

## **Johnson Form Based Code. Introduction/Authority/Administration**

### **Introduction:**

This Johnson Form Based Code and Land Use Regulation endeavors to implement portions of the Town Plan adopted \_\_\_\_\_. This Introduction and the Flow Chart are designed to help you with what you need in this Regulation.

### **When do I need a Permit?**

A Permit is required whenever you develop your land. “Develop” means to build something on the land, add to a structure or change the use of the land. But, there are exceptions. For example, no Permit is required for additions to a structure that are less than \_\_\_\_ square feet and \_\_\_\_ feet in height. For certainty, ask the Administrative Officer.

### **How does the permit process work?**

If you only need a Permit, then fill out the Permit application and submit it to the Administrative Officer with the application fee. If the application has all of the required information, the Administrative Officer will consider it, and, within 30 days, either issue the Permit or deny it. If you don't agree with the decision, you may appeal to the Development Review Board (DRB). The Permit application requirements, procedures and standards are in Article II.

### **What is DRB Approval and when is it required?**

Sometimes you will require DRB Approval before a Permit can be issued. DRB Approval is required for all special standards/ requirements. Your first step is to meet with the Administrative Officer in Pre-Application Review. At Pre-Application Review you explain the development objectives and work with the Administrative Officer, Town Departments and staff for the best way to achieve them. You may have more than one Pre-Application Review as the development plans are fine tuned. During this process, you are required to notify the neighbors for at least one Pre-Application Review meeting so that they can attend a presentation of the development plans, and provide comments and feedback to the Administrative Officer.

Then you, the applicant/landowner, file an application for Approval. The DRB schedules a formal hearing, neighbors are notified, and at the hearing the DRB collects evidence from the applicant and interested parties pertaining to the proposal outlined in the application. Within 45 days after the close of the evidence, the DRB issues a written decision. The decision is either to approve the application, often with conditions, or to deny it. If the DRB issues an Approval, you

may then apply for a Permit from the Administrative Officer. No work can begin until you obtain a Permit, even if you have received DRB Approval. The DRB Approval procedures and standards are in Article III.

**What if the applicant or an interested party doesn't agree with the DRB decision?**

If you or an interested party do not agree with the DRB decision, you may appeal to the Environmental Court which is a Division of the Vermont Superior Court.

**What is a variance?**

When the standards in the Regulation do not allow you to do what you want, you may apply to the DRB for a variance. The request for a variance is heard by the DRB but the level of proof required is more difficult. It requires special circumstances that justify the DRB in diverging from the actual standards of the Regulation. If the DRB approves the variance request, you may use that approval as a basis for a Permit application.

**What standards do the DRB use in considering applications for Approval?**

That answer depends on what kind of DRB Approval you are seeking. For example, the standards for DRB Approval for a subdivision are different than for a special use. The general standards are in Article III, but there may be additional standards depending on the District where the property is located. The District standards are in Article IV.

**What are Districts and how are their standards different?**

The Village is divided into **3 or 4** Districts shown on the Regulating Map. The design of each District reflects its character, the density of habitation, the recreational resources and the development within it, the natural resources to be preserved, and the goals of the Town Plan for that District.

**Are there standards for signs or parking?**

Signs? **What does Johnson want?** and parking, yes, standards are contained in Parking Standards and on the BES.

**Does the Regulation contain sewage and septic standards?**

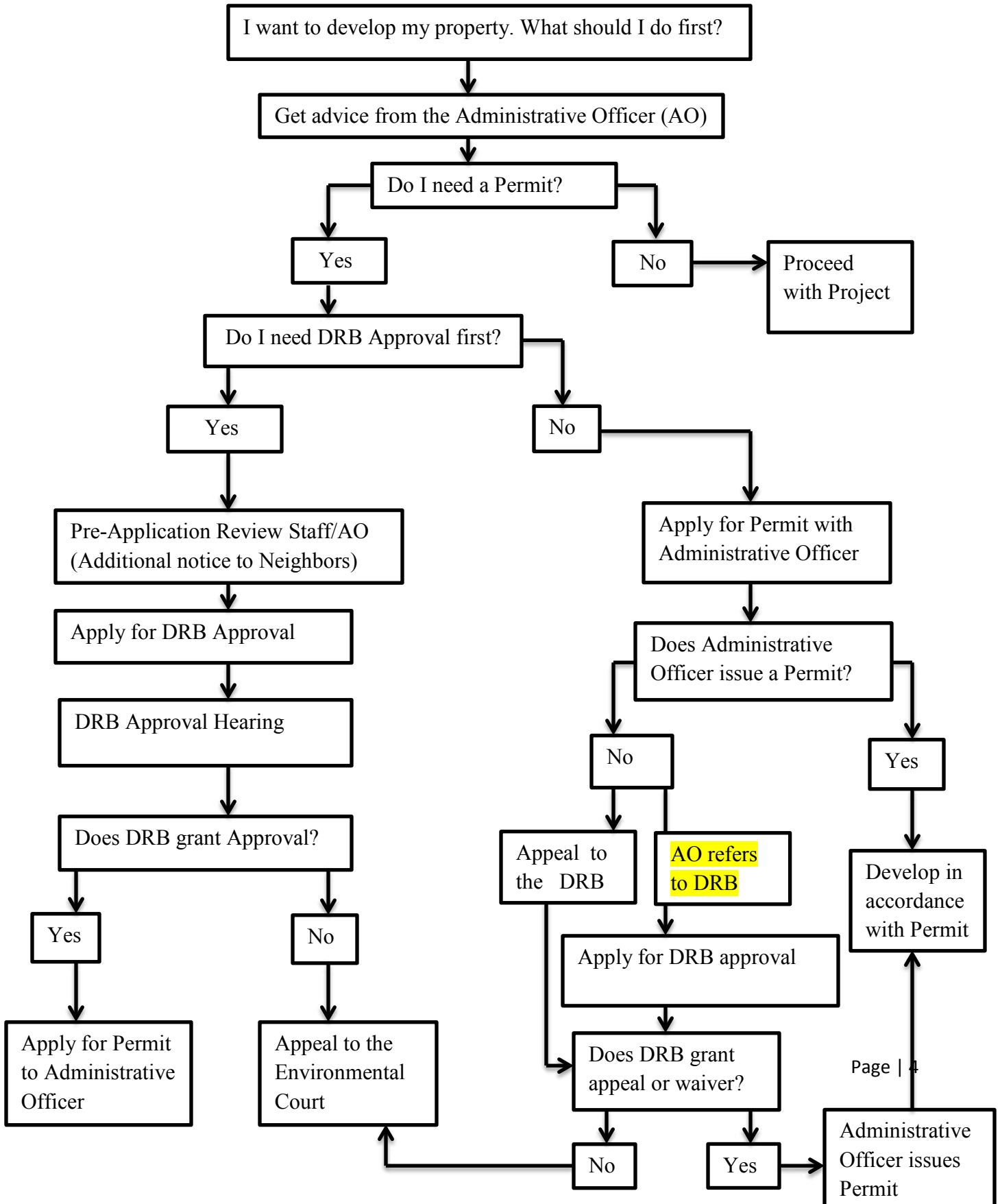
No. **The Town/Village, however, has established protocols for waste water allocation.** Also, the Vermont Department of Environmental Conservation issues water and wastewater permits.

