

## **SECTION I – TITLE**

This Bylaw shall be known as the Pownal Zoning Bylaw.

## **SECTION II – PURPOSE**

The purpose of this Bylaw is to encourage the appropriate development of all lands in the Town of Pownal in a manner which will promote the public health, safety, morals, prosperity, comfort, convenience, efficiency, economy, and general welfare and to provide the methods for the prevention, minimization, and future elimination of such land development problems as may presently exist, or which may be foreseen.

## **SECTION III – GENERAL PROVISIONS**

### **3.1. Applicability**

Through its adoption, this Bylaw shall repeal, supersede, and replace the previous Pownal Zoning Bylaws (Protective Land Use Regulations), Junk Ordinance, Sign Ordinance and Junk Car Ordinance. This Bylaw is adopted under the authority of 24 V.S.A., Chapter 117, the Vermont Municipal and Regional Planning and Development Act.

In addition to these Bylaws, there may be State and federal requirements that have to be met.

### **3.2. Compliance with the Bylaw**

**3.2.1.** No land, building, or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure, shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with this Bylaw. No lot shall have an area, width, or a front, side, or rear yard, less than that set forth in the applicable paragraph hereof, except as otherwise specifically provided in this Bylaw.

**3.2.2.** Nothing contained in this Bylaw shall require any change in the plans, construction, or designated use of a building complying with local laws in force prior to this Bylaw, if a prior permit shall have been duly issued, and the entire building shall have been completed in accordance with such plans and permit within one year from the effective date of this Bylaw.

### **3.3. Access**

**3.3.1** Access to any lot improved for, or intended to be improved for human use or full time occupancy, for residential or other use or purpose, shall be from a street, road, way, or highway, or deeded easement, providing actual safe and unimpeded year round access by motor vehicle, including fire and emergency vehicles.

**3.3.2.** Access to private camps, defined as land or structure not intended to be used for primary residence in any calendar year, may be a more informal arrangement, provided

the same is found adequate for the intended use by the Zoning Administrator, in the reasonable exercise of his/her discretion.

### **3.4. Existing Small Lots**

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Bylaw or any previous zoning bylaw of the Town of Pownal may be developed for the purpose permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot size is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet. If the proposed development of a pre-existing small lot meeting the requirements of this sub-section cannot meet the dimensional requirements (other than lot size), a variance is required.

### **3.5. Non-conforming Uses**

"Non-conforming use" means a use of land or a structure which does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of such regulations (24 V.S.A. 4408).

#### **3.5.1. General Requirements**

This section of the Bylaw shall apply to any alteration, addition, expansion, extension or change in the use of any building, structure, or land which falls under the definition of non-conforming uses. Any lawful use of a building, structure or land or part thereof existing at the time this Bylaw was adopted, or any amendments hereto, may be continued, though not extended or expanded, except as determined in section 3.5.2 of this Bylaw.

#### **3.5.2. Expansions of Non-conforming Uses**

No non-conforming use shall be altered, enlarged, extended or expanded without approval by the DRB after public hearing. Nor shall a non-conforming use be changed, except to a conforming use, without the approval by the DRB after public hearing. Any change, expansion, extension or enlargement of a non-conforming use shall be subject to the following requirements:

- a.** It will have no undue adverse effect upon the public health, safety, character of the neighborhood, convenience or property values in the vicinity;
- b.** It will not result in any undue burden on municipal services;
- c.** Prevention of the expansion, extension, enlargement or change would result in exceptional and unnecessary hardship on the owner or operator of the non-conforming use.

#### **3.5.3. Reconstruction after Damage**

Buildings, the use of which is non-conforming, which are destroyed by fire or other disaster, may be reconstructed for such use provided the construction begins within a period of three years from the date of the destruction. This in no way prevents the

required cleanup and removal of debris off such site that has been destroyed by fire or other disaster. A reasonable timetable for completion may be set by the DRB.

#### **3.5.4. Discontinuance of a Non-conforming Use**

Resumptions of non-conforming uses shall be prohibited if such use is disconnected for twelve calendar months except for good cause shown.

### **3.6. Non-complying Structures**

"Non-complying structure" means a structure or part thereof not in conformance with the zoning regulations covering building bulk, dimensions, height, area, yards, density or off street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of these zoning regulations (V.S.A. 4408).

#### **3.6.1. General Requirements**

This section of the Bylaw shall apply to any alteration, addition, expansion, extension, or change in any structure which falls under the definition of non-complying structures. The existence of any lawful structure or part thereof existing at the time this Bylaw is adopted may remain.

#### **3.6.2. Expansions of Non-complying Structures**

For structures which fall under permitted uses or any other structure the ZA is authorized to act on, the ZA may issue permits, without DRB approval, for structural alterations, moving, reconstruction, or enlargement of a non-complying structure provided that such action does not increase the degree of or create any new non-compliance with regards to the regulations pertaining to such buildings. Any increase in non-compliance will require approval by the DRB after public hearing and will be subject to the following requirements:

- a. It will have no undue adverse effect upon the public health, safety, or convenience or property values in the vicinity;
- b. It will not result in any undue burden on municipal services;
- c. Prevention of the expansion, extension, enlargement or change would result in exceptional and unnecessary hardship on the owner of the non-complying structure.

**3.6.3 Temporary Uses:** In all Zone Districts all temporary uses are defined as not to exceed 90 days in any calendar year.

### **3.7. District Requirements**

#### **3.7.1. Establishment of Zoning Districts**

For the purposes of this bylaw, the Town is divided into a series of districts specifying land uses that are permitted, conditional, and accessory or not allowed in each district. These bylaws also regulate such items as the location, height, bulk and size of buildings, lot sizes, setbacks, amount of area allowed to be developed, as well as amount of open

space, parking and landscaping which is required. The purpose and intent of these regulations is to insure compatibility of land uses and promote efficient and economical use of land in development projects. They are also intended to prevent development of areas subject to environmental hazards and constraints, and encourage development projects that are functional and protect the Town's natural resources and scenic beauty.

The zoning districts established by these bylaws are named and described in Sections 5 and 6.

They have been divided into two categories, basic districts and overlay districts, both of which are considered zoning districts for the purposes of these bylaws. The zoning districts are to be designated by the abbreviations set forth below:

<b>DISTRICT</b>	<b>ABBREVIATION</b>
1. Rural Residential 2	RR2
2. Village	V
3. Rural Residential 1	RR1
4. Commercial	C
5. Industrial	I
6. Forest	F
7. Flood Hazard Overlay	FHO
8. Wetland Overlay	WO
9. Conservation Overlay	CO

### **3.7.2. Zoning Map**

The boundaries of these districts are hereby established, as shown on the Town of Pownal Basic Zoning District Map dated April 3, 2006, and amendments, which map and amendments are declared part of this Bylaw. The Flood Hazard boundaries are as shown on the Water Resource Map, January 22, 2003.

### **3.7.3. Zoning of Streets**

Zoning districts shall include the beds of streets lying within them. Where opposite sides of a street lie in different districts. The boundary shall be deemed to be the center of the right-of-way.

### **3.7.4. Land under Water**

Zoning Districts shall include any land under rivers, streams, lakes or ponds lying within them. Where opposite sides of a river or a stream lie in different districts, the boundary shall be the thread of the river or the stream. Where opposite sides of a lake, pond, swamp or water body lie in different districts, the boundary shall be deemed to be the center thereof.

### **3.7.5. Interpretation of Map**

Any uncertainty as to the location of a district boundary line on the Zoning Map shall be resolved by the PC in a manner consistent with the intent of the Town Plan of Development.

### **3.8. Land Use Regulations**

This section regulates the establishment of land uses in each of the basic zoning districts and overlay districts. Uses have been divided into four types and are described below.

#### **3.8.1. Accessory Uses**

Accessory uses are permitted land uses, which are clearly incidental and subordinate to the primary use of a property, and cannot be established unless the primary use is also established. Accessory uses may be contained in the same structure as the primary use or in a separate structure, but they must be located on the same lot or on a common lot serving the primary use. Buildings and structures, which contain such uses, must meet the development regulations and plan review requirements established in these bylaws. Accessory uses are indicated in the land use matrix in Figure 7-1 by the letter "A".

#### **3.8.2. Conditional Uses**

Conditional uses are land uses which have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. As a consequence, they require special review in which conditions may be imposed to insure compatibility, and a conditional use permit must be obtained before a conditional use is established (see Section 4.2.2). Conditional uses may also be denied if it is not possible to mitigate undue adverse impacts. Conditional uses are indicated in the land use matrix in Figure 7-1 by the letter "C".

#### **3.8.3. Permitted Uses**

Permitted uses are land uses allowed in a given zoning district without special review because they are considered compatible with the intent of the district. However, the buildings or structures which contain such uses and the site development necessary for their establishment must meet the development regulations and plan review requirements established in these bylaws. Permitted uses are indicated in the land use matrix in Figure 7-1 by the letter "P".

#### **3.8.4. Uses Not Allowed; Uses Not Listed**

Uses not allowed are land uses which cannot be established in a given zoning district because they are considered incompatible with the intent of the district. Uses not allowed are indicated in the land use matrix in Figure 7-1 by the letter "N."

### **3.9. Land Use Matrix**

Figure 7-1 in Section 7 is hereby designated as the Town Land Use Matrix. The land use matrix contains a list of land uses and indicates if a given land use is allowed as permitted, conditional, accessory or is not allowed in Town zoning districts. It is also intended that Figure 7-1 be consistent with the text of these bylaws. Where an inconsistency occurs, the text of the regulations shall govern. Where regulations for specific land uses have been established, the regulations appear in Section 5. Special restrictions on land uses in overlay districts are stated in Section 6. If a land use is not listed in the matrix, the Zoning Administrator will determine whether this use is allowed as permitted, conditional, accessory or not allowed in a given district, except that the ZA

may request the PC to make the determination. Interpretation of the bylaw itself shall be done by the PC if a question should arise in relation to a section needing interpretation.

### **3.10. Transfer of Development Rights**

#### **3.10.1. Purpose**

The purpose of this section is to implement key goals and policies of the Pownal Town Plan and to protect the character of rural areas. These regulations provide a mechanism to allow for densities to be transferred out of these areas to properties in the Town that have been determined to be appropriate for higher density. A further intent of the regulations is to moderate the rate of growth in development so that acceptable levels of service may be maintained. The regulations will also help to preserve important natural features and environmental resources, protect open space, scenic vistas, and significant view corridors, and promote new development to occur in the Town's growth centers where adequate infrastructure and services already exist.

#### **3.10.2. Applicability and Enforcement**

These regulations permitted under 24 V.S.A. § 4414 of the Act shall be applicable to all new and proposed development uses within the Rural Residential, Medium Density Residential and Village Mixed-Use Districts. The DRB shall review and approve all applications before any transfer of development rights may be completed.

#### **3.10.3. Definitions**

“Buildable Parcel” – any parcel which regardless of size contains a site that can be accessed and upon which at least one single family residence can be constructed in conformity with all of Pownal's land use policies and regulations.

“Conservation Easement” – a non-possessor interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources; or maintaining air or water quality.

“Density Increase” – an allowable percentage decrease in lot size or increase in building bulk, lot coverage or ratio of floor area to lot size, or any combination thereof.

“Development Rights” – the right to develop land by a land owner who maintains fee-simple ownership over the land or by a party other than the owner who has obtained the right to develop the land. Such rights usually are expressed in terms of density allowed under existing zoning. For example, one development right may equal one unit of housing or may equal a specific number of square feet of gross floor area in one or more specified zone districts.

“Receiving Site” – the area within which development rights transferred from a sending site can be used.

“Sending Site” – the area from which development rights can be transferred

“Servient Estate” – the property subject to limitations or obligations pursuant to a conservation easement

“Transfer of Development Rights” – a voluntary program that can relocate potential development from areas where proposed land use or environmental impacts are considered undesirable (“sending site”) to another (“receiving site”) site chosen on the basis of its ability to accommodate additional units of development beyond that for which it was zoned, with minimal environmental, social and aesthetic impacts.

#### **3.10.4. Designation of Sending Sites**

The sites suitable for transferring development rights from shall be all buildable parcels contained within the Rural Residential District subject to the provisions of these regulations.

#### **3.10.5. Designation of Receiving Sites**

The sites suitable for transferring development rights to shall be buildable parcels contained within the Medium Density Residential and Village Mixed-Use District subject to the provisions of these regulations.

#### **3.10.6. Calculation of Equivalent Units for Development Rights**

For every one (1) unit increase in residential density in the receiving area over and above the number of units permitted by the proposed development's existing zoning, one (1) development right shall be transferred from the sending area based on the following formula:

- a. As described in section VII figure 7.2 for each district the minimum lot size of property in the sending area equals one development right, unless the area is a legally created parceled lot. Legally created parceled lots in the sending area shall have a value of one development right per parceled lot.
- b. Fractions of a development right shall be recognized for properties less than or exceeding minimum lot size. For example, half minimum lot size equals one-half of a development right and two minimum lot sizes equals two development rights, based on the formula of one minimum lot equaling one development right, with the exception for small parcels as described below.
- c. An individual parcel less than minimum lot size is equal to 1/10 of a development right.

#### **3.10.7. Standards and Conditions of Approval**

a. An owner or developer of property within the Town seeking to voluntarily sever their development rights, or seeking to undertake development that is subject to the provisions of these bylaws, shall transfer the necessary number of development rights expressed in equivalent units for the proposed use as set forth in section 3.9.6.

**b. Specific Criteria for Sending Sites:** The owner and/or developer must show, to the satisfaction of the Town, that the proposed sending site meets the following criteria:

1. Proof that the site is a legal parcel in accordance with all the applicable provisions of the Zoning Bylaws.
2. Proof that the number of development rights proposed to be transferred is based on the existing zoning designation on the sending site.
3. Proof that the sending site contains a building site or sites that can accommodate the number and type of development rights proposed to be transferred as evidenced by absence of development constraints, including slopes in excess of 25 percent, floodplains, wetlands, unstable slopes or soils, geologic hazards or other conditions on the site that would preclude development.
4. Proof that the applicant has an ownership interest in the property sufficient to proceed with transfer of the development rights as proposed.

**c. Recordation of Transfer:** The owner of a sending parcel shall execute a perpetual conservation easement (10 V.S.A. chapter 34, § 821 et seq.), created by deed or other enforceable instrument creating a conservation easement, for a time period not less than 30 years. The sending parcel shall be the servient estate and the Town shall be the holder of the easement under 10 V.S.A. Chapter 155. The Town may specify one or more non-profit organizations to be additional holders of the easement at their discretion. Before any such conservation easement is recorded by the Town Clerk, the document shall be submitted to the DRB for its approval. Such easement or document shall:

1. Recite the number of acres affected in the sending area;
2. Prove that the sending area from which the development rights have been severed has been surveyed and suitably monumented;
3. Clearly describe the number of development rights transferred from and remaining on the sending site;
4. Prevent the development of the sending site in a manner inconsistent with the approved transfer of development rights.

**d.** Before any transfer of development rights may be completed for a sending site, the DRB shall approve the transfer of development rights. The only bases for rejecting a proposed transfer of development rights are that the development rights released by the instrument are inconsistent with the development rights that the sending parcel is supposed to be releasing pursuant to these regulations, or there is some other significant error in the instrument.

