devices or supporting structures may be required to be painted or camouflaged so as to blend in with the background.*

9. Tower(s) shall maximize the potential for sharing of antennas.
10. Lattice type structures are preferred, but where a monopole is required, the applicant must demonstrate the future utility of such structure for expansion of service for applicant and other future applicants.
11. Commercial advertising shall not be allowed on any antenna, tower, or accessory building or communication equipment shelter.
12. External lighting is not permitted, except for manually operated emergency lights for use only when operating personnel are on-site or as required by Federal Aviation Administration regulations.
13. Repeaters shall be located no closer than 100 feet to a dwelling unit.
14. A telecommunications facility or tower, including guy-wire anchors and protective fencing, shall not be located:
  - A. Closer than 300 feet to any boundary of the site on which the tower is located;
  - B. Within the habitat of any State-listed rare or endangered wildlife or plant species (Title 10 Conservation and Development Chapter 123 Protection of Endangered species);
  - C. Within 200 feet of any Vermont or federally regulated wetland;
  - D. Within 200 feet of the outer riparian zone of any river or perennial stream.

### **835.4 CONDITIONAL USE REVIEW**

The Stratton ZBA shall, in consultation with independent consultant(s), make all of the following applicable findings before granting the Conditional Use Permit:

1. Applicant is not already providing adequate coverage and/or adequate capacity to the Town of Stratton.
2. Applicant is not able to use existing tower/facility sites either with or without the use of repeaters to provide adequate coverage and/or adequate capacity to the Town of Stratton.
3. Applicant has endeavored to provide adequate coverage and adequate capacity to the Town of Stratton with the least number of towers and antennas that is technically and economically feasible.
4. Efforts have been made to locate the new tower(s) adjacent to existing tower(s).
5. Applicant has agreed to rent out or lease out available space on the tower, under the terms of a fair market lease, with reasonable conditions and without discrimination to other telecommunications providers;
6. Proposed telecommunications facility or tower makes use of available Town and State lands and suitable existing governmental or privately owned structures.
7. The proposal shall comply with rules as adopted in FCC 97-303 and procedures outlined in FCC Bulletin 65 regarding emissions and exposure from electromagnetic radiation and that the required monitoring program is in place and shall be paid for by the applicant.
8. Towers and telecommunications facilities shall be located to minimize the potential impacts as follows:
  - A. Towers shall, when possible, be sited off ridge lines, and where their visual impact is least detrimental to highly rated scenic areas. In determining whether or not a tower will have an undue adverse visual impact on the scenic or natural beauty of a ridge or hillside, the ZBA shall consider:
    1. The period of time during which the proposed tower would be viewed by the traveling public on Town roads;

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2. The frequency of the view of the proposed tower as experienced by the traveling public;
  3. The degree to which the view of the tower is screened by topographic features;
  4. Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
  5. The distance of the proposed tower from the viewing vantage point and the proportion of the facility that is visible above the skyline;
  6. The number of vehicles traveling on a public highway or waterway at or near the critical vantage point; and
  7. The sensitivity or unique value of the particular view affected by the proposed development.
- B. Devaluation of property values: Siting shall be in low population density areas when possible.
- C. Safety hazards: The facility shall be sited so that it is not an attractive nuisance, so that structural failure of the tower or ice accumulation and discharge do minimal damage to nearby property.
- D. Electromagnetic radiation: The facility shall not exceed the FCC guidelines for electromagnetic radiation.
- E. Coverage Area: If primary coverage (greater than 50 percent) from a proposed telecommunications facility is outside Stratton, then the permit may be denied unless the applicant can demonstrate that it is unable to locate a facility within the Town which will provide primary coverage.
9. Financial Surety: The applicant may be required to provide a form of surety acceptable to the Stratton ZBA to cover the cost of removal of the telecommunications facility along with the remediation of the landscape, should the facility cease to operate.

### **835.5 TOWER REMOVAL REQUIREMENTS**

Any telecommunications facility which ceases to operate for a period of one year shall be removed. "Cease to operate" is defined as not performing the permitted functions associated with the telecommunications facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of site remediation, all telecommunications facility improvements which have ceased to operate shall be removed and the site re-vegetated. Existing trees may be removed only if necessary to complete the required removal.

### **840 TRANSFER OF DEVELOPMENT RIGHTS**

Transfer of development rights are reviewed by the Stratton Planning Commission on a case-by-case basis as the need arises.