**Will I need other permits?**

All people planning a development should consult with the Vermont Department of Environmental Conservation offices at 111 West Street, Essex Junction, VT (802-879-5676) for any applicable state permit requirements. (<http://www.anr.state.vt.us/dec/ead/pa/index.htm>)

As you read the Regulation, you will see little blocks in the margins containing definitions and other references. If you are not sure how to proceed, please contact the Administrative Officer for help.

### Development Flowchart



## **Article I General:**

### Section 1.01 Authority, Purpose, Maps:

- A. This Johnson Land Use Regulation (this “Regulation”), is adopted as provided for in the Vermont Planning and Development Act, Chapter 117 of Title 24 of Vermont Statutes Annotated (the “Act”). The purposes of this Regulation are to implement the Town Plan
- B. The following maps are incorporated in this Regulation:
  - 1. Regulating Maps contained in Addendum \_.
  - 2. Fluvial Erosion Map, Special Flood Hazard Area (FIRM)
- C. Nothing in this Regulation shall invalidate any existing permit, and approved land plat and survey, the terms and conditions of which shall still be in effect.
- D. State regulated utilities and agricultural and silvicultural practices (24 V.S.A. Sec. 4413(d)) do not require a permit, although farmers must notify the Administrative Officer in writing of any planned construction activity in advance.

## **Article II Permits and Appeals.**

### **Section 201 Applicability**

A Land Use Permit (“Permit”) is required for all land development that is not exempted under Section 2.02. In addition, DRB Approval is required for certain types of development specific to each Land Use District, for subdivisions of property, except where exempt, and for appeals to the DRB from actions of the Administrative Officer, as well as for variances. In those cases where DRB Approval is required, the property owner may obtain a Permit only after DRB Approval is granted. Before applying for a Permit or seeking DRB Approval, a landowner should look in section in Article IV below for the Land Use District (“District”) where the land is located.

### **Section 202: Exemptions from the Permit Requirement:**

No zoning permit shall be required for the following activities:

- A. Accepted agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with Title 24 VSA §4413(d). Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for accepted agricultural practices. Such structures shall

- meet all setback requirements under these regulations, unless specifically waived by the Secretary.
- B. Accepted management practices for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with Title 24 VSA §4413(d).
  - C. Power generation and transmission facilities, which are regulated under Title 30 VSA §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
  - D. Hunting, fishing, and trapping as specified under Title 24 VSA §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as recreation facilities.
  - E. Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
  - F. Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use. Change in use means a change in the use of the property as a whole.
  - G. Entry stairs (excluding decks and porches), handicap access ramps, landings less than 25 sq ft, bulkheads, and walkways.
  - H. Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under §335 or changes in contours which result in new drainage patterns.
  - I. Small detached buildings associated with residential uses which are less than 100 square feet of floor area and less than twelve (12) feet in height.
  - J. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year. All garage sales, yard sales, auctions, or similar activities that do exceed twelve (12) total days in any calendar year shall be considered a retail business and an appropriate permit shall be required.
  - K. Firewood sheds that are used EXCLUSIVELY for protecting split and blocked firewood from the elements.
  - L. Temporary carports/garages, provided that every fall they are erected no sooner than October 15th and every spring they are dismantled no later than May 15th.
  - M. Highway signs regulated by the State.
  - N. All onsite equipment needed for the customer's personal use to communicate with a wireless service.

**Section 203 Application and Fee:**

1. To obtain a Permit the landowner, lease holder or an authorized agent, submits an application to the Administrative Officer on the Permit Application form.
2. Required application fees, as set by the Select Board, also shall be submitted with each application. **(The FBCSC recommends a range of \$25.00-\$75.00.)**

**Section 204 Application contents:**

A. The Permit application contains:

1. A simple statement(s) of what the applicant is seeking approval for.
2. The name of the applicant(s), property, and tax ID numbers.
3. A sufficiently detailed map (at least 8 ½” X 10”), to show:
  - a. The shape, dimensions, location of the lot noting principle relevant features, including existing structures, and lot boundary markings.
  - b. The shape, size, height and location of all structures to be erected, altered or moved.
  - c. The location of existing and proposed utilities and accesses (curb cuts, driveways and parking areas).
  - d. The location of any required setbacks, “build to” zones, existing permits and existing and proposed wells, well shields and septic fields.
  - e. The location of any existing or proposed easements.
  - f. Any additional requirements prescribed for the District where the property is located.
4. Copies of any legal restrictions or covenants, existing town subdivision approval conditions, any state or federal permit applications or approvals and copies of a State Project Review Sheets applicable to the property.
5. A description of all existing development on the property.
6. Any DRB Approval relating to the Permit application.
7. The application fee.

B. The Administrative Officer may reject the application if any of the required information is not provided. The Administrative Officer may waive any of the above requirements if the requested information is not relevant to what applicant is seeking approval for.

**Section 205: Action on Permit Application:**

- A. Within 30 days after the Administrative Officer’s acceptance of a complete application, the Administrative Officer approves the application, denies it, or requests

- additional information. Within 30 days after additional information is provided, the Administrative Officer approves or denies the application. Failure of the Administrative Officer to act within this timeframe shall constitute automatic approval. If the Permit is approved, the Administrative Officer promptly issues a Permit with any conditions required by this Regulation and DRB Approval. In considering whether to issue or deny a Permit, the Administrative Officer applies the standards of this Regulation, including those of the District, and overlay District, where the property is located.
- B. The Permit shall contain a statement that the applicant should contact state agencies to determine what state permits may be required before commencing development, as required by 24 V.S.A. Sec. 4449(e): “Before beginning development, the applicant is obligated to identify, apply for and obtain all necessary state permits relating to this project by contacting the Vermont Agency of Natural Resources Office, 111 West Street, Essex Junction, VT; 802-879-5676.” Note:  
<http://www.anr.state.vt.us/dec/ead/pa/index.htm>
- C. Within one day following the issuance of a Permit, the Administrative Officer shall:
1. Deliver a copy of the Permit to the town Listers.
  2. Post a copy of the Permit in a public place in Johnson Town Offices for 15 days, at least.
  3. Deliver copies to the Town Clerk for recording in the land records and for filing in the Permit records.
  4. Post a copy of the Permit on the Town’s website.
- D. On the day of approval, the Administrative Officer shall post a notice of the Permit on the property within view of the nearest public road for 15 days from the date of issuance and shall ensure that it remains posted for the 15 days.
- E. Neighbors or other interested parties as defined by 24 V.S.A. Sec. 4465(b) may appeal, in accordance with 24 V.S.A. Sec. 4465, the granting of a Permit by giving written notice to the Administrative Officer within the 15 days. The appeal shall state the objections to the granting of the Permit with reference to this Regulation. Timely appeals will be heard by the DRB as provided in Section 207.
- F. The Permit shall not take effect until 15 days following the issuance of the Permit during which appeals can be filed as provided in Article II, Section 207 below. **In no event shall any development, including site preparation, occur until the Permit is issued and takes effect.** In the event that an appeal is filed, the Permit is suspended until the appeal is decided by the DRB, and all further appeals are exhausted.