**e.** Before any development rights transfer may be exercised upon a receiving parcel, the DRB shall approve the exercise of development rights. The DRB may reject a development rights transfer if:

1. The proposed receiving parcel upon which the development rights are to be exercised is not in a receiving district, or

2. The exercise of development rights would increase the density or intensity of development on the receiving parcel to a degree that violates the provisions of the Town Plan or these bylaws.

**f.** Once an exercise of development rights is approved, the DRB shall issue to the owner of the receiving parcel, and record with the Town Clerk, a certificate assigning to the receiving parcel, and all present and future owners thereof, the development rights that the receiving parcel is to receive through the transfer of development rights. Such certificate shall describe the development rights in reasonable detail and refer to the instrument creating the conservation easement, and the certificate shall have a copy of the instrument attached.

**g.** Any instrument purporting to convey a conservation easement pursuant to this section but which has not been approved by the DRB on the face of the instrument is void, and shall not be recorded or accepted by the Town Clerk for recording.

**h.** The Town shall notify the property tax assessor of a transfer of development rights within 30 days of the following transactions:

1. The approval of a transfer of development rights pursuant to subsection 3.10.7. D; above;
2. The issuance of a certificate pursuant to subsection 3.10.7;.e. above;
3. The condemnation or purchase of development rights by the Town or the TDR bank, pursuant to subsection 3.10.8; below;
4. The receipt by the TDR Bank of a donation of development rights pursuant to subsection 3.10.8; below; or
5. The sale or conveyance of development rights by the TDR Bank pursuant to subsection 3.10.8; below;

and the assessor shall adjust the valuations for purposes of the real property tax of the sending parcel and of the receiving parcel or parcels, if any, appropriately for the development rights extinguished or received.

**i.** The Town shall maintain a map of areas from which development rights have been severed and where development rights have been transferred. Following issuance of a certificate under this section, the Town shall:

1. Ensure that the instruments transferring the conservation easements and the development rights are recorded;
2. Mark the development rights map showing the area from which development rights have been severed and where development rights have been transferred, and indicating the book and page in the land records where the easement is recorded. Failure to record an instrument or mark a map does not invalidate a transfer of development rights.

j. Development rights transferred under this section shall be valid notwithstanding any subsequent failure to file a notice of claim under the marketable record title act.

### **3.10.8. Establishment of a TDR Bank**

The DRB may, by ordinance, establish a transfer of development rights bank, otherwise referred to as the “TDR Bank.” The TDR Bank may be operated by the DRB or by any other existing or new entity designated by the ordinance, including an agency of the local government, the regional planning commission, or a non-profit organization.

- a. The TDR Bank and/or DRB shall have the power to purchase development rights.
- b. The TDR Bank and/or DRB shall have the power to recommend properties where the Town should acquire development rights by condemnation.
- c. The TDR Bank and/or DRB shall have the power to sell or convey any development rights it may possess.
- d. The TDR Bank may, for conservation or other purposes, hold indefinitely any development rights it possesses.
- e. The TDR Bank may receive donations of development rights from any person or organization, public or private.
- f. The TDR Bank may be funded from:
  - i. the general fund of the local government treasury, as desired; or
  - ii. the proceeds of the sale of development rights by the TDR Bank; or
  - iii. grants or donations from any source.

A separate account in the local government treasury shall be established, into which the aforementioned funding shall be paid and from which the TDR Bank may purchase or condemn development rights and pay its reasonable expenses.

## **3.11. Cluster Subdivisions**

### **3.11.1. Definitions**

“Cluster Subdivision”- a form of land subdivision in which the residential density allowed by a property's zoning remains unchanged, but dwelling units are grouped together rather than distributed on a uniform basis over the property by reducing the lot area required for each dwelling unit and placing the remaining land in common open space.

### **3.11.2. Purpose and Intent**

Instead of subdividing an entire site (or most of it) into large, uniformly sized residential lots, the applicant may propose to divide parcels of land into much smaller lots to

preserve the natural and physical characteristics of the site. In allowing cluster subdivisions it is the Town's intent:

- a. To obtain the best possible fit between the proposed development and the property's physical characteristics
- b. To encourage the preservation of a property's natural assets
- c. To avoid placing development in areas subject to environmental hazards
- d. To preserve the visual quality of the Town's agricultural and rural landscape
- e. To reduce the cost of site, street, and utility construction

### **3.11.3. Allowance for Cluster Subdivisions**

Cluster subdivisions are permitted in any district where residences are permitted as long as the land area not included in individual lots is reserved as open space and the density allowed under the existing zoning is not exceeded, unless a density increase is expressly permitted by the DRB as stated in section 3.11.4.3.a;

### **3.11.4. Review of Cluster Subdivisions**

#### **3.11.4.1. Filing of proposal**

Any landowner owning property in a zoning district allowing cluster subdivisions, or any person having permission from a landowner who owns such property, may propose development of the property using a cluster rather than a conventional subdivision. Property included in a proposal for a cluster subdivision shall be contiguous except for intervening road rights-of-way or utility easements. The proposal shall include in the form of a site plan meeting the requirements of the Town Subdivision Regulations. The plan shall illustrate the location and acreage of each lot intended as a building site, and the acreage contained in any open space reservation. The applicant's submittal shall also include a statement setting forth the nature of all proposed deviations from existing zoning regulations, as well as additional information required for the review of any site plan as required in the Town Subdivision Regulations.

#### **3.11.4.2. Preliminary review process**

The proposal shall be reviewed in accordance with the procedure for review of a site plan stated in the Town Subdivision Regulations. The proposed lot layout shall be subject to public comment during the review process.

#### **3.11.4.3. Criteria for approval**

A site plan for a cluster subdivision shall meet the same criteria for approval as any site plan as required by the Town Subdivision Regulations. In addition, the following criteria shall be met for preliminary approval of a cluster subdivision:

- a. Compliance with Density Limits: When acreage within the boundaries of the parcel to be subdivided, including any existing or proposed road rights-of-way and any easements, is divided by the number of primary dwelling units proposed, the result is within the density limits for the

zoning district where the property is located. A density increase of up to 20% beyond the number which could be allowed under existing zoning regulations may be permitted by the DRB if the land is subdivided into lots that are otherwise in conformance with the zoning regulations for the districts where such land is situated, giving due consideration to site conditions limiting development, such as shallow depth of soil, wetness and steep slopes. In granting a density increase, the DRB shall also consider the capacities of community facilities and services and the character of the area affected, as well as require the applicant to set aside the equivalent acreage that would be required for an individual lot within the district.

**b. Size of building sites:** The building sites are of sufficient size to accommodate the dwelling units proposed, and adequate provision has been made for supplying access, water, sewage disposal and utilities to each building site in accordance with Town Subdivision Regulations.

**c. Open space reservation:** The property not included in lots intended as building sites is designated on the preliminary plat as an open space reservation.

**d. Owners association:** The applicant has submitted articles of incorporation, association bylaws, and covenants, conditions and restrictions for the subdivision which include, in substance, the following provisions:

1. creation of an owners association
2. assignment of responsibility for the management and maintenance of any common facilities, including management of the open space area, to the owners association
3. mandatory membership in the owners association for each person purchasing property in the subdivision
4. requirement that dues be assessed against each member of the owners association to pay costs associated with maintenance and management of common facilities, including the open space reservation
5. provision for ownership of the open space reservation to run in favor of the property owners in the subdivision
6. prohibition against any development in the open space reservation except for common facilities having prior approval of the Town
7. grant of authority to the Town to enforce the provisions required by this section

**e. Modifications to zoning regulations:** Any modification of the zoning regulations approved under this section shall be specifically set forth in

terms of standards and criteria for the design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be required, and these shall be noted or appended to the plat.

**3.11.4.4. Action on preliminary submittal:**

Action on site plans for cluster subdivisions shall be taken in the same manner as action on a site plan as provided in the Town Subdivision Regulations.

**3.11.5. Final Review of Cluster Subdivisions**

**3.11.5.1. Filing of proposal**

A request for final approval of a cluster subdivision shall be in the form of a final plat meeting the requirements of the Town Subdivision Regulations. The plat shall illustrate the location and acreage of each lot intended as a building site, and the acreage contained in any open space reservation. The applicant's submittal shall also include the additional information required for the review of a final plat as stated in the Town Subdivision Regulations.

**3.11.5.2. Final review process**

The proposal shall be reviewed in the same manner as any final plat as provided in the Town Subdivision Regulations.

**3.11.5.3. Criteria for final approval:**

The following criteria shall be met for a final plat creating a cluster subdivision to be approved:

**a.** Compliance with the criteria and findings for approval of a final plat as stated in the Town Subdivision Regulations.

**b.** The final plat includes a plat note stating in substance:

- 1.** The reservation area is restricted to use as open space or for the development of common facilities having prior approval by the Town. Development of building sites in the open space reservation is prohibited.
- 2.** Ownership of the open space reservation is assigned to the owners association for the benefit of property owners in the subdivision. Separate sale of the open space reservation is prohibited.
- 3.** Management of the open space reservation is the responsibility of the owners association.

**c.** Recordation of articles of incorporation, association bylaws, and covenants, conditions and restrictions meeting the requirements stated in the Town Subdivision Regulations prior to or concurrent with recordation of the final plat.

**d.** Recordation and provision of a financial guarantee prior to or concurrent with recordation of the final plat as required by the Town Subdivision Regulations.

**3.11.5.4. Action on final submittal**

Action on final plats for cluster subdivisions shall be taken in the same manner as action on a final plat as required by the Town Subdivision Regulations.

**3.11.6. Effective Date of Cluster Subdivision**

The creation of a cluster subdivision shall be subject to the same requirements as apply to any final plat (see Town Subdivision Regulations).

**3.12. Wind Energy Facilities**

Wind energy facilities shall be a conditional use subject to review by the DRB and must meet the following criteria in addition to the general standards specified in Section 4.2.2.

**a.** Climbing and access to the tower shall be restricted by fencing and signs. The area around each wind turbine and any appurtenant structure (other than an access road) shall be completely fenced for security to a height of 6 feet or greater and gated. One sign no greater than 1 square foot shall be posted adjacent to the entry gate, indicating the name of the wind facility owner and a 24-hour emergency telephone number;

**b.** For rotors 20 feet in diameter or less, a setback from all lot lines shall be 275 feet, minus 11 feet for each foot of rotor diameter less than 20 feet; for turbines with rotor diameter larger than 20 feet, the minimum setback shall be 275 feet;

**c.** The height of any wind turbine as measured from average grade shall be less than 200 feet and have a minimum blade clearance from the ground immediately below each wind turbine of 20 feet;

**d.** Wind Turbine Towers shall meet the height requirements for the district in which it is located or with a variance that may be granted by the DRB. DRB shall not grant variances that exceed 20 feet above surrounding structures or trees.

**e.** Wind turbines shall be of a non-reflective, unobtrusive color with a non-reflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact;

**f.** Wind energy facilities shall be evaluated based on neighborhood context and sited so as to minimize the diminution of residential property values and visual/aesthetic impact;

**g.** The distance from the base of the tower to the property line shall be a minimum of 10 feet longer than the height of the wind power tower and rotor.

**h.** Any wind facility which has reached the end of its useful life or has been abandoned shall be removed by the owner. Abandoned is defined as the failure to operate the facility on a continuous and ongoing basis for a period of one year. At the time of removal, the wind facility site shall be reclaimed. Bond or money in escrow must be provided to insure that the cost of wind facility removal is covered.

- i. The developer must provide evidence of appropriate insurance in order to protect potential impacts to abutters.
- j. The DRB reserves the right to apply additional conditions as appropriate.

### **3.13. Commercial Telecommunication Towers and Antennas**

Commercial Telecommunication Towers shall be a conditional use subject to review by the DRB and must meet the following criteria in addition to the general standards specified in Section 4.2.2.

- a. Climbing access to the tower shall be restricted;
- b. Commercial towers shall meet the height requirements for the district in which it is located; or with a variance that may be granted by the DRB. DRB shall not grant variances that exceed 20 feet above surrounding structures or trees.
- c. Commercial towers shall be evaluated based on their neighborhood context and visual impact;
- d. Antennas shall be placed on existing structures such as silos or church steeples where appropriate;
- e. Commercial towers shall be of a non-reflective, unobtrusive color with a non-reflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact;
- f. The distance from the base of the tower to the property line shall be a minimum of 10 feet longer than the height of the commercial telecommunication tower;
- g. Any commercial telecommunication tower which has reached the end of its useful life or has been abandoned shall be removed. Abandoned is defined as the failure to operate the facility on a continuous and ongoing basis for a period of one year. At the time of removal, the tower site shall be reclaimed. Bond or money in escrow must be provided to insure that the cost of commercial telecommunication tower removal is covered.
- h. The developer must provide evidence of appropriate insurance in order to protect potential impacts to abutters.

### **3.14. More Than One Dwelling on a Parcel**

If more than one dwelling is to be placed on any one lot, such dwelling shall be located so that each such dwelling, and any building accessory to it, could be set off as a separate lot conforming to all of the applicable provisions of this Bylaw, and no building shall be sold into separate ownership except in compliance with the above. Unless as noted in 3.11. Cluster Subdivisions section of this bylaw standards have been met.

### **3.15. Limitations**

In accordance with Section 4412 of the Vermont Planning and Development Act, the following uses are not prohibited in any district unless otherwise regulated, but such uses shall conform to applicable provisions of this bylaw, regulating size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities and landscaping or screening requirements. The following are subject to 4.2.3, Site Plan Approval:

- a. Public utility power generating plants and transmission lines.
- b. State or town owned and operated institutions and facilities.
- c. Public and private schools and other institutions certified by the Vermont Department of Education.
- d. Churches, convents, and parish houses.
- e. Public and private hospitals.

### **3.16. Referral to State Departments**

In accordance with section 4424 (2) D; of the Vermont Planning and Development Act, no zoning permit for certain specified types of development may be granted by any municipality prior to the expiration of a period of thirty days following the submission of a report to the state agency designated in each case, describing the proposed use, the location requested, and an evaluation of the effect of such proposed use on the plan of the municipality and on the regional plan, if any

## **SECTION IV - ADMINISTRATION**

### **4.1. Administrative Bodies**

#### **4.1.1. Zoning Administrative Officer (ZA)**

A Zoning Administrative Officer shall be appointed after Board of Selectmen “upon the recommendation of The Planning Commission for a term of three years and shall be charged with the responsibility of administering literally this Bylaw. He/she shall not permit any land development which is not in conformance with this Bylaw. An acting Administrative Officer may be appointed in the same manner to act in the absence of the permanent ZA.

#### **4.1.2. Development Review Board (DRB)**

There shall be a DRB whose members, as well as their number and term of office, shall be determined by the Board of Selectmen. The DRB shall elect its own officers and shall adopt rules of procedure. Meetings of the DRB shall be held at the call of the Chairman and at such times as the DRB may determine. The officers of the DRB may administer oaths and compel the attendance of witnesses and the production of material germane to any issue under appeal. The DRB shall keep minutes of its proceedings showing the vote of each member upon each question and shall file such minutes with the Town Clerk. The DRB shall have the following functions:

- a. Consider decisions or actions of the Zoning Administrative Officer upon appeal.
- b. Consider and grant or deny requests for variances upon appeal.
- c. Consider and grant or deny applications for a conditional use or expansions or changes of a conditional use.
- d. Consider and grant or deny applications for expansions of non-conforming uses and non complying structures (except as permitted “pursuant to Section” 3.5.2 of this Bylaw).