In order to accomplish the purposes of 10 V.S.A. § 6301, provisions for the transfer of development rights, a person wishing to transfer development rights shall:

1. Identify one or more sending areas from which development rights may be acquired;
2. Identify the receiving area in which development rights are to be used;
3. Submit the density increase in receiving areas along with the quantity of development rights necessary to obtain those increases for approval by the Planning Commission.

In each case the Planning Commission shall determine the "density increase" allowable in percentage decrease in lot size or increase in building bulk, lot coverage or ratio of floor area to lot size, or any combination. The Planning Commission also shall determine in each case the amount and kind of "development rights." Such development rights shall include a conservation easement, created by deed for a specified period of not less than 30 years, granted to the Town of

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Stratton, or a qualified conservation organization acceptable to the town, limiting the land uses in the sending area solely to specified purposes, such as agriculture, forestry and recreation.

Upon approval by the Planning Commission, a Zoning Permit may be granted for land development based in part upon a density increase, provided:

1. The area subject to the application is acceptable as a receiving area, and the density increase is allowed by the Planning Commission to transfer development rights;
2. The applicant has obtained development rights from a sending area which are sufficient for the density increase sought;
3. The development rights are evidenced by a deed which recites that it is a conveyance under this development and specifies the number of acres affected in the sending area; and
4. The sending area from which development rights have been severed has been surveyed and suitably monumented.

The Town of Stratton shall maintain a map of areas from which development rights have been severed. Following issuance of a Zoning Permit under this Section, the Town through the Zoning Administrator shall:

1. Ensure that the instruments transferring the conservation easements and the development rights are recorded in the land records.
2. The Stratton Selectboard shall ratify the transfer of development rights if they are made to the town prior to final implementation and final review by the Planning Commission for a Zoning Permit.

Failure to record an instrument or mark a map does not invalidate a transfer of development rights.

### **845 PERMITTED USE REGULATION FOR SMALL WIND ENERGY SYSTEMS**

It is the purpose of this regulation to promote the safe, effective, and efficient use of small wind energy systems installed to reduce or replace the on-site consumption of utility-supplied electricity.

The Town of Stratton finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Small wind energy systems also make the electricity supply market more competitive by promoting customer choice.

The State of Vermont has enacted programs to encourage the use of small-scale renewable energy systems, including net metering. Existing zoning ordinances, however, may contain restrictions, which, while not intended to discourage the installation of small wind turbines, can substantially increase the time and costs required to obtain necessary permits. Therefore, we find that it is necessary to standardize and streamline the proper issuance of zoning permits for small wind energy systems so that this clean, renewable energy resource can be utilized in a cost-effective and timely manner. To accomplish this, small wind energy systems, as defined herein, shall be permitted uses. Proposed systems exceeding the standards contained in this section may be permitted as Conditional Uses by the Appropriate Municipal Panel.

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Small Wind Energy Systems shall be a permitted use in all zoning districts, subject to certain requirements as set forth below:

1. There is a maximum limit of one hundred twenty feet (120) on tower height.
2. The minimum setback for the tower shall be the total height of the tower plus the rotor radius (blade length) plus ten (10) feet. No part of the wind system structure, including guy-wire anchors, may extend closer than ten (10) feet from the property boundaries.
3. Small wind energy systems shall not exceed 60 dBA, as measured at the property line, except during short-term events such as utility outages and severe windstorms.
4. No lighting of small wind turbines, towers or generators, is permitted unless required by FAA regulations.
5. Signage shall be limited to that required by federal or state regulations. No commercial signage or lettering shall be placed on a tower or generator.
6. Small wind energy system turbines must have been approved under the Emerging Technologies program of the California Energy Commission or other small wind certification programs recognized by the American Wind Energy Association.
7. Small wind energy systems must comply with applicable FAA regulations.
8. No small 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.

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## **ARTICLE IX: ORGANIZATION AND ADMINISTRATION**

### **900 ZONING ADMINISTRATOR**

A Zoning Administrative Officer as defined in the Act is called the Zoning Administrator in the Town of Stratton.

#### **900.1 DUTIES OF THE ZONING ADMINISTRATOR**

The Zoning Administrator shall assist applicants in preparing applications; review applications for completeness; refer permit applications for Conditional Use Review, Variance Review or other review (e.g., Waivers) to the ZBA; refer applications for Site Plan Review to the Planning Commission; issue permits; post public notices; inspect developments; maintain records; deliver copies of permits and decisions to the Listers and Town Clerk; enforce these Ordinances and decisions and permits issued under this Ordinance; issue Certificates of Completion and perform all other tasks necessary and appropriate to administer these Ordinances.