**Section 2.06 Certificate of Compliance:**

When development is completed, but before its occupancy or use, the holder of the Permit must obtain a Certificate of Occupancy, issued by the Administrative Officer. The Administrative Officer may inspect the property to confirm compliance with the requirements and conditions of the Permit. Within 15 days of the Permit holder's request for a Certificate of Occupancy, the Administrative Officer shall either issue the Certificate of Occupancy or provide the Permit holder a statement listing the items of non-compliance. After the holder of the Permit has remedied the items of non-compliance, and re-applied, the Administrative Officer shall issue a Certificate of Occupancy.

**Section 2.07 Appeal:**

The applicant or an interested party, as defined in 24 V.S.A. Sec. 4465(b), may file an appeal of a decision by the Administrative Officer within 15 days from date of the decision. The appeal must be filed at the Town Offices, must be in writing and specify the objections of the party making the appeal to the Administrative Officer's decision. The filing fee must accompany the appeal. The hearing before the DRB on the appeal will be held with the same formalities as with a hearing for DRB Approval. The DRB may deny the appeal or grant it, with or without conditions. As with all DRB Approvals, a DRB decision concerning an appeal specifies the reasons for its decision referencing applicable law and regulations.

**Section 2.08 Variance**

A landowner may request a variance of this Regulation from the DRB using the same procedure as with appeals from the decision of an Administrative Officer. A variance will only be granted if facts are found that satisfy the criteria in 24 V.S.A. Section 4469(a) with respect to the District where the property is located. In addition, variances in the Flood Hazard District will only be granted after complying with the criteria and insurance notice requirements of Section 60.6 (a) of the National Flood Insurance Program Floodplain Management Regulations (<http://www.gpo.gov/fdsys/pkg/CFR-2010-title44-vol1/pdf/CFR-2010-title44-vol1-sec60-6.pdf>).

**Section 2.09: Permit Expiration:**

Permits expire two years from the effective date of the Permit, extended if the Permit is being appealed. The applicant may also obtain a one-year extension by request to the Administrative Officer before the end of the initial two years.

### **Article III DRB Approval:**

#### **Section 3.01: When DRB Approval Required:**

- A. DRB review is required when:
  - 1. The Administrative Officer determines that an application cannot, because of special circumstances, comply with the applicable Building Envelope Standards, the applicable Street Typology, Nonconformities Standards, Public Works requirements, Fire Department requirements and the requirements of other city ordinances if applicable.
  - 2. The Administrative Officer determines (for any reason) that additional review is required
  - 3. Upon the request of the applicant or
  - 4. Where DRB review is specified on the applicable BES.
- B. The Administrative Officer shall refer the application to the Development Review Board for consideration specifying the reason(s) for the a DRB approval.
  - 1. In the hearing on the Special Requirement approval referral, the authority of the Development Review Board shall be limited to those reason(s) specified in applicant's appeal or in the Administrative Officer's reason(s) for referral.
  - 2. In no event is the Development Review Board allowed to inquire about, or attempt to exercise authority beyond, the reasons set forth in the applicant's request or in the Administrative Officer's reason(s) for referral.
  - 3. In its consideration of referral where the reason for the referral concerns applicable Building Envelope Standards, the Development Review Board shall be limited in the exercise of its discretion regarding Building Envelope Standards to modification of build-to lines, frequency of door, height and percentage of glazing and shall otherwise enforce the Building Envelope Standards strictly. Likewise, where the reason(s) concern general site constraints, environmental conditions (e.g, wetlands) or requirements of the public works or fire department or other Town/Village ordinances, the Development Review Board review shall be limited strictly to the reason

given. In no event shall a referral be a license to inquire into matters unrelated to the reasons(s) for the referral.

**Section 3.02 DRB Approval Requirement for Subdivisions:**

**INTENTIONALLY LEFT BLANK. What does Johnson want to do?**

**Section 3.03 Pre-Application Review:**

- A. For all development subject to DRB Approval, a Pre-Application Review is the first step. The purpose is to acquaint the Administrative Officer, Town/ Village departments (Fire, Public Works, and the applicant's neighbors, with the proposed development without requiring the presentation of extensive, and often expensive, surveying, engineering and design data by the applicant. The plans should be presented in an informal way that invites comment and discussion of alternatives. The applicant (the owner or appointed representative) should request a Pre-Application Review by submitting the Pre-application checklist and accompanying documents to the Administrative Officer. Such submission grants permission to the municipal staff to visit the property concerned with prior coordination with the applicant.
- B. During Pre-Application Review, the applicant and staff shall explore development options that are consistent with this Regulation and the goals of the Town Plan. The representations of the applicant and staff shall not be binding in future DRB Approval hearings.
- C. The goals of the Pre-Application Review are to:
  - 1. Explore options and hone in on the details of applicant's development to produce the best development plans possible.
  - 2. Provide the applicant with a clear understanding of whether approval of his development is likely and with what terms and conditions.
  - 3. To familiarize neighbors and other interested parties with applicant's development plans, and to acquaint the applicant and the Town/Village with the nature of their concerns or their opposition.
  - 4. To make the DRB approval hearing process thorough, efficient and successful.
- D. During, or shortly after, the conclusion of the Pre-Application Review the Administrative Officer shall provide the applicant with a short summary of the

development plans and any recommendations of staff. While the Pre-Application Review does not suggest approval or rejection of applicant's development plans, the Pre-Application Review may give an indication of what evidence in the Regulation that may be required for DRB Approval, such as a wetlands delineation, a wildlife habitat study, a storm water plan, a shared parking or traffic study, or a clustered housing plan.

**Section 3.04 DRB Approval procedures:**

- A. After Pre-Application Review, the owner of the property, or appointed representative, may apply for DRB Approval. The applicant shall specify why DRB Approval is requested.
- B. The applicant shall provide the information required for a Permit application.
  - 1. For DRB Approval of a Special Requirement approval., the application shall include, in addition to any requirements in the District standards:
    - (a) A detailed description of the intended special requirement,
    - (b) How the Special Requirement or Special Standard will meet the applicable criteria in District standards, and,
    - (c) What effect the use will have on the character of the neighborhood.
  - 2. The applicant shall also provide any items required by District standards. However, any item may be waived at the Pre-Application Review if the staff and Administrative Officer views the item as not being relevant to the proposed development. In addition, the DRB may request:
    - a. Copies of proposed deeds, agreements or other documents showing the manner in which trails, sidewalks, streets, open space, including park, common gardens, recreation areas and school site areas, are to be dedicated, reserved, and maintained. A certificate from a consulting engineer as to the completion of all improvements required by the DRB. In addition the DRB may require a performance bond to secure completion of such improvements and their maintenance for a period of two years.
    - b. Any other documents requested by the Administrative Officer or staff during the Pre-Application Review.
- C. The Administrative Officer may waive requirements referred to above, or add additional ones, at Pre-Application Review.