- e. To review site development plans.

#### **4.1.3 Planning Commission (PC)**

There shall be a PC, the number of members of which shall be determined by the Board of Selectmen. Each member shall serve a term of four years. The PC shall elect a chairman and a clerk and shall adopt other rules as it deems necessary. A record of its resolutions and transactions shall be maintained as a public record of the municipality and filed with the Town Clerk. The PC shall have the following functions:

- a. To prepare amendments to this Bylaw and other bylaws as permitted by 24 V.S.A Chapter 117.
- b. To prepare and update the Town Plan every five years, and to prepare amendments to the Plan as necessary.
- c. To interpret all Bylaw, Subdivision Regulations and districts as to meaning and intent.
- d. Such other functions as provided in 24 V.S.A Section 4325.

#### **4.2. Categories of Approval**

##### **4.2.1. Zoning Permit**

###### **4.2.1.1. Purpose**

The purpose of a zoning permit is to ensure that any construction, reconstruction, or alteration of any structure, changes in use, or a change in the intensity of use of any structure or land is compatible with and conforms to the regulations of the zoning district or an authorized variance there from.

###### **4.2.1.2. Applicability**

A zoning permit must be approved in each zoning district, except as otherwise permitted in these bylaws, before any land development of a building is devoted to a new or changed use, or before the erection, placement, structural alteration or moving of a building. The fees for such zoning permits shall be established by the Board of Selectmen.

###### **4.2.1.3. Administration and Enforcement**

A zoning permit shall be administered by and obtained from the Zoning Administrative Officer. The ZA shall not issue a permit unless an application, fee, plot plan, and any further review or other approvals required by these regulations have been properly submitted (see Section 4.2.1.4.). Within three days following the issuance of a zoning permit, the Zoning Administrative Officer shall:

- a. Deliver a copy of the permit to the listers, Town Clerk
- b. Post a copy of the permit in the Town Office, and such permit shall remain posted until 15 days from the date of issuance and shall be available for public review during the regular business hours of the Town Office.

The Zoning Administrator shall, within 30 days of submission of an application, data and approvals, either issue or deny a permit. If denied, the ZA shall notify the applicant in writing, stating his reasons therefore. If the permit is approved, all activities authorized under its issuance shall not take effect until 15 days after issuance by the ZA, and must be started within one year of its date of issue or the permit shall become null and void and reapplication to complete any activities shall be required. If the ZA fails to act with regard to an application for a permit within 30 days, a permit shall be deemed issued on the 31<sup>st</sup> day. Referral to the DRB shall be considered action.

In the event that a notice of appeal is properly filed in accordance with 24 V.S.A. Chapter 117 Section 4466 of the Act, such permit shall not take effect until the final adjudication of said appeal. Each zoning permit shall contain a statement of the period of time within which an appeal may be taken.

#### **4.2.1.4. Required Application Materials for permitted uses**

- a. Completed application
- b. Description of proposed use(s) of land and/or structure
- c. A plan showing the dimensions of the lot, existing and proposed structures, frontages and setbacks, driveways and parking spaces
- d. A list of the name and mailing address of each abutting property owner
- e. Information required for the specific reviews under which the application will be reviewed, may be requested by DRB (e.g. site plan review, board of adjustment, etc.)

#### **4.2.1.5. Required Application Materials for conditional uses**

**See section 4.2.2.4. for Submittal Requirements**

### **4.2.2 Conditional Use**

#### **4.2.2.1. Purpose**

A conditional use permit allows for review of certain land uses or types of development to ensure that they are appropriate where they are proposed, and compatible with adjacent uses. Issuance of a conditional use permit is required prior to the development of any use identified by these bylaws. Action on conditional use permits is taken by the DRB following a public hearing. The DRB may include conditions in any approval of a conditional use permit to mitigate undue adverse impacts of the use, or may deny a permit if required findings adversely effect:

- a. The capacity of existing or planned community facilities;
- b. The character of the area affected;
- c. Traffic on the roads and highways in the vicinity;
- d. Any other bylaw, ordinance, or regulation of the Town;
- e. Utilization of renewable energy resources.

#### **4.2.2.2. Applicability**

Any property owner holding title to the land for which a conditional use is proposed has the ability to request a conditional use permit. In addition, anyone who has written permission from a property owner or any public entity having the power to obtain title to a property through condemnation or other means may file a request for a conditional use permit for the property. The ZA will provide assistance in seeing that the applicant has a list of the sections of bylaws outlining requirements for submittal of a conditional use application.

#### **4.2.2.3. Administration and Enforcement**

An applicant shall submit a request for review of a conditional use permit 15 days prior to a given DRB meeting for the request to appear on that meeting's agenda. The DRB Chairman may decide, based on the complexity of a request, that additional review time is required before it is scheduled on the DRB'S agenda. The DRB Chairman shall notify the applicant if additional time is needed, no later than two weeks after receiving a submittal. The DRB shall act to approve or disapprove a conditional use within 45 days after the date of the final public hearing. Failure to act within such period shall be deemed approval.

The DRB shall prepare findings of fact upon each decision under this section setting forth its determination upon each of the criteria. Copies of the decision shall be sent, certified mail, to the appellant within forty-five days after the hearing. Copies shall also be mailed to every land abutter and person or body having been heard at the hearing, and a copy shall be filed with the Zoning Administrative Officer and the Town Clerk as part of the public record. If a decision is not rendered within forty-five days, the DRB shall be deemed to have render a decision in favor of the appellant and granted the relief requested on the forty-sixth day.

#### **4.2.2.4. Submittal Requirements**

The following information shall be submitted to the DRB with any application for a conditional use permit:

- a. Application form with Plot Plan
- b. Additional written material may be requested as follows:
  1. statement of interest in property; if not property owner, either written statement from owner allowing the filing of application or evidence applicant is authorized to condemn property
  2. legal description and acreage (by registered land surveyor or tax map data)
  3. description of proposed use including, if applicable:
    - A. amount of building square footage
    - B. types of activities

- C. method of operation
- D. hours of operation
- E. characteristics having impact on adjacent properties
- F. evidence that an adequate water supply in terms of quantity, quality and dependability, for this use is available
- G. evidence that an adequate means of wastewater disposal is available
- H. statement as to potential impact of proposed uses of public services and infrastructure
- I. soils report done by the local agency or a professional soils engineer or geologist, when appropriate
- J. statement how the required findings for approval of a conditional use permit can be met by the proposal
- K. statement how compatibility with adjacent properties will be achieved

c. Additional Graphic material may be requested as follows: (2, 3, 4, 5) drawn to scale

- 1. vicinity map
- 2. drainage and grading plan
- 3. landscaping plan
- 4. building footprints, floor plans and elevations
- 5. surrounding zoning designations and land uses
- 6. topography and natural features
- 7. significant wildlife habitat, wetlands, or floodplains

d. Fee as determined by the Board of Selectmen

e. Additional information deemed necessary by the DRB

#### **4.2.3. Site Plan Approval**

##### **4.2.3.1. Purpose**

The purpose of the site plan review is to assure that a development project is compatible with the zoning requirements of its location, adheres to the goals and policies of the Pownal Town Plan, promotes the highest quality design for such development, and prevents the development from resulting in significant negative impacts in the Town, its rural character and its residential communities.

##### **4.2.3.2. Applicability**

In accordance with 24 § 4416 of the Act, any use other than single-family and two-family dwellings or any accessory or structure and improvements to such a use may not be established, expanded, or modified without approval of a site plan by the DRB. Upon the filing of an application for a zoning permit, the Zoning Administrator will determine if the project requires site plan review.

#### **4.2.3.3. Site Plan Review Criteria**

In reviewing a site development plan, the DRB may consider and impose appropriate conditions and safeguards with respect to the adequacy of the following criteria:

- a.** Traffic access
- b.** Circulation and parking
- c.** Landscaping and screening, and
- d.** Protection and utilization of renewable energy resources

#### **4.2.3.4. Required Application Materials**

Two weeks prior to regular DRB meetings, an applicant shall submit two sets of site plan maps at an appropriate scale and supporting data to the DRB which include the following information presented in drawn form and accompanied by written text:

- a.** Description: name and address of the owner of record and adjoining lands, title block with name and address of person or firm preparing the map, scale of map, north arrow and date.
- b.** Survey of the property showing existing features including at least 20' contours, boundaries and area of the lot, structures, large trees, roads, utility easements, rights of way, land use and deed restrictions
- c.** Site plan showing proposed structure locations and land use areas; roads, driveways, vehicular circulation, parking and loading spaces and pedestrian circulation; landscape plans including site grading, landscape design and screening; open space, parks and playground facilities

#### **4.2.3.5. Site Plan Review Procedure**

Site plan review is administered and approved by the DRB, while criteria normally reviewed by the Zoning Administrator for compliance with the zoning regulations, such as setbacks, height, and density, are still reviewed by the ZA. The DRB shall review the site plan map and supporting data before approval, approval with conditions, or disapproval of a site development plan is given. Upon formal completion of the hearing process, a decision will be rendered by the DRB within 45 days.

The DRB shall prepare findings of fact upon each decision under this section setting forth its determination upon each of the criteria. Copies of the decision shall be sent, regular mail, to the appellant within sixty days. Copies shall also be mailed to every land abutter and person or body having been heard at the hearing, and a copy shall be filed with the Zoning Administrative Officer and the Town Clerk as part of the public record. If a decision is not rendered within forty-fifth, the DRB shall be deemed to have rendered a decision in favor of the appellant and granted the relief requested on the forty-sixth day.

#### **4.2.3.6. Referral to State Agency**

In accordance with 24 V.S.A. Section 4424 (2) D.; of the Act, no permit for the development of land in certain locations shall be issued by the ZA without the applicant first submitting a report to the appropriate State Agency.

#### **4.2.4 Grandfather Clause removed**

#### **4.2.4 Appeals**

##### **4.2.4.1. General Procedure**

An interested person, as defined in 24 V.S.A., Section 4465, may appeal any decision or act taken by the ZA by filing a notice of appeal with the secretary of the DRB or with the Town Clerk. If the appeal is taken with respect to a decision or act of the ZA, 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 ZA. The DRB shall conduct a hearing on the appeal as provided in 24 V.S.A. Section 4468; and such hearing shall be held within sixty days of the filing of the notice of appeal. This shall apply to requests for variances under sub-section (2) of this section. The DRB shall render its decision within forty-five days after completing the hearing, which decision shall include findings of fact setting forth its basis. A copy of the decision and findings of fact shall be distributed as provided in sub-section (2) of this section.

##### **4.2.4.2. Variances**

On an appeal wherein the relief requested by the applicant is a variance from the provisions of this Bylaw for a structure which is not primarily a renewable energy resource structure, the DRB may grant such a variance after the public hearing, only if all the following facts are found in the affirmative and these findings are specified in its decision:

- a.** That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulations in the neighborhood or district in which the property is located.
- b.** That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- c.** That the unnecessary hardship has not been created by the appellant.
- d.** 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.

e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan

In no case shall the DRB grant a variance for a use which is not permitted or conditionally permitted in the applicable district.

On an appeal wherein the variance requested is for a structure which is primarily a renewable energy resource structure, the DRB may grant the variance only if all the facts listed in 24 V.S.A. 4469 (b) are found in the affirmative.

The DRB shall prepare findings of fact upon each decision under this section setting forth its determination upon each of the criteria. Copies of the decision shall be sent, certified mail, to the appellant within forty-five days after the hearing. Copies shall also be mailed to every land abutter and person or body having been heard at the hearing, and a copy shall be filed with the Zoning Administrative Officer and the Town Clerk as part of the public record. If a decision is not rendered within forty-five days, the DRB shall be deemed to have rendered a decision in favor of the appellant and granted the relief requested on the forty-sixth day.

## **SECTION V – REGULATIONS FOR BASIC ZONING DISTRICTS**

Basic zoning districts, for the purposes of these bylaws, delineate areas within the Town that have unique characteristics identifiable from surrounding areas because of their distinctive infrastructure, architecture, geographic features, historic landmarks, activities, or land uses. Each of the districts have a uniform set of regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures. The land use matrix (see Figure 7-1: Land Use Matrix in Section 7) contains a list of land uses and indicates if a given land use is allowed as permitted, conditional, accessory or is not allowed in the Town zoning districts. Furthermore, Figure 7-2 in Section 7 identifies dimensional requirements for primary structures and uses for each district, including residential densities. Where regulations for the permitting of specific land uses have been established, the regulations appear in the following District sub-sections of this section.

### **5.1. Rural Residential District 2 (RR2)**

#### **5.1.1. Purpose**

The purpose of the Rural Residential District 2 is to maintain and preserve the agricultural character and scenic qualities of outlying areas while providing the opportunity for low-density residential and non-residential development subject to general and specific conditions provided herein and other reasonable conditions imposed by the DRB. Permitted residential densities are at a maximum of 1 primary dwelling on specified acreage as defined in Figure 7-2 Dimensional Requirements of Section VII. With the exception of approved cluster subdivisions and multifamily housing units, each

primary dwelling unit shall be located on a separate lot as defined in Figure 7-2 Dimensional Requirements. To ensure a high standard of performance when evaluating conditional uses, both general and specific standards are provided so that each development proposal can be evaluated on its individual merits. This approach will not only provide adequate protection, but reasonable flexibility in the use of the land.

### **5.1.2. Uses Not Requiring a Permit**

The following uses do not require a permit provided that any new or expanded use or structure is within the standards so provided:

**5.1.2.1.** The erection, repair or replacement of one small accessory building of 144 square feet or less which meets the required setbacks

**5.1.2.2.** Outdoor fireplaces meeting required setbacks

**5.1.2.3.** Antennas and towers under 50' in height used for private, HAM radio, residential radio and/or television which meet the required setbacks and are not used for commercial purposes

**5.1.2.4.** Children's pools that are not in ground, are taken down each year for winter storage, and meet required setbacks

**5.1.2.5.** Repair and maintenance of an owner's property or driveways

**5.1.2.6.** Lampposts or other minor yard decorations

**5.1.2.7.** Walkways or handrails to assist the handicapped

**5.1.2.8.** Swing sets, jungle gyms, tree houses and other similar children's play equipment not connected with commercial property

**5.1.2.9.** Garbage dumpsters that meet the required setbacks

**5.1.2.10.** Home occupations that are clearly an incidental, non-residential use of a dwelling provided such use does not alter the essentially residential character of the building, lot, neighborhood, and provided that all of the following conditions are met:

- a.** The use is conducted entirely within not more than 30% of the dwelling
- b.** Only residents of the household are employees
- c.** There are no changes in the external appearance of the building
- d.** The use does not involve a sign
- e.** There is no external display of merchandise
- f.** Noise is not created which is audible on neighboring properties

### **5.1.3. Permitted Uses Requiring a Permit**

In addition to uses identified in Tables 7-1 and 7-2, the following uses with specific conditions are permitted:

**5.1.3.1.** Rooming houses and tourist homes for not more than six roomers or tourists. Such house or home shall not contain more than one kitchen facility. No sign connected therewith shall exceed four square feet or shall be lighted after 12 midnight.

**5.1.3.2.** Structures relating to farming including but not limited to dairying, orchards, wood lots and forestry, truck gardening, keeping of poultry and riding/boarding stable.

**5.1.3.3.** A stand not exceeding 200 square feet in area for the sale of natural products.

**5.1.3.4.** A state licensed or registered community care home or group home, serving not more than six persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single-family residential use of the property, except that no such home shall be considered if it is located within 1,000 feet of another such home. Community care homes shall not be used for the care of the insane, or for the treatment of contagious diseases.