The Zoning Administrator is the liaison between the public and Town, and, therefore should have adequate public relation and educational skills. The Administrator should provide an interested person with forms required to obtain any Town permit or other Town authorization required under this Ordinance, or under other laws or ordinances that relate to the regulation of land development. If other Town permits or authorizations are required, the Administrator should coordinate a unified effort on behalf of the Town in administering its development review programs. The Administrator should direct any person applying for permits or authorizations to contact the Regional Permit Specialist employed by the Agency of Natural Resources, in order to assure timely action on any related State permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant State and Federal permits. If the Zoning Administrator rejects an application as incomplete or denies a request for a Zoning Permit, he or she must advise the applicant of their right to appeal the decision or action to the ZBA or Environmental Court as appropriate.

The Zoning Administrator is responsible for presenting to the Chairs of the Planning Commission and ZBA information relevant to the exercising of their duties in regard to consideration of permit applications. The Zoning Administrator is responsible for regular reports to the Planning Commission about permit applications, permits, updates on existing permits, enforcement proceedings and issuance of Certificates of Completion. The compensation of the Zoning Administrator shall be fixed under the Act and the officer shall be subject to the personnel policy of the Town of Stratton adopted under the Act.

The Zoning Administrator shall administer the Ordinances literally, and shall not have the power to permit any land development which is not in conformance with these Ordinances.

#### **900.2 APPOINTMENT**

The Zoning Administrator shall be recommended by the Planning Commission and appointed by the Selectboard for a period of three years, in accordance with the Act, or whenever a vacancy exists. A Zoning Administrator may be removed for cause at any time by the Selectboard after consultation with the Planning Commission.

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The Selectboard may appoint the Zoning Administrator as the person in charge of issuing municipal tickets under The Act, and be the administrator of other Town Ordinances and Bylaws, if allowed by state statutes.

An Assistant to the Zoning Administrator shall be appointed as provided in the Act and shall have the same responsibilities as the Zoning Administrator in his/her absence.

## **910 PLANNING COMMISSION**

### **910.1 PLANNING COMMISSION MEMBERSHIP AND ORGANIZATION**

The Stratton Planning Commission shall have no fewer than three nor more than nine voting members. Stratton elects Planning Commissioners for terms of one to four years. The length and spacing of terms is decided by a vote of the Town. Elections of members occur only as terms are completed, as vacancies occur, or as new Planning Commissioner positions are created. Replacements of members leaving with unexpired terms are appointed by the Selectboard. Since Stratton elects Planning Commissioners, eligible individuals must be registered voters of the Town.

An organizational meeting shall take place during the first meeting after the election of new members at Town Meeting. The Planning Commission shall elect a Chair, Vice Chair, Secretary and Clerk and shall adopt by majority vote of those members present such other rules as it deems necessary and appropriate for the performance of its functions.

### **910.2 DUTIES OF THE PLANNING COMMISSION**

The Planning Commission may:

- (1) Prepare a plan and amendments thereof for consideration by the legislative body and to review any amendments thereof initiated by others as set forth in the Act;
- (2) Prepare and present to the legislative body proposed bylaws and make recommendations to the legislative body on proposed amendments to such bylaws as set forth in subchapter 6 of the Act;
- (3) Administer bylaws adopted under the Act, except to the extent that those functions are performed by the ZBA;
- (4) Undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources and wetland protection;
- (5) Prepare and present to the legislative body recommended building, plumbing, fire, electrical, housing, and related codes and enforcement procedures, and construction specifications for streets and related public improvements;
- (6) Prepare and present a recommended capital budget and program for a period of five years, as set forth in section 4440 of the Act, for action by the legislative body, as set forth under section 4443 of the Act;
- (7) Hold public meetings;
- (8) Require from other departments and agencies of the municipality such available information as relates to the work of the PC;
- (9) In the performance of its functions, enter upon land to make examinations and surveys;
- (10) Participate in a regional planning program;
- (11) Retain staff and consultant assistance in carrying out its duties and powers;
- (12) Undertake comprehensive planning, including related preliminary planning and engineering studies;

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- (13) Perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of, the Act;
- (14) Review right-of-way or easement access for land development without frontage as authorized in the Act;
- (15) Review proposed subdivisions as authorized in the Act;
- (16) Review planned unit developments as authorized in section 4417 of the Act; and
- (17) Keep minutes of its resolutions and transactions. The minutes and permits shall be maintained as a public record in the office of the Stratton Town Clerk and posted as required by statute.