- D. Within 14 (business) days after submission of the application, the Administrative Officer shall review it for completeness. In the event that the application is incomplete, the applicant is to be promptly notified and have the option of withdrawing the application or submitting the missing items. A public hearing will be scheduled on the application 20 days or more following the submission of the application or the submission of the missing items. Notice of the public hearing must be made 7 days or more prior to the hearing by publication in a newspaper of general circulation in Johnson, by posting the notice in three public places in Johnson, on the Town website, and by written notice to adjoining property owners. The notice to the adjoining property owners shall include a brief description of the proposed development, that additional information is available at the Town offices and that participation in the hearing is required to become an interested party, as defined by 24 V.S.A Sec. 4465(b).
- E. The public hearing shall be recorded. The Chair shall open the hearing and ask whether any DRB members must excuse themselves because of a conflict of interest or because of having ex parte contacts with the applicant concerning the application. The Chair shall state that the purpose of the hearing is for the DRB to take statements and evidence, along with the application for consideration by the DRB. The Chair shall remind those who would like to speak that statements should address the merits of the proposed development and whether it complies with the specific requirements of this Regulation. The applicant and/or representatives may make statements introducing the application and then interested parties may make statements and present relevant evidence. Questions from members of the DRB to those making statements, including the applicant, should be directed through the Chair. The Chair may set and enforce time limits on oral statements.
- F. The DRB may recess the hearing for the submission of additional information, but in no event more than 45 days without the agreement with the applicant. At the conclusion of the statements, questions by DRB members and submission of additional information, the Chair will close the public hearing. Within 45 days from the close of the hearing the DRB will deliberate and issue a findings of fact, conclusions of law and decision either denying or granting the application, with or without conditions.
- G. In considering an application, the DRB shall be limited to the following
1. The criteria specified for the District where the property is located.
  2. Requirements described on the BES that is applicable to the proposed development.
  3. Fire Department and Emergency Services requirements .

4. Department of Public Works requirement regarding water, wastewater, soil erosion and control and storm water runoff management, including and storm water erosion control practices during construction. (See the Low Risk Site Handbook Erosion Prevention and Sediment Control by Vermont Department of Environmental Conservation, [http://www.vtwaterquality.org/stormwater/docs/construction/sw\\_low\\_risk\\_site\\_handbook.pdf](http://www.vtwaterquality.org/stormwater/docs/construction/sw_low_risk_site_handbook.pdf))
5. Enforcement of the requirements and conditions of the Permit and whether a bonding and financing agreement is necessary.

Section 3.05 Appeals:

The applicant or an interested party may appeal a decision of the DRB within 30 days to the Environmental Court, which is a division of the Vermont Superior Court. The standards for appeal and who qualifies as an interested party are provided in 24 V.S.A. Sec.4471 (and in the Rules of the Environmental Division, the Vermont Rules of Appellate Procedure and otherwise by law).

## Johnson Form Based Code Nonconformities Language

### A. Purpose

The purpose of this section is to establish regulations and limitations on the continued existence of uses and structures established prior to the effective date of this Code that do not conform to the provisions of this Code. Nonconformities may continue, but the provisions of this Section are designed to limit investment in nonconformities and to bring about their eventual elimination, where appropriate, in order to preserve the integrity of the regulations established in this Code.

### B. Nonconforming Uses

#### 1. Authority to Continue

a. The lawful use of any building or land existing prior to the effective date Johnson Village Form Based Code may be continued even if such use does not conform to the provisions of Johnson Village FBC.

#### 2. Replacement, Refurbishment/Improvement, Repair and Maintenance

a. Replacement, refurbishment/improvement repair and maintenance may be performed on any structure that is devoted in whole or in part to a nonconforming use. All necessary building permits are still required.

i. *Replacement, refurbishment or improvement greater than 35% of "primary front" façade shall comply with the façade standards described in the BES applicable to the district's designation (excluding build-to line and level/story requirements).*

ii. *Replacement, refurbishment or improvement greater than 35% of gross square footage shall comply with the façade standards described in the BES, site standards, parking design standards and storm-water standards applicable to the district's designation (excluding build-to line and level/story requirements).*

b. *Complete replacement, refurbishment or improvement shall comply with the Building Envelope Standards (BES), site standards and parking design standards applicable to the district's designation described in the Johnson Village FBC.*

#### 3. Extensions/Expansions

a. A nonconforming use cannot be extended, expanded, enlarged or increased in size, footprint or coverage.

b. No nonconforming use may be extended to displace a conforming use.

#### 4. Change in Use

A nonconforming use may not be changed to another nonconforming use. A nonconforming use that is changed to a conforming use may not revert back to any nonconforming use. Any nonconforming use may be changed to a conforming use.

#### 5. Continuance and Restrictions.

a. Any lawful structure or any lawful use of any structure or land existing at the time of the enactment of these regulations may be continued, although such structure or use does not

conform with the provisions of these regulations, provided the conditions in this Section XXX are met.

- b. A nonconforming use may be continued provided that such structure shall not be enlarged or extended unless the use therein is changed to a conforming use.
- c. A nonconforming structure that is devoted to a conforming use may be reconstructed, structurally altered, restored or repaired, in whole or in part, with the provision that the degree of nonconformance shall not be increased.
- d. A nonconforming use shall not be extended or enlarged, nor shall it be extended to displace a conforming use, nor shall it be changed to another nonconforming use, nor shall it, if changed to a conforming use, thereafter be changed back to a nonconforming use.
- e. Nothing in these Regulations shall be construed to prevent the owner of a multi-tenant building containing one or more nonconforming uses from utilizing a portion of the building for a conforming use, provided there is no expansion or extension of a nonconforming use or uses as part of such a change in use.

## C. Nonconforming Structures

### 1. Authority to Continue

- a. Any lawful structure existing prior to the effective date Johnson Village FBC may be continued even though the structure does not conform to the provisions of the Johnson Village FBC.

### 2. Replacement, Refurbishment/Improvement, Repair and Maintenance

- a. **Replacement, repair and maintenance** may be performed on any nonconforming structure. All necessary building permits for such work are still required.
  - i. *Replacement, refurbishment or improvement greater than 35% of "primary front" façade shall comply with the façade standards described in the BES applicable to the district's designation (excluding build-to line and level/story requirements)*
  - ii. *Replacement, refurbishment or improvement greater than 35% of gross square footage shall comply with the façade standards described in the BES, site standards, parking design standards and storm-water standards applicable to the district's designation (excluding build-to line and level/story requirements).*
- b. **Complete replacement, refurbishment or improvement** shall comply with the Building Envelope Standards (BES), site standards, parking design standards and storm-water standards applicable to the district's designation described in the Johnson Village FBC.

### 3. Extensions/Expansions

- a. Any nonconforming structure may be enlarged, maintained or altered; provided, however, that no enlargement, maintenance or alteration creates any additional nonconformity or increases the degree of the existing nonconformity of all or any part of such structure.
- b. Any new construction which occurs on a site with a nonconforming structure or any expansion of a nonconforming structure shall comply with the requirements in Section \_\_\_\_ (see graphic.)



**4. Relocation**

No nonconforming structure may be relocated in whole or in part to any other location on the same or any other lot unless the structure and its location conform to this Code.

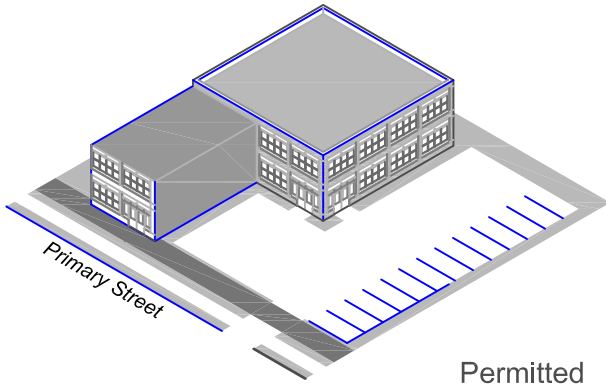
**5. Unsafe Structures**

Any nonconforming structure or portion of that structure determined to be unsafe by the \_\_\_\_\_ - may be restored to a safe condition, unless otherwise determined by the \_\_\_\_\_.