**5.1.3.5.** A state registered or licensed day care facility serving six or fewer children shall be considered by right to constitute a permitted single-family residential use of the property.

**5.1.3.6.** Home occupations require a zoning permit if any of the standards in 5.1.2.10 (a-f) are not met. All of the following conditions must be met:

- a. The use is conducted entirely within not more than 30% of the dwelling, or accessory building.
- b. There is no more than one non-residential employee.
- c. There is no sign above the size of four square feet displayed.
- d. All merchandise sold must be a product of the owners' and/or employee's labor.
- e. Equipment and materials may be stored on the premises if they are screened from the adjoining properties by natural or artificial materials or kept in an accessory building.
- f. Display of finished merchandise is limited to the interior of the building and/or 200 contiguous square feet of the property.
- g. There is no noise, dust, smoke, odor, heat, light, glare or traffic produced which is not consistent with the area and the use does not change the residential character thereof.

#### **5.1.4. Conditional Uses**

The following uses may be permitted by the DRB as a conditional use if in conformance with the provisions of subsection 4.2.2 of this Bylaw, conditions specifically provided herein, site plan approval in accordance with subsection 4.2.3 of this Bylaw and other reasonable conditions as the DRB may determine, provided that such use creates no offensive noise, vibration, smoke, dust, odor, heat, or glare noticeable off premises.

**5.1.4.1.** Retail business or consumer service establishment, including but not limited to restaurant, barber or beauty shop, subject to the following conditions:

- a.** The business shall be conducted from an existing building converted to this use. New buildings supporting business of this type should not be built in the RR2 district.
- c.** No commercial building, structure or driveway providing access to or from a public way for such use, shall be located within 25 feet of any dwelling on adjacent property.
- d.** The display, storage and sales of products and merchandise are conducted inside a building..
- e.** No Fast food restaurants or drive-through establishments are allowed.

**5.1.4.2.** Removal of topsoil, loam, sand, gravel, stone or other earth materials for commercial purposes provided that the provisions of subsection 8.1 of this Bylaw are met.

**5.1.4.3.** Small animal boarding kennel, or veterinary hospital subject to the following conditions:

- a.** Minimum lot area shall be 5 acres and provided that no such use creates any offensive noise, vibration, smoke, dust, odor, heat, or glare or other pollutants noticeable off premises.
- b.** A continuous strip not less than 20 feet wide shall be maintained between the street line and the balance of the lot, which strip shall be landscaped and maintained in good appearance. The required strip may be traversed only by driveways and pedestrian walks.
- c.** No buildings, structure, or developed area shall be less than 100 feet from any property line of its own lot.
- d.** Driveways and their intersections with streets or highways shall be located and designed as approved by the DRB.
- e.** Maximum building coverage on the lot shall not be greater than 10%.
- f.** The minimum parking requirements of subsection 8.2 of this Bylaw must be met.

**5.1.4.4.** Conversion of an existing dwelling not less than 25 years old or with additions thereto less than 10 years old, to a multiple family dwelling unit, provided that the following criteria are met:

- a.** There shall be no exterior expansion or addition to the existing structure

except for stair access.

- b.** Adequate provision for ingress and egress of vehicular movement.
- c.** All land not occupied for vehicular use of buildings shall be adequately landscaped and not encroached upon.
- d.** Conversion shall be accomplished so as to maintain, in outward appearance, the essential character of the neighborhood.
- e.** For purposes of this use, the minimum lot area requirement is 10,000 square feet for each dwelling unit, except that no lot shall be less than 2 acres (or approximately 87,000 square feet).
- f.** The applicant will be required to demonstrate compliance with State and Town Health Regulations for water and sewage disposal.
- g.** The minimum parking requirements of subsection 8.2 of this Bylaw are met.

**5.1.4.5.** Any and all home businesses or occupations that do not meet the standards set in subsection 5.1.2.10.(a-f) or 5.1.3.6.(a-g) must be considered as conditional uses and as such must go before the DRB for site review and conditional use approval.

**5.1.4.6.** Mobile home parks are subject to review under the Town subdivision regulations and subsection 8.4 of this Bylaw. Consideration should be given to increased density in existing parks or abutting areas meeting the requirements of 8.4.

### **5.1.5. Permitted Accessory Uses**

**5.1.5.1.** Accessory uses customarily incidental to a permitted use on the same lot, including buildings used for permitted home occupations. Accessory dwelling units constructed within or attached to a primary single family residence, shall satisfy the following requirements:

- a.** occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivision 251(2) of Title 18 or is at least 55 years of age;
- b.** floor space shall not exceed 30 percent of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
- c.** the primary single family residence is owner occupied.

**5.1.5.2.** Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.

## **5.2 Rural Residential District 1 (RR1)**

### **5.2.1. Purpose**

The purpose of the Rural Residential District 1 is to maintain and preserve the character and scenic qualities of outlying areas while providing the opportunity for a limited mix of residential, commercial and public uses appropriate for medium density development subject to general and specific conditions provided herein and other reasonable conditions that may be imposed by the DRB. The RR1 is also intended to provide a transition area between the Village District and the Rural Residential District 2, including limited extensions of the municipal sewer system. The RR1 district encourages a less concentrated settlement pattern with a minimum lot size as defined in section VII Figure 7-2 Dimensional Requirements. With the exception of approved cluster subdivisions and multifamily housing units, each primary dwelling unit shall be located on a separate lot as specified in Figure 7-2 Dimensional Requirements. With the exception of approved cluster subdivisions and multifamily housing units, each primary dwelling should be as permitted.

### **5.2.2. Uses Not Requiring a Permit**

The following uses do not require a permit provided that any new or expanded use or structure satisfies applicable standards:

**5.2.2.1.** The erection, repair or replacement of small accessory buildings of 144 square feet or less which meet the required setbacks

**5.2.2.2.** Outdoor fireplaces meeting required setbacks

**5.2.2.3.** Antennas and towers under 50' in height used for private, HAM radio, residential radio and/or television uses, which meet required setbacks and are not used for commercial purposes

**5.2.2.4.** Children's pools that are not in ground, are taken down each year for winter storage, and meet required setbacks

**5.2.2.5.** Repair and maintenance of one's property or driveways

**5.2.2.6.** Lampposts or other minor yard decorations

**5.2.2.7.** Walkways or handrails to assist the handicapped

**5.2.2.8.** Swing sets, jungle gyms, tree houses and other similar children's play items, not connected with commercial property

**5.2.2.9.** Garbage dumpsters that meet the required setbacks

**5.2.2.10.** Home occupations that are clearly incidental non-residential use of a dwelling provided such use does not alter the essentially residential character of the building, lot or neighborhood, and if all of the following conditions are met:

- a.** The use is conducted entirely within not more than 30% of the dwelling

- b. Only residents of the household are employees
- c. There are no changes in the external appearance of the building
- d. The use does not involve a sign
- e. There is no external display of merchandise
- f. Noise is not created which is audible on neighboring properties

**5.2.3. Permitted Uses Requiring a Permit**

In addition to uses identified in Tables 7-1 and 7-2, the following uses with specific conditions are permitted:

**5.2.3.1.** Rooming houses and tourist homes for not more than six roomers or tourists. Such house or home shall not contain more than one kitchen facility. No sign connected therewith shall exceed four square feet or be lighted after 12 midnight.

**5.2.3.2.** Structures relating to farming including but not limited to dairying, orchards, wood lots and forestry, truck gardening, keeping of poultry and riding/boarding stable.

**5.2.3.3.** A stand not exceeding 200 square feet in area for the sale of natural products.

**5.2.3.4.** A state licensed or registered community care home or group home, serving not more than six persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single-family residential use of the property, except that no such home shall be so considered if it is located within 1,000 feet of another such home. Community care homes shall not be used for the care of the insane, or for the treatment of contagious diseases.

**5.2.3.5.** A state registered or licensed day care facility serving six or fewer children shall be considered by right to constitute a permitted single-family residential use of the property.

**5.2.3.6.** Home occupations are permitted, but require a zoning permit if any of the standards in 5.2.2.10 (a-f) are not met. All of the following conditions must be met:

- a. The use is conducted entirely within not more than 30% of the dwelling, or accessory building.
- b. There is no more than one non-residential employee.
- c. There is no sign above the size of four square feet displayed.
- d. All merchandise sold must be a product of the owners' and/or employee's labor.
- e. Equipment and materials stored on the premises must be screened from the adjoining properties by natural or artificial materials or kept in an accessory building.

- f. Display of finished merchandise is limited to the interior of the building and/or 200 contiguous square feet of the property.
- g. There is no noise, dust, smoke, odor, heat, light, glare or traffic produced which is not consistent with the area, and the use does not change the residential character thereof.

#### **5.2.4. Conditional Uses**

The following uses may be permitted by the DRB as a conditional use in conformance with the provisions of subsection 4.2.2 of this Bylaw, conditions specifically provided herein, site plan approval in accordance with subsection 4.2.3 of this Bylaw and other reasonable conditions as the DRB may determine, provided that such use creates no offensive noise, vibration, smoke, dust, odor, heat, or glare noticeable off premises.

**5.2.4.1.** Retail business or consumer service establishment, including but not limited to food store, restaurant, barber or beauty shop, antique or gift shop, auto filling station, appliance repair shop, eating establishment, bank or other office use, subject to the following conditions:

- a. A shop or store shall not exceed the square feet specified in Section 7 figure 7.2 for this district unless: (i) the shop or store occupies at least two (2) stories in a building, and (ii) at least 40% of the shop or store's gross floor area is contained on the second floor.
- b. The minimum parking requirements of subsection 8.2 of this Bylaw must be met.
- c. No commercial building, structure, or driveway providing access to or from a public way for such use, shall be located within the distance of any dwelling on adjacent property except as specified in figure 7.2 matrix for this district.
- d. The display, storage and sales of products and merchandise must be conducted within a building. However, the sale of trailers, campers, automobiles, or other devices/equipment of substantial size are permitted for outside sale provided they are located within the distance specified in figure 7.2 for this district in relation to a public right-of-way or any lot line of its own.
- e. Restaurants are permitted that serve walk-in, sit-down customers. No drive-through attached services for a fast food restaurant establishment is allowed without approval of a conditional permit for such service by DRB.

**5.2.4.2.** Removal of topsoil, loam, sand, gravel, stone or other earth materials for commercial purposes, subject to the provisions of subsection 8.1 of this Bylaw.

**5.2.4.3.** Research laboratories, or a printing, manufacturing, processing, compounding, assembly, fabrication, installation, finishing or cleaning facility, auto repair garage, small animal boarding kennel, or veterinary hospital subject to the following conditions:

- a. Minimum lot area shall be as specified in Section VII figure 7.2 Matrix and provided that no such use creates any offensive noise, vibration, smoke, dust, odor, heat, glare, or other pollutants noticeable off premises.
- b. A continuous strip not less than that specified in figure 7.2 shall be maintained between the street line and the balance of the lot, which strip shall be landscaped and maintained in good appearance. The required strip may be traversed only by driveways and pedestrian walks.
- c. No buildings, structure, or developed area shall be less than that distance specified in figure 7.2 matrix tables for this district from any property line of its own lot.
- d. Driveways and their intersections with streets or highways shall be located and designed, as approved by the DRB.
- e. Maximum building coverage on the lot shall be no more than that shown in figure 7.2 Matrix for this district.
- f. The minimum parking requirements of subsection 8.2 of this Bylaw must be met.

**5.2.4.4.** Conversion of an existing dwelling, to a multiple family dwelling unit, provided that the requirements of 4.2.3.3 are met:

- a. For the purpose of this use, the minimum lot area requirement is as outlined in Section VII figure 7.2 Matrix for each dwelling unit except that no lot shall be less than that specified in figure 7.2 Matrix for this district.

**5.2.4.5.** Any and all home businesses or occupations that do not meet the standards set in subsection 5.2.2.10.(a-f) or 5.2.3.6.(a-g) must be considered as conditional uses and as such must go before the DRB for site review and conditional use approval.

**5.2.4.6.** Mobile home parks are subject to review under the Town Subdivision Regulations and subsection 8.4 of this Bylaw.

## **5.2.5. Permitted Accessory Uses**

**5.2.5.1.** Accessory uses customarily incidental to a permitted use on the same lot, including buildings used for permitted home occupations. Accessory dwelling units constructed within or attached to a primary single family residence shall satisfy the following requirements:

- a. occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivision 251(2) of Title 18 or is at least 55 years of age;
- b. floor space shall not exceed 30 percent of the floor space of the existing living area of the single family residence or 400 square feet, whichever

- is greater; and
- c. the primary single family residence is owner occupied.

**5.2.5.2.** Uses accessory to a conditional use, permitted only when applied for and granted as part of the conditional use.

### **5.3. Village District (V)**

#### **5.3.1. Purpose**

The purpose of the Village District is to designate areas appropriate for concentrated, high-density development and to provide a mix of land uses including commercial, retail, public service, transit, and residential that are in close proximity, planned as a unified complimentary whole, and functionally integrated. The three areas designated by this district - Pownal, Pownal Center, and North Pownal - are considered to be the Town's "growth centers" due to their existing or planned, centralized infrastructure that is capable of supporting future growth in the area. This district is also intended to: (a) provide a pedestrian-oriented circulation network that minimizes vehicular traffic, (b) encourage the traditional town center pattern of appropriately scaled buildings facing onto a well-defined and active public street, and (c) promote innovative site planning to maximize uses, shared parking, public open space and pedestrian amenities which create an aesthetically pleasing and socially active community center. To insure a high standard when evaluating conditional uses, both general and specific standards are provided so that each development proposal can be evaluated on its individual merits. This approach will not only provide adequate protection, but reasonable flexibility in the use of the land.

#### **5.3.2. Uses Not Requiring a Permit**

**5.3.2.1.** The repair or replacement of one small accessory building of 144-square feet or less which meets the required setbacks

**5.3.2.2.** Antennas and towers under 50' in height used for private, HAM radio, residential radio and/or television uses, meeting required setbacks and not used for commercial purposes

**5.3.2.3.** Repair and maintenance of ones property or driveways

**5.3.2.4.** Walkways or handrails to assist the handicapped

**5.3.2.5.** Swing sets, jungle gyms and other similar children's play items, not connected with commercial property, which do not exceed 50 square feet.