## **920 ZONING BOARD OF ADJUSTMENT (ZBA)**

### **920.1 ORGANIZATION OF THE ZONING BOARD OF ADJUSTMENT**

The ZBA shall consist of not fewer than three nor more than nine persons, as the Stratton Selectboard determines. They are appointed by the Selectboard after Town meeting each year for expired terms or as soon as practical to fill vacancies. The terms of office, except for replacements, begin the first meeting after Town meeting each year. Terms are for three years.

The Selectboard may appoint alternates to a ZBA for a term to be determined by the Selectboard. Alternates may be assigned by the Selectboard to serve on the ZBA in situations when one or more members of the Board are disqualified or are otherwise unable to serve.

Members of a ZBA may be removed for cause upon written charges and after a public hearing. The ZBA shall elect its own officers and adopt rules of procedure, subject to the Act. Meetings of the ZBA shall be held at the call of the chairman and at such times as the Board may determine, subject to public notice provisions of the Act as discussed in 920.2 below.

### **920.2 DUTIES OF THE ZBA**

The ZBA shall have the following duties and powers, in addition to those specifically provided for in the Act:

1. To hear and decide appeals taken under this Ordinance including, without limitation, where it is alleged that an error has been committed in any order, requirement, decision or determination made by the Zoning Administrator under this Ordinance in connection with the enforcement of a portion of the Ordinance;
2. To hear and grant or deny a request for a Dimensional Waiver or Variance under this Ordinance and the Act;
3. To hear and grant or deny a request for a Conditional Use request under this Ordinance and the Act;
4. To hear and grant or deny a request for a land development or use within an historic district or with respect to historic landmarks under this Ordinance and the Act;
5. To hear and grant or deny a request for a wireless telecommunications facilities under this Ordinance and the Act; and
6. To hear and grant or deny a request for an extension of the construction completion date for expired permits.

Rules of procedure, nature of appeals, public notice, conditions for variance relief, and all other matters shall be as provided in Section 410 of this Ordinance.

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## **Article X: REQUIRED ELEMENTS**

### **1000 APPLICATION OF THE ORDINANCE**

The application of this Ordinance is subject to the Act. Except as hereinafter provided no “land development,” as such term is defined by this Ordinance, may be commenced in the Town of Stratton unless it conforms with the regulations herein specified for the district in which it is located. Any use not permitted by this Ordinance shall be deemed prohibited.

#### **1000.1 AMENDMENTS**

This Ordinance may be amended according to the requirements and procedures established in the Act.

#### **1000.2 SUPPLEMENTAL RULES**

The Planning Commission may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in this Ordinance, provided the rules and regulations are not inconsistent with the overall zoning regulations. The Planning Commission and Selectboard shall hold a public hearing after public notice as required by § 4464 of the Act, prior to the establishment of any supplementary rules and regulations.

#### **1000.3 COMPUTATION OF TIME**

Where an event is required or permitted to occur by this Ordinance before, on or after a specified period of time measured from another event, in calculating the period: the first day shall not be counted; and the final day shall be counted.



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## **Article XI: ENFORCEMENT**

### **1100 ENFORCEMENT, PENALTIES AND REMEDIES**

Violations of the Ordinance shall be regulated as prescribed in the Act. The fines for violation of this Ordinance shall be the maximum amount permitted under the Act.

### **1101 VIOLATION DISCOVERY**

The Zoning Administrator generally becomes aware of a violation in the following manner:

1. Direct observation;
  2. Complaint from a neighbor, or other person;
  3. During site visits required by the Permit(s) issued by the Zoning Administrator; or
  4. Disclosure by the landowner or purchaser of property who wishes to cure a defect.
- Violations of local land use regulations will be considered as a defect in the title of land ownership. See details in Title 27 V.S.A. § 612.

### **1102 OPPORTUNITY FOR VOLUNTARY COMPLIANCE**

Under certain circumstances, the Zoning Administrator may choose to negotiate voluntary compliance before issuing an official Formal Notice of Violation. In the Town of Stratton evidence of voluntary compliance shall begin within seven days of informal notification and end in the shortest reasonable time. Successful voluntary compliance results in a written agreement stating that the landowner is in violation of a specific law or permit condition. The agreement will include a specific remedy or action and a specified amount of time within which the remedy or action will take place and that the landowner will allow the Zoning Administrator to inspect the premises to ensure compliance by the agreed upon date.

### **1103 ENFORCEMENT ACTIONS**

The Zoning Administrator is charged with taking “appropriate action” to abate a violation in the event that an alleged violator fails to cure the violation as required within the seven-day grace period. If the alleged violator appeals the Notice of Violation to the ZBA within 15 days, then the Zoning Administrator must wait until the Board determines whether a violation exists before he or she takes further action to enforce the Ordinance.