# Johnson Non-conformity Build-to requirements

## A. FRONT: ADDITION

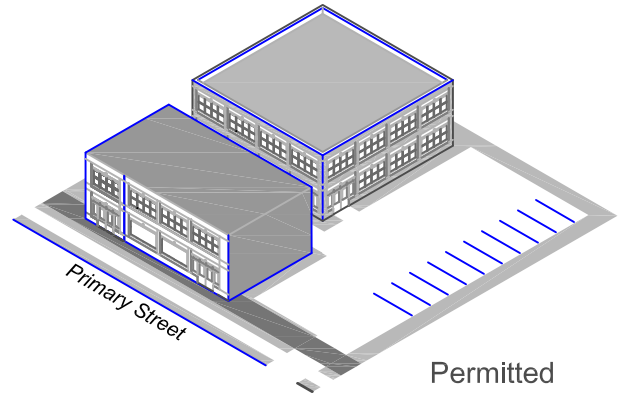
Any addition to the front must be placed in the build to zone. The addition does not have to meet the build-to percentage for the lot.



Permitted

## A. FRONT: New Building

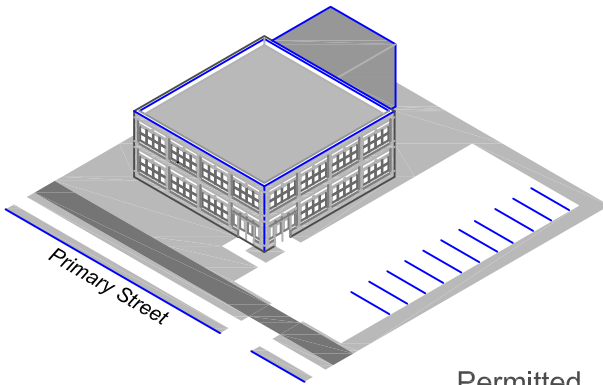
A new building must be placed in the build to zone until the build-to percentage for the lot has been met.



Permitted

## B. Rear: Addition

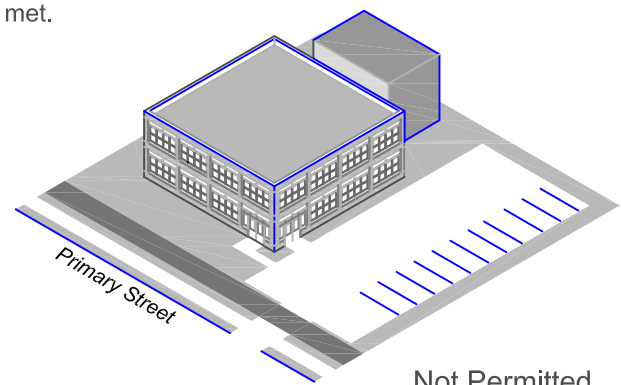
Rear additions are allowed because the extension does not increase the degree of the non-conformity.



Permitted

## B. Rear: New Building

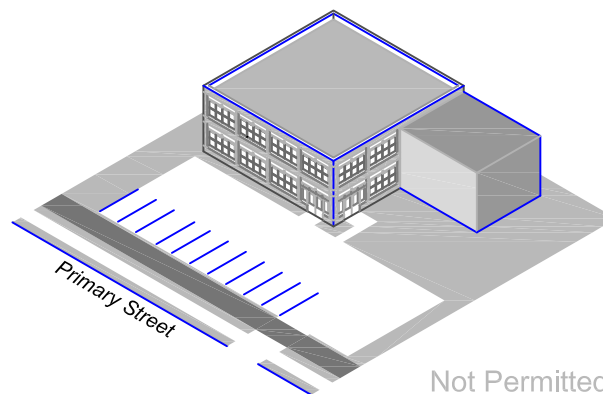
New Buildings located outside of the build-to zone are not allowed until the build-to percentage of the lot has been met.



Not Permitted

## C. Side: Addition

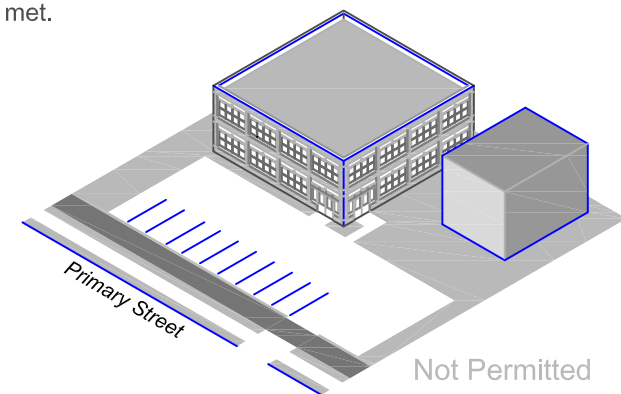
Side additions are not allowed because the extension increases the width of the building not in the Build-to zone.



Not Permitted

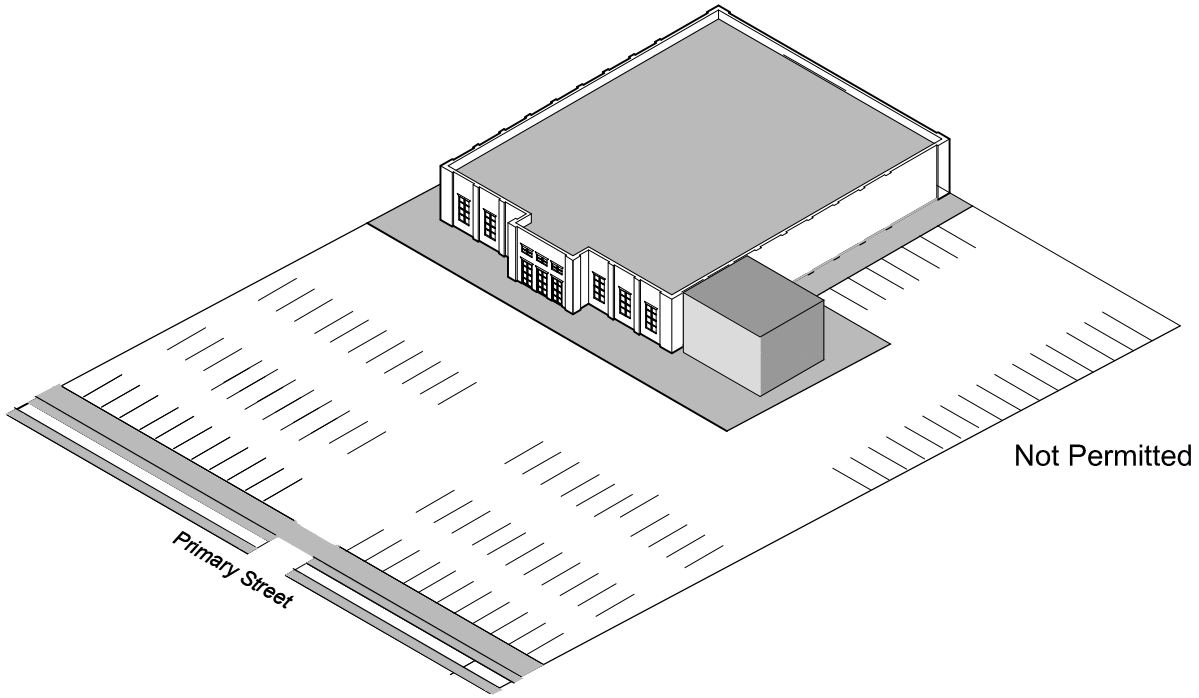
## C. Side: New Building

New Buildings located outside of the build-to zone are not allowed until the build-to percentage of the lot has been met.