**5.3.2.6.** Garbage dumpster that meets the required setbacks

**5.3.2.7.** Home occupations that are clearly an incidental non-residential use of a dwelling provided such use does not alter the essentially residential character of the building, lot or neighborhood, and if all of the following conditions are met:

- a. The use is conducted entirely within not more than 30% of the dwelling
- b. Only residents of the household are employees
- c. There are no changes in the external appearance of the building
- d. The use does not involve a sign
- e. There is no external display of merchandise
- f. Noise is not created which is audible on neighboring properties

### **5.3.3. Permitted Uses Requiring a Permit**

In addition to uses identified in Section VII figures 7-1 and 7-2, the following uses with specific conditions are permitted; but an application and permit are required:

**5.3.3.1.** Retail business or consumer service establishment, including but not limited to food store, barber or beauty shop, antique or gift shop, auto filling station, appliance repair shop, eating establishment, bank or other office use, subject to the following conditions:

- a. A shop or store shall not exceed 20,000 square feet of gross floor area. A shop or store that exceeds 20,000 square feet may be permitted subject to the following conditions: (i) a maximum of 8 lots (at a maximum of 10,000 square feet each) may be consolidated for the purpose of constructing a single building, up to a maximum lot size of 80,000 square feet, (ii) the shop or store occupies at least two (2) stories in a building, and (iii) at least 40% of the shop or store's gross floor area is contained on the second floor.
- b. For any inhabitable building connected to neither public water or sewer system, the minimum lot area shall not be less than specified in Section VII figure 7.2 per unit unless a DRB variance is granted.
- c. All interior/exterior vehicle storage areas (i.e. garages, driveways, vehicle use areas, etc.) shall be located and accessed from the rear of the building(s) and/or lot(s) when possible.
- d. No commercial building or structure shall be located within 25' feet of any dwelling on adjacent property.
- e. No driveway providing access to or from a public way for such use shall be located within 5 feet of any dwelling on adjacent property.
- f. The display, storage and sales of products and merchandise are conducted within a building. However, the sale of trailers, campers, automobiles, or other devices/equipment of substantial size are permitted for outside sale provided they are not located within 25' feet of a public right-of-way or within 30' feet any lot line.
- g. Fast Food restaurants are permitted that serve walk-in and sit-down customers. No drive-through attached services for a fast food restaurant establishment is allowed with out a conditional use permit.
- h. The minimum parking requirements of subsection 8.2 of this Bylaw must be met.

**5.3.3.2.** Multi-family dwelling, subject to the following conditions:

- a.** A building shall not contain more than the number of units per acre specified in a zone within the matrix. However, with a transfer of densities, as permitted under subsection 3.9 of this Bylaw, a building may contain up to 8 units per acre.
- b.** For any inhabitable building connected to neither public water or sewer system, the minimum lot area shall not be less than .75 acres or 30,000 square feet per dwelling unit.
- c.** No building, structure or developed area shall be less than 10 feet from any property line.
- d.** No building or structure shall exceed two stories or 40 feet in height.
- e.** The minimum parking requirements of subsection 8.2 of this Bylaw must be met.
- f.** A building attached to public water and sewer may contain up to 8 units per 1 acre, 6 units per  $\frac{3}{4}$  acre, 4 units per  $\frac{1}{2}$  acre when all units are contained in a single building and codes meet state and federal guidelines

**5.3.3.3.** Home occupations are permitted and require a zoning permit if any of the standards in 5.2.2.7 (a-f) are not met. All of the following conditions must be met:

- a.** The use must be conducted entirely within not more than 30% of the dwelling, or accessory building.
- b.** There is no more than one non-residential employee.
- c.** There is no sign above the size of four square feet displayed.
- d.** All merchandise sold must be a product of the owners' and/or employee's labor.
- e.** Equipment and materials may be stored on the premises if they are screened from the adjoining properties by natural or artificial materials or kept in an accessory building.
- f.** Display of finished merchandise is limited to the interior of the building and/or 200 contiguous square feet of the property.
- g.** There is no noise, dust, smoke, odor, heat, light, glare or traffic produced which is not consistent with the area and the use does not change the residential character thereof.

**5.3.4. Conditional Uses**

**5.3.4.1.** A hotel, motel, inn or lodge subject to the following:

- a.** Buildings may only be located within the Sewer Service Areas and must be connected to public sewer
- b.** If public water is available it must also be connected to this service. If public water is not available, evidence of adequate water supply must be supplied

**c.** Minimum lot size shall be no less than that specified in Section VII figure 7.2 for each unit with a minimum frontage of 80 feet, but in no case shall the lot be greater than 2 acres.

**d.** No building, structure, or developed area shall be less than 50 feet from any street line or lot line of a residential use nor less than 25 feet from any street line or lot line of any non-residential use.

**e.** In addition to providing sleeping accommodations, the hotel/motel may provide one or more of the following ancillary uses: restaurant, cocktail lounge, meeting or banquet space, or convention facility.

**f.** The minimum parking requirements of subsection 8.2 of this Bylaw must be met.

**5.3.4.2.** Rooming houses and tourist homes for not more than six roomers or tourists. Such house or home shall not contain more than one kitchen facility. No sign connected therewith shall exceed four square feet.

**5.3.4.3.** A state licensed or registered community care home or group home, serving not more than six persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single-family residential use of the property, except that no such home shall be considered if it is located within 1,000 feet of another such home. Community care homes shall not be used for the care of the insane, or for the treatment of contagious diseases. No sign connected therewith shall exceed four square feet or be lighted after 12 midnight.

**5.3.4.4.** A state registered or licensed day care facility serving six or fewer children shall be considered by right to constitute a permitted single-family residential use of the property.

### **5.3.5. Accessory Uses**

**5.3.5.1.** Accessory uses customarily incidental to a permitted use on the same lot, including buildings used for permitted home occupations. Accessory dwelling units constructed within or attached to a primary single family residence, shall satisfy the following requirements:

**a.** occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivision 251(2) of Title 18 or is at least 55 years of age;

**b.** floor space shall not exceed 30 percent of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and

**c.** the primary single family residence is owner occupied.

**5.3.5.2.** Uses accessory to a conditional use, permitted only when applied for and granted as part of the conditional use.

## **5.4. Commercial District (C)**

### **5.4.1. Purpose**

The purpose of the Commercial District is to provide designated areas for economically beneficial Commercial development consistent with the Town Plan, and to foster employment opportunities.

### **5.4.2. Location**

The location and perimeter of the Commercial District is designated on the Zoning and Planning Map. In areas where the Commercial zone overlays other districts the regulations which are the most stringent apply.

### **5.4.3. Permitted Uses Requiring a Permit**

In addition to uses identified in Section VII figures 7-1 and 7-2, the following uses with specific conditions are permitted:

**5.4.3.1.** Public and semipublic uses as enumerated in subsection 3.13 of this Bylaw

**5.4.3.2.** Retail stores or salesrooms and food services establishments, small office space complexes

**5.4.3.3.** The grouping of more than one into an existing lot provided the overall minimum dimensional and density standards in figure 7-2 are met for each principal use/building.

**5.4.3.4.** Accessory structures and uses customarily incidental to the permitted uses.

### **5.4.4. Performance Standards and Site Plan Approval**

No zoning permit shall be issued for any use or development in the Industrial District until it is demonstrated to the satisfaction of the DRB that the use or development will satisfy each of the standards of subsection 8.8 Performance Standards, subsection 4.2.3. Site Plan Approval, Section 6.1 Flood Hazard Overlay District, and all other applicable provisions of this Bylaw.

## **5.5. Industrial Districts (I)**

### **5.5.1. Purpose**

The purpose of the Industrial District is to provide designated areas for economically beneficial industrial development consistent with the Town Plan, and to foster employment opportunities.

### **5.5.2. Location**

The location and perimeter of the Industrial District is designated on the Zoning and Planning Map.

### **5.5.3. Permitted Uses Requiring a Permit**

In addition to uses identified in Section VII figures 7-1 and 7-2, the following uses with specific conditions are permitted:

- 5.5.3.1.** Public and semipublic uses as enumerated in subsection 3.13 of this Bylaw
- 5.5.3.2.** Retail stores or salesrooms clearly incidental and secondary to the principal use of a manufacturing facility and occupying no more than 20% of the total building floor area.
- 5.5.3.3.** The grouping of more than one industry into an industrial park provided the overall minimum dimensional and density standards in Table 7-2 are met for each principal use/building.
- 5.5.3.4.** Accessory structures and uses customarily incidental to the permitted uses.
- 5.5.3.5** Horse and Greyhound Racing

### **5.5.4. Performance Standards and Site Plan Approval**

No zoning permit shall be issued for any use or development in the Industrial District until it is demonstrated to the satisfaction of the DRB that the use or development will satisfy each of the standards of these bylaws and subsection 8.8 Performance Standards, subsection 4.2.3. Site Plan Approval, Section 6.1 Flood Hazard Overlay District, and all other applicable provisions of this Bylaw.

## **5.6. Forest District (F)**

### **5.6.1. Purpose**

The purpose of the Forest District is to preserve tracts of land suitable for perpetuating forest resources and forest related activities, to protect the vital sources of pure water for public supplies, and to maintain a high quality environment.

### **5.6.2. Location**

The location and perimeter of the Forest District is designated on the Zoning and Planning Map.

### **5.6.3. Permitted Uses Requiring a Permit**

In addition to uses identified in Section VII figure 7-1 and 7-2, the following uses with specific conditions are permitted. All other land development is prohibited:

- 5.6.3.1.** Commercial forestry and related uses
- 5.6.3.2.** Forestry carried on for research, demonstration, education, and related uses
- 5.6.3.3.** Temporary accommodations for personnel employed on the premises.

**5.6.3.4.** Recreational area operated by a governmental unit, hiking or touring trails, or trail shelters operated by a nonprofit organization, state or municipality.

**5.6.3.5.** A private hunting or fishing camp, not to exceed that as specified in the figure 7.2 matrix, consisting of a building or a tent not suitable for use as a full-time dwelling, but used occasionally or seasonally for temporary shelter in connection with a recreational activity, provided that such camp is located on a separate parcel not less than lot size described in figure 7.2 matrix and that only chemical incinerator or privy type toilet facilities are used.

#### **5.6.4. Accessory Uses**

**5.6.4.1** Accessory uses, including buildings for storing and repairing products and equipment, and for sawing, processing, and manufacturing wood and wood products.

**5.6.4.2** Other uses accessory to a permitted use

### **SECTION VI – REGULATIONS FOR OVERLAY DISTRICTS**

Overlay districts are zoning districts that are superimposed over basic districts. The Town has established overlay districts to address development constraints which require special attention and treatment regardless of the underlying land use allowed by the Town's zoning regulations. Overlay districts are intended to alert developers to issues they need to address in preparing an application for development. Regulations have been established for each overlay district which specify what additional information is needed at the time of submittal, and what special development standards must be met by development within the overlay district. The regulations for overlay districts shall be regarded as supplementary to the regulations of any underlying, basic district. When the regulations of the overlay district and the basic district conflict, the more restrictive provision shall apply.

#### **6.1. FLOOD HAZARD OVERLAY DISTRICT (FHO)**

##### **6.1.2. Statutory Authorization**

To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. §4424, there is hereby established an overlay district or bylaw for areas of special flood hazard in the Town of Pownal, Vermont.

##### **6.1.3. Statement of Purpose**

It is the purpose of this bylaw to meet Federal Emergency Management Agency minimum standards and to:

A. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; and

B. Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and

C. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and

D. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

#### **6.1.4. Lands to Which These Regulations Apply**

These regulations shall apply to all areas in the Town of Pownal, Vermont identified as areas of special flood hazard in and on the most current flood insurance studies and maps 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.

#### **6.1.5 Development Permit Required**

A permit is required, to the extent authorized by State law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. A conditional use permit pursuant to Section 4.2.2 of this bylaw by the Pownal Development Review Board is required for:

1. New buildings,
2. Substantial improvement of existing buildings, and
3. Development in a floodway

prior to being permitted. All development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

#### **6.1.6 Procedures**

**6.1.6.1.** Prior to issuing a conditional use permit a copy of the application and supporting information shall be submitted by the DRB to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. The public hearing for a conditional use permit may only be scheduled following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

**6.1.6.2.** If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural

Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

**6.1.6.3.** A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and attached to the permit before work can begin.

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

**6.1.7.1.** 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.

**6.1.7.2.** 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, shall be obtained and utilized to administer and enforce these regulations.

**6.1.7.3.** Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted in Zones A1-30, AE, and AH 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.

### **6.1.8. Development Standards**

#### **6.1.8.1. Floodway Areas**

Development within the regulatory floodway, as determined by Section 6.1.7.1, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

**6.1.8.2.** All Special Flood Hazard Areas (within mapped Floodway Areas, the following Section 6.1.8.2. provisions are imposed, in addition to the Section 6.1.8.1. provisions above).

**6.1.8.2.1.** All Development - All development shall be reasonably safe from flooding and:

- A. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
- B. constructed with materials resistant to flood damage,
- C. constructed by methods and practices that minimize flood damage,
- D. constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**6.1.8.2.2. Residential Development:**

- a. New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- b. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
  - i. 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 the level of the base flood elevation or higher and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
  - ii. located in an existing manufactured home park, where elevating are re- placement 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 36 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

**6.1.8.2.3. Non-residential Development:**

- a. New construction and existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- b. 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.

**6.1.8.2.4. Subdivisions:**

- a. New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
- b. Subdivisions (including manufactured home parks) shall be designed to assure:
  - i. such proposals minimize flood damage within the flood-prone area,
  - ii. public utilities and facilities, such as sewer, gas, electrical, and waters systems are located and constructed to minimize or eliminate flood damage, and
  - iii. adequate drainage is provided to reduce exposure to flood hazards.

**6.1.8.2.5. Enclosed Areas Below the Lowest Floor.**

- a. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
- b. New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor 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.
- c. 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 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 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.

**6.1.8.2.6. Recreational Vehicles:** Recreational Vehicles placed on sites with special flood hazard areas shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use, or
- c. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section 6.1.8.2.2.

**6.1.8.2.7 Accessory Structures:** A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:

- a. The structure must only be used for parking or storage,
- b. The structure must have the required openings to allow flood waters in and out,

- c. The structure must be constructed using flood resistant materials below the Base Flood Elevation,
- d. The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
- e. All building utility equipment including electrical and heating must be elevated or flood proofed.

**6.1.8.2.8.** Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

**6.1.8.2.9.** Sanitary Sewage Systems: New and replacement 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.

**6.1.8.2.10.** On-Site Waste Disposal Systems: On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**6.1.8.2.11.** Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

## **6.2. Wetland Overlay District (WO)**

### **6.2.1. Purpose**

It is the policy of the State of Vermont to identify and protect wetlands of public significance and the values and functions which they serve, in such a manner that the goal of no net loss of such wetlands and their functions is achieved. Thus, the purpose of the Wetland Overlay District is to protect the natural system functions (e.g. water and air purification, flood attenuation, speciation, and nutrient cycling) that are critical to the support of human, animal and plant populations in the Town of Pownal.

### **6.2.2. Location**

The Wetland Overlay District includes all lands located within the perimeter of wetlands identified on the National Wetlands Inventory (NWI) maps published by the U.S. Fish and Wildlife Service, the Town of Pownal's Important Biological Areas map and all lands within 50 feet of the perimeter of wetlands contiguous to such mapped wetlands as required in section 8.5 of these bylaws.

### **6.2.3. Exemptions**

Work in a wetland area is exempt from these requirements if the purpose of the work is to restore the wildlife habitat, the work will be done under the supervision of the Vermont Department of Environmental Conservation (DEC), and the applicant has been granted approval for the work to be done under the auspices of the DEC's Conditional Use permit; or, under the supervision of the U.S. Army Corps of Engineers and the applicant has been granted approval for work to be done under the auspices of the nationwide 404 permit. Evidence of approval must be submitted to the ZA prior to commencement of any work conducted under this exemption.

### **6.2.3.1. Farming Exemption**

#### **a. Statutory guidance**

Section 902(5) of 10 V.S.A. defines wetlands to exclude "such areas as grow food or crops in connection with farming activities." Section 905(9) of 10 V.S.A. requires that any rules "that restrain agricultural activities" must have the consent of the Commissioner of the Department of Agriculture.