### **1104 APPROPRIATE ACTION**

Zoning enforcement actions may be brought in Environmental Court.

The choice of actions depends on the type of violation and the resources available to follow through with administration of the violation. The minimum appropriate action is that the ZA shall file the Municipal Complaint with the Town Clerk immediately after the 15 day appeal period.

### **1105 FORMAL NOTICE OF VIOLATION/MUNICIPAL COMPLAINT**

Once a violation has been discovered, a reported complaint confirmed, the negotiated voluntary compliance agreement has not been upheld, or the Zoning Administrator has been denied access to a property to investigate the purported existence of a violation, the Zoning Administrator has a reasonable basis to issue a formal notice of violation (a municipal complaint under 24 V.S.A. §§ 4451 and 4452). The notice can be either a Municipal Complaint or “Ticket” under the Municipal Court Ordinance Chapter 59 Title 24 § 1974a or a “Notice of Violation” under § 4451 and 4452 of

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the Act. In either case the notice is filed and recorded in the land records after the appeal period has elapsed or served by a sheriff.

## **1106 MUNICIPAL COMPLAINT OR TICKET**

### **1106.1 ISSUING A SUMMONS AND COMPLAINT**

Under 24 V.S.A. § 1974a, copied below, enforcement of a civil penalty of not more than \$800.00 may be imposed for a violation of a civil ordinance.

#### **§ 1974a. Enforcement of civil ordinance violations**

- (a) A civil penalty of not more than \$800.00 may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation.
- (b) All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is \$800.00 or less, shall be brought before the Judicial Bureau pursuant to Title 4 and this chapter. If the penalty for all continuing civil ordinance violations is greater than \$800.00, or injunctive relief, other than as provided in subsection (c) of this section, is sought, the action shall be brought in the Criminal Division of the Superior Court, unless the matter relates to enforcement under chapter 117 of this title, in which instance the action shall be brought in the Environmental Division of the Superior Court.
- (c) The Judicial Bureau, on application of a municipality, may order that a civil ordinance violation cease.
- (d) Civil enforcement of municipal zoning violations may be brought as a civil ordinance violation pursuant to this section or in an enforcement action pursuant to the requirements of chapter 117 of this title.

### **1106.2 MUNICIPAL COMPLAINT CONTENTS**

The complaint shall contain:

1. A description of the ordinance allegedly violated;
2. The allegations;
3. The amount of the penalty; and
4. An explanation of rights and instructions on answering the allegations.

The complaint shall also contain, in boldface print, the following:

- (1) IF YOU ADMIT TO A VIOLATION OF THE ORDINANCE OF THE TOWN OF STRATTON OR IF YOU DO NOT CONTEST THE ALLEGATIONS, SIGN THE COMPLAINT ADMITTING THE VIOLATION OR STATING THAT THE ALLEGATIONS ARE NOT CONTESTED AND SEND IT TO THE JUDICIAL BUREAU WITHIN 20 DAYS.
- (2) IF YOU WANT TO DENY THE ALLEGATIONS IN THIS COMPLAINT, YOU MUST SEND A SIGNED DENIAL TO THE JUDICIAL BUREAU WITHIN 20 DAYS.
- (3) IF YOU DO NOT ANSWER THIS COMPLAINT WITHIN 20 DAYS, A DEFAULT JUDGMENT WILL BE ENTERED. THE FAILURE TO PAY THE PENALTY ASSESSED WILL RESULT IN FURTHER LEGAL ACTION AGAINST YOU.
- (4) IF YOU ADMIT OR DO NOT CONTEST OR DO NOT ANSWER, YOU WILL BE LIABLE FOR THE AMOUNT INDICATED IN THE COMPLAINT.

The complaint shall be signed by the Zoning Administrator when the complaint is filed. The original copy shall be filed with the Judicial Bureau, a copy shall be retained by the Zoning Administrator for filing in the Land Records, and two copies shall be given to the defendant.

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If necessary, the Zoning Administrator may void or amend the originally issued complaint by changing the complaint and sending it to the Judicial Bureau.

### **1107 STATUTE OF LIMITATIONS**

The statute of limitations only applies to landowners who are subsequent purchasers of that property and did not create the violation. It shall not protect a person who violates the Ordinances. The exception is that the Town of Stratton may take action to abate a hazard to human health or public safety or to abate or remove an undue environmental impact.

The Town must bring its enforcement action within ten years from the date the alleged violation first occurred.

The burden of proving the date the alleged violation first occurred shall be on the current owner or occupant of the property.