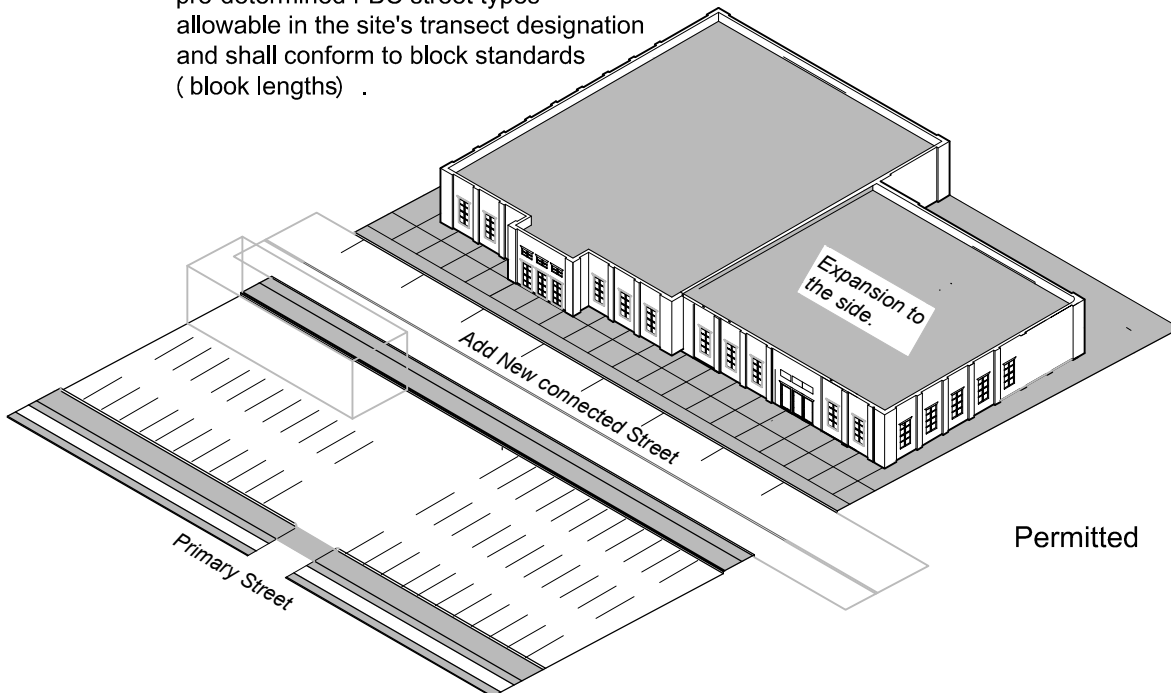
Not Permitted

D. Side: Addition ( Large Building)  
Side additions are not allowed because the extension increases the width of the building not in the Build-to zone.



D. Side: Addition ( Large Building)  
Add new *connected* street\* and side additions are allowed because the new street establishes a new Build-to line.

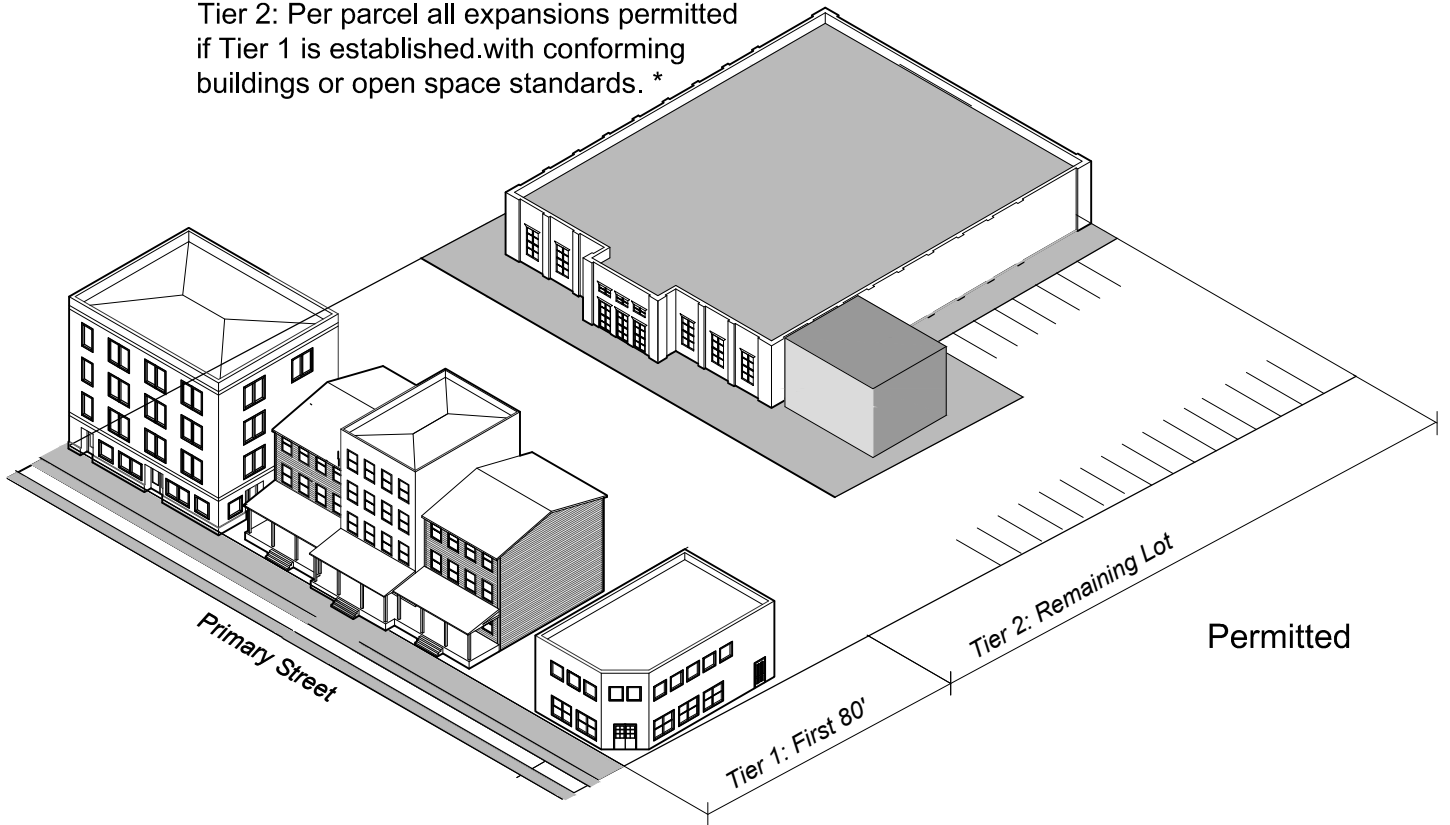
\*New street shall be selected from the pre-determined FBC street types allowable in the site's transect designation and shall conform to block standards ( block lengths) .