#### **b. Definition**

Farming activities shall mean the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; and the growing of food and crops in connection with the raising, feeding, or management of livestock, poultry, equines, fish farms, or bees for profit.

#### **c. Limitation on Exemption**

The farming exemption shall apply to all areas used to grow food or crops in connection with farming activities including areas in ordinary rotation, as of the effective date of these rules. The exemption will expire whenever the area is no longer used to grow food or crops or in ordinary rotation.

### **6.2.3.2. Exemption for Small Landowners**

Areas exempt from these regulations include those activities involving discharges of dredged or fill material affecting up to two acres of wetlands for:

- a.** the construction or expansion of a single family home and attendant features, such as a driveway, garage, storage shed, or septic field;
- b.** the construction or expansion of a barn or other farm building; or
- c.** the expansion of a small business facility.

### **6.2.4. Establishment of Buffer Zones - Disturbance of Wetland Areas**

Soil disturbance and structures are prohibited within a one hundred (100) foot buffer zone contiguous to the boundaries of a Class One wetland and within a fifty (50) foot buffer zone contiguous to the boundaries of all other wetlands. The DRB may reduce the 100- and 50-foot setbacks during the public hearing process if the disturbance of the wetland area is minimized using the criteria listed in Sections 6.2.7 and 6.2.8.

### **6.2.5. Compliance with Federal and State Requirements**

#### **a. Statutory guidance**

Section 902(5) of 10 V.S.A. defines wetlands to exclude "such areas as grow food or crops in connection with farming activities." Section 905(9) of 10 V.S.A. requires that any rules "that restrain agricultural activities" must have the consent of the Commissioner of the Department of Agriculture.

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**6.2.5. Compliance with Federal and State Requirements**

**6.2.5.1. Compliance with Section 404 of the Clean Water Act**

Any person proposing to conduct earth-disturbing activities in the Wetland Overlay District shall comply with requirements for permits under Section 404 of the Federal Clean Water Act (CWA). Activities in waters of the United States that are regulated under the CWA include fills for development, water resource projects (such as dams or levees), infrastructure development (such as highways and airports), and conversion of wetlands to uplands for farming and forestry. Impacts subject to Federal review include not only the area of wetland directly filled, but also any inundation or drainage of wetlands caused by the placement of fill or mechanized land clearing.

An applicant wishing to undergo such activities shall provide evidence that permits have been issued by the administering agency -- U.S. Army Corps of Engineers (USACE), Vermont Project Office -- under Section 404, or proof that no permit is needed. The process requires submission of a completed application form, vicinity map, site plan and cross-sections of proposed activity. A wetland delineation using the 1987 Corps of Engineers Wetlands Delineation Manual is

required. The Soil Conservation Service should be contacted for delineation of agricultural lands. Plans should be drawn to scale and include the wetland boundary, dimensions of the proposed work, and extent of wetland encroachment.

#### **6.2.5.2. Compliance with the Vermont Wetland Rules**

For wetlands not falling under the jurisdiction of Section 404 of the Clean Water Act, the State of Vermont has adopted the Vermont Wetland Rules under the auspices of the Agency of Natural Resources Department of Environmental Conservation, Water Quality Division. The purpose of this program is to protect significant wetlands in Vermont, which are identified on the National Wetlands Inventory (NWI) maps for the State of Vermont (1978), published by the U.S. Fish and Wildlife Service. The Vermont Wetland Rules establish a three-tier classification system for all wetlands in Vermont: Class One, Class Two or Class Three wetlands. Those wetlands designated as Class One or Class Two wetlands are so significant that they merit protection by the State and are regulated under the Vermont Wetland Rules.

Activities in Class One or Class Two wetlands that are regulated under the Vermont Wetland Rules include placement of fill for an access road or discharge of storm water into wetlands. The rules contain detailed maps of all the protected wetlands and a list of activities that are permitted within the significant wetlands and their adjacent buffer zones without review under the rules, provided there is no draining, dredging, filling, grading or alteration of the water flow. All uses which are not permitted uses are conditional uses and require a Conditional Use Determination (CUD) by the Department of Environmental Conservation.

An applicant wishing to undergo such activities shall provide evidence that a CUD has been issued by the Department of Environmental Conservation, or proof that no permit is needed. If an individual is unsure whether a permit is required, the Wetlands Coordinator should be contacted.

#### **6.2.5.3. Compliance with Local Wetland Regulations**

All other wetlands not designated as significant under the Vermont Wetland Rules (Class Three) are assumed to have public value to the Town of Pownal, and therefore merit protection under the regulatory authority of these Bylaws. Prior to final approval of a subdivision, site plan or grading plan within the Wetland Overlay District, the project proponent shall:

- a.** submit a plan to meet the standards set forth in Sections 6.2.7 and 6.2.8; and
- b.** present evidence of compliance with Section 404 of the Federal Clean Water Act, or compliance with the Vermont Wetland Rules; present evidence that work will be done under the auspices of the U.S. Army Corps of Engineers or the Department of Environmental Conservation, whichever is applicable; or present evidence that the wetland area is not subject to the jurisdiction of the U.S. Army Corps of Engineers under

Section 404, or the jurisdiction of the Department of Environmental Conservation under the Vermont Wetland Rules.

**6.2.6. Criteria for Disturbing Local Wetland Areas and the Associated Setbacks**

The DRB may allow disturbance of wetland areas or the wetland setback if the disturbance activity to the wetland area and the associated setback meet all of the following criteria:

- a. There is not an available, practicable design alternative that can avoid the wetland areas and the associated setbacks without violating other community design goals and objectives as outlined in the applicable town plan and the requirements of these Bylaws (conservation, scenic quality, density, zoning), and still allow for the reasonable use on the property.
- b. The project will limit the degree of impact on the wetland area and the associated setback to the greatest extent practical using the mitigation procedures outlined in Section 6.2.8.
- c. The impact on the wetland area or the required setbacks will be mitigated by preservation and maintenance operations.
- d. The loss of a wetland area will be compensated for by replacing or substituting the wetland resource lost in terms of quantity and quality.
- e. The project's discharges will not violate other applicable regulations and laws (e.g., state water quality standards, Endangered Species Act, National Environmental Policy Act), or significantly degrade the waters of the United States. An activity is exempt from the setback requirement if the proposed activity is: (1) water dependent such as docks and piers or; (2) necessary to achieve either vehicular or utility access to property, and no other access route avoiding the wetland areas or the associated setbacks is technically feasible, provided the impacts of such access shall be mitigated in conformance with the standards contained in Section 6.2.8; or (3) farming, ranching, and silviculture.

**6.2.7. Submittal Requirements for a Mitigation Plan for Disturbance of Wetlands**

In order to qualify for disturbance of wetlands, where all or part of a wetland area or the associated setback is disturbed or substantially altered by development, the applicant shall provide the ZA with a mitigation plan for wetland disturbance. The mitigation plan shall be prepared in consultation with a State Wetland Coordinator, or other such agency and/or private consultant as approved by the ZA. The mitigation plan for disturbance of wetlands must include, but is not limited to, the following:

- a. A statement as to why the wetland needs to be encroached and how the mitigation will meet the purpose of this section: the preservation of areas that are environmentally sensitive, that have severe limitations for development, or promote the goals of clean water quality;

- b.** The amount, location, and acreage of wetland fill, removal, or other alteration proposed;
- c.** The proposed mitigation improvements set forth in Section 6.2.8, including those wetland areas to be restored or created;
- d.** A grading and erosion control plan, including plant material to be used for revegetation and soil stabilization measures;
- e.** A site plan showing the type and location of temporary and permanent Best Management Practices (BMP'S) that shall be used for mitigation purposes, during site construction and after site construction. Said BMP'S include, but are not limited to, infiltration, detention and retention basins, constructed wetlands, and porous pavement. BMP'S shall be designed, constructed and retained to minimize erosion and failure of wetlands, and meet the requirements of the physical and biological characteristics of the site;
- f.** A maintenance schedule for all proposed Permanent Best Management practices (BMP'S).

**6.2.8. Mitigation Procedures for Developing Within or Adjacent to Wetlands Areas**

A mitigation plan shall be required, in accordance with Section 6.2.7, for any unavoidable earth disturbing activities within wetland areas or the associated setbacks. Any earth disturbance within a wetland area or the associated setbacks shall use the following practices:

- a.** Time grading and construction to minimize soil exposure during periods of snowmelt and rainy periods;
- b.** Retain and protect natural vegetation; strip only the area required for construction in stages;
- c.** Infiltrate runoff from impervious surfaces by locating infiltration trenches below drip lines, walkways, parking areas and driveways;
- d.** Minimize length and steepness of exposed slopes by designing with the natural topography; prevent erosion on exposed slopes by placing barriers, such as straw bale dikes;
- e.** Keep runoff velocities low to prevent high erosive powers by using flow barriers (vegetation, rip-rap);
- f.** Protect drainage ways and outlets from increased flows by using rip-rap;
- g.** Trap sediment on-site by straw bales, filter fences and sand bags;
- h.** Any disturbed areas must be replanted with native vegetation;
- i.** Natural hydrologic flows will be maintained through the site;
- j.** Minimize earth movement by avoiding cut and fill slopes;
- k.** Foundations shall be stepped down any slopes to minimize cut and fill;
- l.** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety;

- m.** Appropriate erosion and situation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date;
- n.** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water;
- o.** Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance; and,
- p.** Any other appropriate measure as deemed necessary by the Planning Commission.

### **6.2.9. Financial Guarantee**

An irrevocable letter of credit, or other financial guarantee deemed adequate by the DRB, shall be posted by the applicant prior to issuance of permits to guarantee the success of measures needed to meet the standards required in Section 6.2 for two years from the date permits are issued.

## **6.3. Conservation Overlay District (CO)**

### **6.3.1. Purpose**

Areas which have significant geologic features or unusual or important plant and animal qualities of scientific, ecological, or educational interest make lands in this district unsuitable for intensive development because of their local, statewide, national and global significance. Included are regions of steep slopes, rare and endangered species, and significant wildlife habitat. Designation of this district is intended to protect the scenic and natural resource values of lands which are important for wildlife and wildlife habitat, and which are poorly suitable for development because of their environmental constraints. To this end, land uses and development should be planned and designed to be compatible with the surrounding geographic characteristics of the landscape, to be harmonious with wildlife habitat and the species that depend on this habitat, and should recognize and protect the full range of habitats and species in the Town.

The GIS data provided by the Bennington Regional Planning Commission (BCRC), the Town's Important Biological Areas map are the basis for the Conservation Overlay District and provide information that can be used in conjunction with more specific data about wildlife habitat and rare and endangered species. It also establishes an information base and a process for protecting areas from significant adverse effects of development, and to evaluate the impact of specific land use and development proposals with environmental constraints.

### **6.3.2. Location**

The Conservation Overlay District includes all lands located within the perimeter of areas identified on the Town's Important Biological Areas map, all lands with a slope of 15% or greater and all lands within 50 feet of the perimeter of habitats contiguous to such areas.

### **6.3.3. Development Review Procedure**

#### **6.3.3.1. Biologic Impact Report**

The Planning Commission may require a biologic impact report to be prepared prior to making a recommendation or decision on a development proposal. Additionally, the DRB may determine that a biologic impact report is required as part of the submittal requirements for the development application when, based on the biologic information base described in Section 6.3.2, there is a potential for significant impact to habitat or species resulting from the development proposal.

When required, a biologic impact report shall be prepared and submitted to the Town for review. The study shall be prepared by a consultant or other party, qualified to assess the impact of development on biologic areas and mutually agreed to by the Town and the developer. The developer shall pay for the cost of the study. The study shall address the following:

- a.** Total acres in the project area
- b.** Total acres of each habitat type in the project area
- c.** Location and total acreage of open space areas in the project area
- d.** Wildlife species known to be present or occurring on the site
- e.** Use patterns of wildlife habitat within the project site (movement corridors, feeding areas, etc.)
- f.** Critical connections or relationships with adjoining habitats outside the project site
- g.** Potential impacts of the proposed project on wildlife habitat and species
- h.** List of proposed mitigation methods for each wildlife habitat and species
- i.** Any other information deemed necessary by the commission, government agency, consultant or other party to adequately assess the impact of the proposal on biological areas within or adjacent to the project site

#### **6.3.3.2. Review of Development on Steep Slopes**

Slopes provide an environment for movement of soil and pollutants when site disturbance occurs. While soils have varying degrees of erodibility, all soils are nonetheless subject to movement, and increasingly so as the slope of the land increases. Thus, the Town requires review of those areas where soil movement is most likely to be a problem – on “steep slopes.” Steep slopes are identified by the Town as 15% or greater and are a constraint to development due to their impact on:

- a.** amount of site disturbance
- b.** visual scarring
- c.** slope stability
- d.** soil erosion and sedimentation

- e. economic costs of soil erosion and sedimentation
- f. septic systems and down slope neighbors
- g. loss of local biodiversity
- h. wildfire potential

The Town of Pownal prohibits building sites greater than 20,000 square feet on slopes greater than or equal to 30% or that are adjacent to a floodplain or wetland. New structures or alteration of existing structures for transportation facilities, transmissions lines, and sewer, water and gas lines may be constructed on steep slopes only if no practicable or feasible alternative exists for locating the structure elsewhere. If constructed within the steep slope, BMP'S, soil conservation and water quality plans required.

Before final approval of a subdivision or site plan, an applicant desiring to develop on steep slopes between 15 – 29% shall provide a map illustrating the estimate of acreage contained in the area, as well as mitigation plan that:

- a. avoids placement of such items as parking lots which require large, flat surfaced areas on steep slopes
- b. modifies land uses so site disturbance is minimized
- c. proposes smaller scale rather than larger scale development in order to minimize the amount of site disturbance
- d. designs structures so they are stepped or otherwise fit with the terrain
- e. minimizes the extent of roads
- f. clusters development to avoid steep slopes
- g. provides financial commitment to and implementation of a re-vegetation program
- h. provides grading and foundation plans prepared by a registered professional engineer
- i. provides erosion control, re-vegetation, and urban runoff control plans

## **SECTION VII – LAND USE AND DIMENSIONAL REQUIREMENTS FOR ZONING DISTRICTS**

### **7.1. Land Use Matrix**

Figure 7-1 is hereby designated as the Town Land Use Matrix. The land use matrix contains a list of land uses and indicates if a given land use is allowed as permitted, conditional, accessory or is not allowed in Town zoning districts. It is also intended that Figure 7-1 be consistent with the text of these bylaws. Where an inconsistency occurs, the text of the regulations shall govern. Where regulations for specific land uses have been established, the regulations appear in Section 5. Special restrictions on land uses in overlay districts are stated in Section 6. If a land use is not listed in the matrix, the Zoning Administrator will determine whether this use is allowed as permitted, conditional, accessory or not allowed in a given district, except that the ZA may request the DRB to make the determination.

**FIGURE 7-1: Land Use Matrix**

A – Accessory	RR2-Rural Residential 2	F-Forest
C – Conditional	V-Village	FHO-Flood Hazard Overlay
N - Not Permitted	RR1-Rural Residential 1	WO-Wetland Overlay
P – Permitted	C-Commercial	CO-Conservation Overlay
I-Industrial		

(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

LAND USES	RR2	V	RR1	C	I	F	FHO	W O	CO
<b>ACCESSORY USES</b>									
Home Occupation	P	P	P	P	N	N	(1)	(1)	(1)
Garage	A	A	A	A	A	N	(1)	(1)	(1)
Greenhouse, Private	A	A	A	A	N	N	(1)	(1)	(1)
<b>AGRICULTURAL</b>									
Agricultural operations	P	C	C	N	N	N	(1)	(1)	(1)
Fish or poultry hatcheries	C	N	C	C	C	N	(1)	(1)	(1)
Fur-bearing animal farm	C	N	C	N	N	N	(1)	(1)	(1)
Commercial Greenhouse	C	C	C	C	C	N	(1)	(1)	(1)
Commercial Orchards	P	N	C	N	N	N	(1)	(1)	(1)
Raising of livestock, horses, or poultry	P	C <sup>4</sup>	C	N	N	N	(1)	(1)	(1)
Stable	P	N	C	N	N	N	(1)	(1)	(1)
Truck gardening	P	C	C	N	N	N	(1)	(1)	(1)
<b>AGRICULTURAL SUPPORT</b>									
Farm equipment sales and repair	C	C	C	C	C	N	(1)	(1)	(1)

A – Accessory	RR2-Rural Residential 2	F-Forest
C – Conditional	V-Village	FHO-Flood Hazard Overlay
N - Not Permitted	RR1-Rural Residential 1	WO-Wetland Overlay
P – Permitted	C-Commercial	CO-Conservation Overlay
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**LAND USEMATRIX**

<b>LAND USES</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>W O</b>	<b>CO</b>
Farm produce sales and supply (feed, grain, fertilizer)	P	C	C	C	C	N	(1)	(1)	(1)
Farm product processing (cider mill, dairies, or poultry meat processing)	P	C	C	C	C	N	(1)	(1)	(1)
Fruit & vegetable stand	P	P	P	N	N	N	(1)	(1)	(1)
<b>ANIMAL-RELATED USES</b>									
Animal Clinic/Hospital	C	C	C	C	N	N	(1)	(1)	(1)
Animal Shelter	C	N	C	N	N	N	(1)	(1)	(1)
Kennel									
1. breeding	C	N	C	N	N	N	(1)	(1)	(1)
2. boarding	C	N	C	N	N	N	(1)	(1)	(1)
Wildlife Rehab	C	N	C	N	N	N	(1)	(1)	(1)
<b>COMMERCIAL</b>									
Arcades or Billiard Parlors	N	C	N	C	N	N	(1)	(1)	(1)
Art Gallery/Antique Store	C	P	C	P	N	N	(1)	(1)	(1)
Auto Accessory Sales	N	P	C	P	N	N	(1)	(1)	(1)
Auto Body/Repair	N	P	C	P	N	N	(1)	(1)	(1)

A – Accessory  
 C – Conditional  
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 P – Permitted  
 I-Industrial

RR2-Rural Residential 2  
 V-Village  
 RR1-Rural Residential 1  
 C-Commercial

F-Forest  
 FHO-Flood Hazard Overlay  
 WO-Wetland Overlay  
 CO-Conservation Overlay

(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

LAND USES	RR2	V	RR1	C	I	F	FHO	W O	CO
Auto Rental	N	P	N	P	N	N	(1)	(1)	(1)
Auto Sales	N	P	C	P	N	N	(1)	(1)	(1)
Auto Service Station	N	P	C	P	N	N	(1)	(1)	(1)
Auto wash/polish	N	C	N	C	N	N	(1)	(1)	(1)
Bank (and other financial institutions)	N	C	C	C	C	N	(1)	(1)	(1)
Bar/Tavern/Lounge	N	C	C	C	N	N	(1)	(1)	(1)
Barber/Beauty Shops	C	P	C	P	N	N	(1)	(1)	(1)
Equipment rental/repair/sales	C	C	C	C	N	N	(1)	(1)	(1)
Garden Center	C	P	C	P	N	N	(1)	(1)	(1)
Health Club/Spa	C	P	C	P	N	N	(1)	(1)	(1)
Ice Cream Store or Stand	C	P	C	P	N	N	(1)	(1)	(1)
Ice Cream Store or Stand	C	P	C	P	N	N	(1)	(1)	(1)
Landscaping or Lawn mowing Business	C	C	C	C	C	C	(1)	(1)	(1)
Laundromat/Dry Cleaner	N	C	N	C	N	N	(1)	(1)	(1)
Liquor Store	N	P	C	P	N	N	(1)	(1)	(1)
Lumberyard	(see Light Industrial)								

A – Accessory  
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RR2-Rural Residential 2  
 V-Village  
 RR1-Rural Residential 1  
 C-Commercial

F-Forest  
 FHO-Flood Hazard Overlay  
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 CO-Conservation Overlay

(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

<b>LAND USES</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>W O</b>	<b>CO</b>
Market	N	P	C	P	N	N	(1)	(1)	(1)
Nursery, retail	C	P	C	P	N	N	(1)	(1)	(1)
Offices									
1. business	N	P	C	P	C	N	(1)	(1)	(1)
2. medical	N	P	C	P	C	N	(1)	(1)	(1)
3. government	N	P	N	P	C	N	(1)	(1)	(1)
4. professional	N	P	C	P	C	N	(1)	(1)	(1)
Outdoor vendors	N	C	N	C	N	N	(1)	(1)	(1)
Restaurant									
1. carry out	N	P	N	P	N	N	(1)	(1)	(1)
2. drive-thru	N	C	N	C	N	N	(1)	(1)	(1)
3. sit down	C	P	C	P	N	N	(1)	(1)	(1)
Retail sales or store	N	P	C	P	N	N	(1)	(1)	(1)
Service business or store (e.g. catering, duplicating, shoe repair, travel agency, etc.)	N	P	C	P	N	N	(1)	(1)	(1)
Shopping Centers	N	C	N	C	C	N	(1)	(1)	(1)
Theaters	N	C	N	P	C	N	(1)	(1)	(1)
Wholesale sales	(see Light Industrial)								
<b>HEALTH CARE FACILITIES</b>									
Clinic	N	C	C	P	C	N	(1)	(1)	(1)
Hospital	N	C	C	P	C	N	(1)	(1)	(1)

A – Accessory	RR2-Rural Residential 2	F-Forest
C – Conditional	V-Village	FHO-Flood Hazard Overlay
N - Not Permitted	RR1-Rural Residential 1	WO-Wetland Overlay
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I-Industrial		

(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

<b>LAND USES</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>W O</b>	<b>CO</b>
Nursing Home	N	C	C	P	C	N	(1)	(1)	(1)
<b>HEAVY INDUSTRIAL</b>									
Asphalt or concrete mixing plants	N	N	N	N	N	N	(1)	(1)	(1)
Crushing, gravel/rock	C	N	C	C	C	N	(1)	(1)	(1)
Fuel generation plants	(see Utilities)								
Grain elevators	N	N	N	N	N	N	(1)	(1)	(1)
Heavy Industry (other)	N	N	N	N	C	N	(1)	(1)	(1)
Landfill	(see Storage and Disposal Uses)								
Landing strips and heliports	(see Transportation Uses)								
Heavy Manufacturing (other)	N	N	N	N	C	N	(1)	(1)	(1)
Meat packing houses or slaughterhouses	N	N	N	N	C	N	(1)	(1)	(1)
Milling	N	N	N	N	C	N	(1)	(1)	(1)
Mining									
1. commercial	N	N	N	N	N	N	(1)	(1)	(1)
2. private	C	N	C	C	C	N	(1)	(1)	(1)
Motor or rail terminals	(see Transportation Uses)								

A – Accessory	RR2-Rural Residential 2	F-Forest
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(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

<b>LAND USES</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>W O</b>	<b>CO</b>
Power generating plants	(see Utilities)								
Sawmill									
1. commercial	C	N	C	C	C	N	(1)	(1)	(1)
2. private	C	N	C	C	C	N	(1)	(1)	(1)
Sewage Treatment Facility	(see Utilities)								
Soil, sand, gravel extraction	C	N	C	C	N	N	(1)	(1)	(1)
Water Treatment Facility	(see Utilities)								
<b>LIGHT INDUSTRIAL</b>									
Beverage Bottling Plant	C	C	C	C	P	N	(1)	(1)	(1)
Blacksmith shops	C	C	C	C	C	N	(1)	(1)	(1)
Building materials sales or storage yards	C	C	C	C	C	N	(1)	(1)	(1)
Bulk materials or machinery storage	C	N	C	C	C	N	(1)	(1)	(1)
Carpet and rug cleaning plants	N	N	N	C	C	N	(1)	(1)	(1)
Equipment storage yards	C	N	C	C	C	N	(1)	(1)	(1)
Extermination shops	N	N	N	N	N	N	(1)	(1)	(1)

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RR2-Rural Residential 2  
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 FHO-Flood Hazard Overlay  
 WO-Wetland Overlay  
 CO-Conservation Overlay

(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

LAND USES	RR2	V	RR1	C	I	F	FHO	W O	CO
Firewood Split/ Storage 1. commercial	C	N	N	N	N	C	(1)	(1)	(1)
Food processing and packing	C	C	C	N	N	N	(1)	(1)	(1)
Fuel oil, ice, coal, and wood sales	N	C	C	C	C	N	(1)	(1)	(1)
Furniture cleaning/ refinishing shops	C	C	C	C	C	N	(1)	(1)	(1)
Industrial Park	N	C	N	C	P	N	(1)	(1)	(1)
Laundry plants serving more than one outlet	N	N	N	N	N	N	(1)	(1)	(1)
Lumberyards	N	C	C	C	C	N	(1)	(1)	(1)
Mini-warehouses or storage facilities	(see Storage and Disposal Uses)								
Monument and stone works	C	C	C	C	C	N	(1)	(1)	(1)
Printing shop	N	C	C	C	C	N	(1)	(1)	(1)
Publishing	N	C	N	C	C	N	(1)	(1)	(1)
Scientific laboratories	N	C	N	C	C	N	(1)	(1)	(1)
Trade shops (cabinet, carpentry, plumbing, etc.)	N	C	C	C	C	N	(1)	(1)	(1)
Truck terminals Train terminals	N	N	N	C	C	N	(1)	(1)	(1)

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**LAND USEMATRIX**

<b>LAND USES</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>W O</b>	<b>CO</b>
Warehouses	(see Storage and Disposal Uses)								
Wholesale business and storage	N	C	N	C	C	N	(1)	(1)	(1)
<b>LODGING/TOURIST SERVICES</b>									
Bed and Breakfast	P	P	P	P	N	N	(1)	(1)	(1)
Boarding/Rooming House	C	C	C	C	N	N	(1)	(1)	(1)
Campground	(see Recreation)								
Conference Facilities	N	C	N	C	P	N	(1)	(1)	(1)
Hotel/Motel	N	C	N	C	P	N	(1)	(1)	(1)
Inn	C	C	C	C	P	N	(1)	(1)	(1)
<b>PUBLIC FACILITIES AND INSTITUTIONS</b>									
Arboretums	C	C	C	C	C	N	(1)	(1)	(1)
Aquariums	C	C	C	C	C	N	(1)	(1)	(1)
Auditorium/ Concert Hall	N	C	C	C	C	N	(1)	(1)	(1)
Cemetery	C	C	C	C	N	N	(1)	(1)	(1)
Child Care Center/ Daycare Center (more than 6 children)	C	P	C	P	C	N	(1)	(1)	(1)
Church	C	C	C	C	N	N	(1)	(1)	(1)

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**LAND USEMATRIX**

<b>LAND USES</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>W O</b>	<b>CO</b>
Community Center	N	C	C	C	N	N	(1)	(1)	(1)
Convent or Monastery	C	C	C	C	N	N	(1)	(1)	(1)
Correctional Facilities/ Prisons	N	N	N	N	N	N	(1)	(1)	(1)
Emergency/ Rescue Services Building	C	P	C	P	C	N	(1)	(1)	(1)
Fire Station	C	P	C	P	C	N	(1)	(1)	(1)
Fraternal/Service Club	N	C	N	P	N	N	(1)	(1)	(1)
Funeral Home	N	P	N	P	N	N	(1)	(1)	(1)
Halfway Houses	N	N	N	N	N	N	(1)	(1)	(1)
Indoor Skating Rinks	(see Recreation)								
Indoor Tennis, Racquetball, etc.	(see Recreation)								
Library	N	P	C	P	N	N	(1)	(1)	(1)
Municipal equipment and bulk materials storage	C	C	C	C	C	N	(1)	(1)	(1)
Museum	N	C	C	C	N	N	(1)	(1)	(1)
Outdoor Theatre (or amphitheater)	(see Recreation)								
Park/Playground	(see Recreation)								
Police Station	N	C	C	C	N	N	(1)	(1)	(1)

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**LAND USEMATRIX**

LAND USES	RR2	V	RR1	C	I	F	FHO	W O	CO
Power generating plants	(see Utilities)								
Schools							(1)	(1)	(1)
1. college/univ.	N	P	C	P	C	N	(1)	(1)	(1)
2. elem/secd, private	N	P	C	P	N	N	(1)	(1)	(1)
3. elem/secd, public	N	P	C	P	N	N	(1)	(1)	(1)
4. middle school	N	P	C	P	N	N	(1)	(1)	(1)
5. trade/ vocational	N	P	C	P	C	N	(1)	(1)	(1)
6. nursery	C	P	C	P	C	N	(1)	(1)	(1)
Sewage Treatment Plant	(see Utilities)								
Utility or broadcasting stations, towers, or translators	(see Utilities)								
Utility service yards or garages	(see Utilities)								
Water Treatment Facility	(see Utilities)								
Youth Camp	C	N	C	N	N	C	(1)	(1)	(1)
<b>RECREATION</b>									
Amusement Parks	C	C	C	C	C	C	(1)	(1)	(1)
Athletic Facilities/ Sports Arenas	N	C	C	C	C	N	(1)	(1)	(1)

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(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

<b>LAND USES</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>W O</b>	<b>CO</b>
Bowling Alleys	N	P	C	P	N	N	(1)	(1)	(1)
Campground with overnight camping	C	N	C	C	N	N	(1)	(1)	(1)
Commercial Tours (e.g. hiking, biking, snowmobiling, etc.)	C	C	C	C	N	C	(1)	(1)	(1)
Fairgrounds	C	C	C	C	C	N	(1)	(1)	(1)
Golf Courses	C	C	C	C	N	N	(1)	(1)	(1)
Golf Driving Ranges (including miniature golf)	C	C	C	C	N	N	(1)	(1)	(1)
Nature Areas/ Interpretation	C	C	C	C	N	P	(1)	(1)	(1)
Outdoor Theatre (or amphitheater)	N	C	N	C	N	N	(1)	(1)	(1)
Park/Playground	P	P	P	P	C	N	(1)	(1)	(1)
Picnic Areas	P	P	P	P	C	C	(1)	(1)	(1)
Private Camps	P	N	P	N	N	P	(1)	(1)	(1)
Race Tracks (e.g. auto, dog, horse, motorcycle etc.)	N	C	N	C	C	N	(1)	(1)	(1)
Recreational Facility outdoor Indoor	C C	C C	C C	C C	C C	N N	(1) (1)	(1) (1)	(1) (1)
Ski Areas	C	N	N	N	N	C	(1)	(1)	(1)