E. Tiers

Tier 1: Conformity with Build-to required.  
Conformity shall be achieved by BES  
( Build-to, glazing and frequency of  
doors) , FBC open space standards  
and/or combination of the two. Surface  
parking is not conforming.

Tier 2: Per parcel all expansions permitted  
if Tier 1 is established.with conforming  
buildings or open space standards. \*



\* Large parcels: Parcels with street frontages greater than 300' may expand laterally the percentage of the build out at Tier 1 in the same lateral location of the conforming build out.

## Parking

### A. Applicability

#### 1. General

- a. All parking requirements shall be behind the building. Surface parking on the street front is prohibited.
- b. No permit for the construction, reconstruction, extension, or alteration of any building, structure, or use of land, and no building or land, or any part of any building or land, may be occupied or used until parking has been provided in accordance with the requirements of this Code.

#### 2. Additions

- a. A building or site may be renovated or repaired without providing additional parking, provided there is no increase in gross floor area or improved site area.
- b. When a building, use or site is increased in gross floor area or improved site area, parking is required for the additional floor or site area only.
- c. When the gross floor area or improved site area is increased by more than 50% cumulatively, both the existing use and the additional floor or site area must conform to the parking requirements of this Code.

#### 3. Change in Use

- a. A change in use must comply with the parking requirements unless the use has the same or a lesser parking demand than the previous use.
- b. Where required parking spaces for the new use exceed the required parking spaces for the existing use, additional parking is only required for the difference between the current parking spaces required and the parking spaces required for the new use.

### B. Vehicle Parking

- 1. Minimum parking spaces are required unless an alternative is approved by the \_\_\_\_\_(ZA)

<b>Use</b>	<b>Required Spaces</b>
<b>Residential Uses</b>	
Dwelling, one family	2 per unit
Dwelling, multifamily: 0-1 bedroom	1 per unit + 1 per 5 units for visitors
Dwelling, multifamily: 2+ bedrooms	2 per unit + 1 per 5 units for visitors
Public/Civic Uses Area of public assembly, Church, rectory (place of worship)	1 per 4 seats in principal assembly room
<b>Commercial Uses</b>	
All Uses	1 per 1000 square feet of gross floor area*

\*One required parking space parking may be waived for every 10 bike parking spaces provided

4.21.15

## **C. Bicycle Parking????**

**Article \_\_ : Organization: Administrative Officer and Development Review Board**

**Section \_\_.01 Administrative Officer:**

A. Appointment: The Administrative Officer is nominated for appointment by the Planning Commission and is appointed by the Selectboard for a term of three (3) years to carry out the provisions of this Regulation. The compensation is determined by the Selectboard. The Administrative Officer may be removed by the Selectboard for cause after consultation with the Planning Commission.

B. Duties: The Administrative Officer shall:

1. Administer and strictly enforce this Regulation. The Administrative Officer does not have the power to authorize or permit any land development except in conformance with this Regulation, other Town ordinances and any applicable conditions of the DRB.
2. Inspect properties for compliance with this Regulation and Town permits, conduct enforcement activities, maintain accurate records and perform related tasks.
3. Provide applicants with all forms required to obtain Permits, to apply for DRB Approval and to appeal to the DRB.
4. Assist persons seeking permits and in navigating the Town's regulatory processes in a helpful and responsive manner.
5. Periodically meet with and provide reports to the Planning Commission.

C. The Administrative Officer shall not be a member of the Planning Commission, Selectboard or DRB.

**Section \_\_.02 Development Review Board:**

A. Appointment: The Development Review Board (DRB) consists of five (5) members and two (2) alternates appointed by the Selectboard for three year terms or for other terms determined by the Selectboard in accordance with Title 24 VSA §4460(b) and §4460(c). A member may be removed for cause by the Selectboard upon written charges and after a public hearing.

- B. Organization and Meetings: The DRB elects its own officers, a Chair, Vice Chair and Clerk, and adopts its own rules of procedure, except as provided in Article III. A quorum is not less than a majority of the Board and a vote of a majority of the Board shall be necessary to complete an action, other than recessing a hearing or adjournment of a meeting. The Officers of the Board may administer oaths and compel attendance of witnesses and compel the production of materials in accordance with the Act and this Regulation.
- C. Duties: The DRB is authorized to administer its duties as provided in this Regulation and the Act, specifically, but not limited to:
1. Hear and decide appeals from acts of the Administrative Officer.
  2. Hear and decide DRB Approvals.
  3. Determine such requirements, conditions as are appropriate in carrying out its duties and requirement in accordance with the terms of this Regulation.

**Article \_\_ Enforcement:**

**Section \_\_.01 General:**

In the event of a violation of this Regulation or of a condition or requirement of a Permit or of a failure to make or maintain a required improvement, the Administrative Officer may give the alleged offender(s) a written seven (7) days warning notice by certified mail or personal service. The notice is designed to give the alleged offender(s) an opportunity to correct the violation or failure before the Administrative Officer begins enforcement. Notice only is required for the first offense within a 12 month period; each subsequent enforcement action within that time does not require advance warning. An alleged offender(s) may appeal the enforcement actions of the Administrative Officer for a hearing before the DRB. The DRB will conduct an appeal hearing with the same formalities as with a hearing for DRB Approval and the decision of the DRB on such appeal is final. Only when appeals are made within the seven days following notice will enforcement actions be deferred until the decision of the DRB. Otherwise, enforcement will not be deferred.

**Section \_\_.02 Enforcement Procedure and Penalties:**



A. Violations of this bylaw shall be regulated as prescribed in Title 24 VSA §4451 - §4454.

[REDACTED]

**Section .04 Records:**

The Administrative Officer shall maintain a record of all enforcement actions and their outcomes and citizen complaints and all actions taken in response.

## **Definitions:**

**AAP:** Accepted Agricultural Practices.

**ACCEPTED AGRICULTURAL PRACTICES:** Agricultural practices that are governed by regulations promulgated the Vermont Agency of Agriculture, Food and Markets. The practices include, but are not limited to, (a) the confinement, feeding, fencing and watering of livestock, (b) the handling of livestock wastes and by-products, (c) the collection of maple sap and the production of maple syrup, (d) the preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops, (e) the ditching and subsurface drainage of farm fields and the construction of farm ponds, (f) the stabilization of farm field streambanks constructed in accordance with the USDA-Natural Resources Conservation Services standards and specifications or other standards approved by the Commissioner of the Vermont Agency of Agriculture, Food and Markets, (g) the construction and maintenance of farm structures in accordance with the Federal Flood Insurance Management Program standards, the construction and Maintenance of farm ponds, farm roads, walls, fences, structures, to control the grade and head cutting in natural and artificial channels, and an irrigation, drainage or other water management system that conveys water, controls the direction or rate of flow, or maintains a desired water surface elevation, (h) the on-site production of fuel and power from agricultural products produced on the farm, (i) the on-site storage, preparation and sale of agricultural products principally produced on the farm, and (j) the on-site storage of agricultural inputs including, but not limited to, lime, fertilizer and pesticides.

**ACCESSORY DWELLING UNIT:** An efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

**ACCESSORY STRUCTURE:** A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

**ACT:** Title 24 of Vermont Statutes Annotated, Chapter 117 entitled “Municipal and Regional Planning and Development.”

**APPLICANT:** A property owner or any person acting as an agent for the owner in the application for a Permit or for DRB Approval.

**AMP:** Accepted Management Practices.

**BASEMENT:** Any area of the building having its floor sub-grade, below ground level on all sides.

**BED AND BREAKFAST:** A place of lodging that is located in an owner occupied dwelling that provides 10 or fewer rooms for rent and serves only breakfasts to guests and not to the general public.

**BOUNDARY ADJUSTMENT:** The adjustment of a lot line between two parcels by the relocation of a common boundary where no new lot is created and an existing lot is not reduced by below the minimum lot size nor increased enough to allow for increased development in the District where the lot is located.

**BUILDING:** A structure with a roof supported by fixed columns or walls for shelter or enclosure of people, animals or property.

**BUILDING BREAK:** An interruption in the continuous frontage of a building façade facing a street, such as a material change, a stoop, a porch, a permanent structural awning, an inverted dormer or a picture window (that protrudes out from the front of the building at least two feet). **BUILDING FRONT:** A line formed by the exterior front wall of a building which is to be in the “build to” zone on the BES.

**BUILDING, PRINCIPLE:** The building in which the primary use of the lot is located or conducted.

**BUILD TO ZONE:** The distance from the street right-of-way where the building front of a new building is to be located.

**BUFFER:** A strip of land designed to separate one use of land from another.

**CORE FOREST:** Interior unfragmented forest areas of more than 250 acres, also known as wildlife habitat blocks, that are insulated by at least 200 meter habitat buffers from the forest edge.

**CRITICAL FACILITIES:** Includes police stations, fire and rescue facilities, electric power, telephone and internet infrastructure, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

**DENSITY.** The number dwelling units, principal buildings or uses permitted per acre of land.

**DEVELOPMENT or LAND DEVELOPMENT:** Any human-made change to improved or unimproved real estate including construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or any mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials or any change in the use of any building or other structure, or land, or extension of use of land.

**DWELLING:** A building or part of a building, containing independent living, sleeping, housekeeping, cooking and sanitary facilities intended for occupancy by one family or household.

**EX PARTE:** On or from one side or party only. More specifically, when a member of a board or commission has unauthorized discussions with, or receives evidence from, a party who is appearing before the board or commission concerning the matter about which the party is appearing. Ex parte contacts are discouraged because of the appearance of improper bias, favoritism or partiality by the member in the exercise of his or her official duties.

storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the Federal Insurance Administrator has delineated both the Special Flood Hazard Areas and the risk premium applicable to the community.

**FLOOD HAZARD AREA or AREA OF SPECIAL FLOOD HAZARD:** The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year.

**FLOOD PLAIN or FLOOD PRONE AREA:** Any land area susceptible to being inundated by water from any source (see definition of “flood”).

**GLAZING:** The minimum required amount of first floor window coverage on the primary building front facing the street. See diagram.

**INTERESTED PARTY:** As defined by 24 V.S.A Sec. 4465(b).

**LODGING:** Transient accommodations offered to the general public.

**LOT:** Any parcel of land with its boundaries separately described in a recorded deed or filed plat. A public road right-of-way constitutes a lot boundary.

**NON-CONFORMITY:** A structure, development or use on a property that is not in compliance with the standards of this regulation in the District where the property is located.

**NON-RESIDENTIAL:** Includes, but is not limited to: small business concerns, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

**OFFICE:** A room, group of rooms or building used for conducting the affairs of a business, profession, service industry or government.

**PARKING, OFF STREET:** A parking space for a motor vehicle that is located within a parking lot, parking structure, garage or a residential driveway.

**PRIMITIVE CAMPGROUND:** A camping area for tenting only that provides sanitary facilities only.

**PRINCIPAL BUILDING:** The building in which the primary use of the lot is located or conducted.

**PRINCIPAL STRUCTURE:** The building in which is conducted the main use of the lot where it is located.

**PRINCIPAL USE:** The primary or predominant use of a lot, area of land, building or structure.

**PUBLIC ROAD:** A road owned or maintained by the Town or the state for use by the general public.

**RESTAURANT:** An establishment where food and drink are prepared, served and consumed, mostly within the principal building.

**RETAIL SALES:** The selling of a specified line of goods and services directly to walk in or walk up customers.

**RETAIL STORE:** An enclosed building housing an establishment offering a specified line of goods or services for retail sale direct to walk-in customers.

**ROAD:** The portion of a right-of-way available for vehicular traffic including on-street parking.

**SIGN:** Any device used for visual communication intended to attract the attention of the public and is visible from the public right-of-way or other properties. Such device may include representation of letters, words, numerals, figures, emblems, pictures, or any part or combination.

**SIGN, FREESTANDING:** A sign anchored directly to the ground and supported by verticle structures and not attached to or dependent for support from any building.

**SITE PLAN:** An illustration of a proposed development proposal drawn to sufficient accuracy and detail to be used for the purpose of discussion and review under these regulations.

**SPECIAL USE:** A use allowed in a specified District that requires prior DRB Approval.

**SPECIAL STANDARD:** The nature or quality of a development that requires prior DRB Approval. For example, in the Village Center District, a shared boundary wall or a development of more than five units requires DRB Approval.

**START OF CONSTRUCTION:** For purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, 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.

**STATUTES:**

24 V.S.A. Sec. 4413(d): (AAPs and AMPs)

24 V.S.A Sec. 4465(b), INTERESTED PARTY:

27 V.S.A. Sec. 1403: Composition of survey plats

**STORAGE:** Material or supplies which are being held in reserve for future use.

**STREET:** Road.

**STREETSCAPE:** A design term referring to all the elements that constitute the physical makeup of a road and that, as a group, define its character, including building frontage, street paving, street furniture, landscaping.

**STRUCTURE:** For the purposes of this regulation, a walled and roofed building, as well as a manufactured home or mobile home, and any related built systems including gas or liquid storage tanks.

**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.

**SUBSTANTIAL IMPROVEMENT:** Any improvement of a structure, the cumulative value of which over three years equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvements. This term also includes repair or restoration of structures that have incurred substantial damage, regardless of the actual repair work performed. 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 an historic 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.

**UNIT:** A identifiable physical portion of a building designated for separate ownership, occupancy or habitable use. For example, a unit includes a dwelling house, an apartment or an office but does not include a garage or storage shed.

**USE:** Any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on an area of land.

**VARIANCE:** The variation of the terms of this Regulation because, owing to conditions peculiar to the property and not the result of the action of the applicant/appellant, a literal enforcement of the Regulation would result in unnecessary and undue hardship. The standards for granting a variance from 24 V.S.A. Section 4469(a) are:

- (1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.
- (2) The hardship was not created by the appellant.
- (3) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
- (4) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and from the plan.”

**VIOLATION:** The failure of a structure or other development to be fully compliant with these Regulations.