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**LAND USEMATRIX**

LAND USES	RR2	V	RR1	C	I	F	FHO	W O	CO
Shooting Range (indoor)	C	C	N	C	N	N			
Shooting Range (outdoor)	C	N	N	N	N	C	(1)	(1)	(1)
Wildlife Sanctuaries	C	N	C	N	N	C	(1)	(1)	(1)
<b>RESIDENTIAL</b>									
Group Residences									
1. Group home	C	C	C	C	N	N	(1)	(1)	(1)
2. Dormitory	C	C	C	C	N	N	(1)	(1)	(1)
3. Retirement Home	C	C	C	C	N	N	(1)	(1)	(1)
Mobile Home Park	N	C	N	N	N	N	(1)	(1)	(1)
Primary Dwelling									
1. single family	P	P	P	P	N	N	(1)	(1)	(1)
2. duplex	P	P	P	P	N	N	(1)	(1)	(1)
3. multifamily	C	P	C	P	N	N	(1)	(1)	(1)
Subdivision									
1. cluster	C	C	C	C	C	C	(1)	(1)	(1)
2. standard	C	C	C	C	C	C	(1)	(1)	(1)

A – Accessory	RR2-Rural Residential 2	F-Forest
C – Conditional	V-Village	FHO-Flood Hazard Overlay
N - Not Permitted	RR1-Rural Residential 1	WO-Wetland Overlay
P – Permitted	C-Commercial	CO-Conservation Overlay
I-Industrial		

(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

LAND USES	RR2	V	RR1	C	I	F	FHO	W O	CO
Subsidiary Dwelling									
1. accessory apartment	P	P	P	P	N	N	(1)	(1)	(1)
2. caretaker unit	P	P	P	P	N	P	(1)	(1)	(1)
<b>STORAGE AND DISPOSAL USES</b>									
Crematorium, animal	N	C	N	C	N	N	(1)	(1)	(1)
Crematorium, human	N	C	N	C	N	N	(1)	(1)	(1)
Junkyard	N	N	N	N	N	N	(1)	(1)	(1)
Mini-warehouse	C <sup>5</sup>	N	C <sup>5</sup>	C <sup>5</sup>	C <sup>5</sup>	N	(1)	(1)	(1)
Warehouses	N	C <sup>5</sup>	C	C	C	N	(1)	(1)	(1)
<b>TRANSPORTATION USES</b>									
Bus Shelter	C	C	C	C	C	N	(1)	(1)	(1)
Bus Terminal	N	C	N	C	C	N	(1)	(1)	(1)
Heliport	C	C	C	C	C	N	(1)	(1)	(1)
Landing Strip	C	N	N	N	N	N	(1)	(1)	(1)
Motor and Rail Terminals	N	C	N	C	C	N	(1)	(1)	(1)
Park and Ride	N	C	N	C	C	N	(1)	(1)	(1)
Truck Terminals	(see Light Industrial)								
<b>UTILITIES</b>									

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(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.

**LAND USEMATRIX**

<b>LAND USES</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>W O</b>	<b>CO</b>
Communication Tower	C	C	C	C	C	C	(1)	(1)	(1)
Power Generating Plants									
1. public	C	C	C	C	C	C	(1)	(1)	(1)
2. private	C	C	C	C	C	C	(1)	(1)	(1)
Satellite Dish									
1. commercial	C	C	C	C	C	N	(1)	(1)	(1)
2. residential	P	P	P	P	P	P	(1)	(1)	(1)
Sewage Treatment Facility									
1. public	N	C	C	C	P	N	(1)	(1)	(1)
2. private	C	C	C	C	C	N	(1)	(1)	(1)
Utility or broadcasting stations, towers, or translators	C	C	C	C	C	C	(1)	(1)	(1)
Utility Facility (other)									
1. public	C	C	C	C	C	C	(1)	(1)	(1)
2. private	C	C	C	C	C	N	(1)	(1)	(1)
Utility service yards or garages									
1. public	C	C	C	C	C	N	(1)	(1)	(1)
2. private	C	C	C	C	C	N	(1)	(1)	(1)
Water Treatment Facility									
1. public	P	P	P	P	P	N	(1)	(1)	(1)
2. private	C	C	C	C	C	N	(1)	(1)	(1)

A – Accessory C – Conditional N - Not Permitted P – Permitted I-Industrial	RR2-Rural Residential 2 V-Village RR1-Rural Residential 1 C-Commercial	F-Forest FHO-Flood Hazard Overlay WO-Wetland Overlay CO-Conservation Overlay							
(1) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or as a requirement for condition of approval by the appropriate authority during the overlay site plan review.									
<b>LAND USE MATRIX</b>									
LAND USES	RR2	V	RR1	C	I	F	FHO	W O	CO
Wind Power Facility									
1. public	C	C	C	C	C	C	(1)	(1)	(1)
2. private	C	C	C	C	C	C	(1)	(1)	(1)

**FIGURE 7-2: Dimensional Requirements for Primary Structures and Uses**

LAND USE DISTRICTS	RR2	V	RR1	C	I	F	FHO	WO	CO
<b>MINIMUM LOT SIZE (in acres):</b>									
Public sewer and public water	2	.25	.5	1	1	NP	(a)	(a)	(a)
Public sewer and no public water Public water and no Public sewer	2	.5	.5	1	1	NP	(a)	(a)	(a)
Private wastewater disposal and Private water	2	.75	1	2	5	25	(a)	(a)	(a)
<b>MINIMUM BUILDING SETBACKS <sup>(c)</sup> <sup>(e)</sup> (in feet):</b>									
Frontage on a public or private street (not setback)	150	80	100	100 <sup>1</sup>	100 <sup>1</sup>	NP	(a)	(a)	(a)
Front yard setback (road edge)	25	15	25	30	30	50	(a)	(a)	(a)
Side yard setback (prop line)	30	10	15	25 <sup>2</sup>	50	50	(a)	(a)	(a)
Rear yard setback (prop line)	40	10	15	25 <sup>2</sup>	50	50	(a)	(a)	(a)

<b>LAND USE DISTRICTS</b>	<b>RR2</b>	<b>V</b>	<b>RR1</b>	<b>C</b>	<b>I</b>	<b>F</b>	<b>FHO</b>	<b>WO</b>	<b>CO</b>
Driveway setback (from side property line)	10	5	10	5	10	10	(a)	(a)	(a)
<b>MINIMUM LOT WIDTH (in feet)</b> <sup>(b)</sup>	150	80	100	100	100	100	(a)	(a)	(a)
<b>MAXIMUM STRUCTURE HEIGHT (in feet)</b> <sup>(d)</sup>	45	45	45	45	45	20	(a)	(a)	(a)
<b>NET RESIDENTIAL DENSITY</b>									
Maximum density	1 unit/ 2 acres	4 <sup>3</sup> units / acre	1 unit/ 1 acres	1 acre	1 acre	1 unit/ 25 acres	(a)	(a)	(a)
Public Water and/or Sewer With TDR transfer	NP	8 units / 1 acre	2 unit/ 1 acres	NP	NP	None	(a)	(a)	(a)
<b>MAXIMUM LOT COVERAGE (%)</b>	10	65	15	65	65	6, see foot note below	(a)	(a)	(a)

NP = Not Permitted

(a) Underlying, basic zoning standards apply unless otherwise indicated in Section 6 or required as a condition of approval during the overlay site plan review.

(b) In all districts, minimum lot width shall not be less than that specified or one half of the lot depth, except where expressly permitted by the Development Review Board.

(c) Setbacks for subdivisions and cluster subdivisions may be adjusted in exchange for additional open space, commons, parks, etc., or if expressly permitted by the Development Review Board ..

(d) In all districts, agricultural buildings or structures (i.e., silos, windmills), spires, chimneys, antennae or other appurtenances normally placed above the roof line exceeding 40 feet in height may be allowed if expressly permitted by the Development Review Board.

(e) No structure shall be built within 50 feet of a stream, water way or pond

(f) Consideration should be given to increased density in existing parks or abutting areas meeting 8.4.

<sup>1</sup> Or access by an approved 50 foot right-of-way and a minimum lot width of 100 feet.

<sup>2</sup> For lots abutting any type of district allowing residences, the minimum side and rear yard setbacks shall be 50 feet from an adjoining property for commercial use, 100 feet from an adjoining property for industrial uses, where such adjoining property is located

wholly or partially in such district.

<sup>3</sup> Or multi-apartment 8 unit complex which does not go over maximum lot coverage or 45' in height.

<sup>4</sup> Conditional use if more than one half acre. Not permitted if one half acre and less.

<sup>5</sup> Minimum requirement is .50 one half acre, setback of 150 feet, Screening and structure must aesthetically blend with and improve the area.

<sup>6</sup> Maximum camp structure size not to exceed 800 sq. ft.

**Figure 7-3: Dimensional Requirements for Minimum Accessory Building Setbacks**

<b>MINIMUM ACCESSORY BUILDING SETBACKS<sup>(c)(e)</sup> (in feet):</b>									
	<b>RR-2 Village</b>	<b>RR-1</b>	<b>C</b>	<b>I</b>	<b>F</b>				
Front Yard	25'	15'	25'	30'	30'	50'			
Side Yard	15'	5'	10'	10'	10'	50'			
Rear Yard	15'	5'	10'	10'	10'	50'			
Height	24'	20'	24'	24'	30'	30'			

Commercial: (except abutting lots in residential use: Maintain setbacks in Fig: 7-2 where abutting residential use)

Forest: (same as commercial zone district for lots abutting a lot in residential use)

**SECTION VIII - SPECIAL REGULATIONS**

**8.1. Earth Products Removal**

**8.1.1. Removal Restricted**

Except as provided herein the removal of earth products from any premises is a conditional use in the Rural Residential District subject to review by the DRB.

**8.1.2. Permit Not Required**

No permit shall be required for any of the following:

- a.** Moving earth products within the limits of any individual property or series of contiguous properties.
- b.** Removal of earth products from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of the same.
- c.** The removal is temporary and is not intended as an ongoing operation in which excavation material is sold for profit.
- d.** The operator shall provide for the proper drainage of the area of the operation during and after completion. No removal shall take place within twenty-five feet of the property line, except that where the grade from a property line rises towards the lot where removal is to take place, material lying above the grade at the

property line may be removed. No bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance at completion, except in ledge rock.

### **8.1.3. Permit for Removal of Earth Products**

Except as provided above the DRB, after public hearing, may grant a permit for the removal of earth, sand, gravel, clay or stone, subject to the following:

- a.** The applicant shall submit a statement of the proposed action to ZA for review. ZA will then pass it on to DRB for hearings
- b.** DRB will conduct a site review, hold hearings, and then record its decision.
- c.** The DRB shall prepare findings of fact upon each decision under this section setting forth its determination upon each of the criteria. Copies of the decision shall be sent, certified mail, to the appellant within forty-five days. Copies shall also be mailed to every land abutter and person or body having been heard at the hearing, and a copy shall be filed with the Zoning Administrative Officer and the Town Clerk as part of the public record. If a decision is not rendered within forty-five days, the DRB shall be deemed to have rendered a decision in favor of the appellant and granted the relief requested on the forty-sixth day.
- d.** The operator shall provide for the proper drainage of the area of the operation during and after completion. No removal shall take place within twenty five feet of the property line, except that where the grade from a property line rises towards the lot where removal is to take place, material lying above the grade at the property line may be removed. No bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance at completion, except in ledge rock.
- e.** At the conclusion of the operation, or of any substantial portion thereof, the whole area where removal takes place shall be covered with top soil, and seeded with a suitable cover crop, except where ledge rock is exposed.
- f.** If the extraction is wholly or partly from a stream bed, it shall be carried on in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section there shall be no increase in erosion or flood hazards.
- g.** In addition to the standards for a conditional use, the DRB shall consider whether the removal will: (1) endanger the general health or safety, (2) constitute a nuisance, (3) result in detriment to the normal use of adjacent property by reason of noise, dust, or vibration, or (4) result in traffic hazards in residential areas or excessive congestion or physical damage on public ways. The DRB may also consider the location and use of structures, equipment, routes to transport material, and hours of operation.
- h.** A permit for the removal of earth products may be issued for a period up to but not exceeding five (5) years. Permits may be renewed upon reapplication under the same procedure.

### **8.1.4. Existing Earth Products Extraction Operations**

Existing operations and any expansions thereto within the same lot of record on the effective date of this amendment may continue. Any subsequent addition to the lot of

record on the effective date of this amendment intended for earth product removal shall be subject to the provisions of 8.1.3

#### **8.1.5. Surety Bond**

The DRB may require the applicant for an earth products removal operation to post a surety bond with the Town Treasurer in an amount and in form approved by the DRB as sufficient to guarantee conformity with the provisions of the permit issued hereunder.

### **8.2. Off-Street Parking**

#### **8.2.1. Parking Facilities Required**

Parking facilities off the street or highway right-of-way shall be provided to serve any building erected, moved, altered or enlarged, and all premises otherwise developed after the adoption of this Bylaw. Such facilities shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers, and other persons normally visiting such buildings or premises at any one time.

Required parking facilities shall be located on the same lot as the building or other use which they serve, except that upon the approval of the DRB required parking facilities may be located elsewhere.

#### **8.2.2. Required Area of Parking Facilities**

Unless otherwise specifically approved by the DRB, required parking facilities shall contain not less than the minimum areas set forth below, exclusive of driveways.

- a.** For dwellings, two hundred and fifty square feet for each dwelling unit.
- b.** For offices and for permitted home occupations, an area equal to twice the floor area used for such purpose.
- c.** For retail stores, personal service shops, and similar business buildings, an area equal to two and one half times the floor area used for business.
- d.** For restaurants, theatres, amusement facilities, churches, lodge or club halls, or other places of public assembly, an area equal to two hundred and fifty square feet for every three seats.
- e.** For motels, lodging, or boarding houses, two hundred and fifty square feet for each unit.
- f.** For industrial plants, wholesale establishments, and similar buildings, one space for every two persons employed on the largest shift plus space for customers as determined by the DRB; or one parking space for each 500 square feet of gross floor area with the approval of the DRB.
- g.** For a warehouse or storage facility, one space for each 5,000 feet of gross floor area.
- h.** In the event a use is proposed that is not specifically included in this section, the DRB maintains the authority to prescribe for all permitted or conditionally permitted uses, adequate parking spaces to accommodate under all normal conditions, the vehicles for handicapped, occupants, employees, members, customers, clients and visitors to the premises.

### **8.3. Mobile Home and Travel Trailer Occupancy**

#### **8.3.1. General Regulations**

- a. Nothing herein shall prevent the use of a mobile home or travel trailer at a campground operated by the State of Vermont on state land.
- b. A trailer, trailer coach, mobile home, or travel trailer may be used temporarily for not over six months as a field office, accessory to a construction operation being operated on the premises. Use over six months requires application and approval by the DRB.

#### **8.3.2. Mobile Home as a Dwelling**

- a. A mobile home or travel trailer may be used as a one-family dwelling, provided that it is located on a lot meeting all of the requirements of this Bylaw applicable to a one-family dwelling in the district in which it is located, and complies with the provisions of the Town Sanitary Code.
- b. A travel trailer may be occupied on any lot by a non-paying guest of the occupant of such lot for a period not exceeding ninety days in any twelve month period.
- c. A mobile home or travel trailer may be used as a temporary dwelling for a period not exceeding one year by the owner of the lot on which it is located, provided that such owner is actively constructing a residence thereon for which a valid building permit shall have been obtained.
- d. Dwelling, including Mobile Homes, shall be permanently and safely anchored below frost level, and skirted, and comply with state and local requirements for water supply and wastewater disposal. This provision pertains to all new mobile homes and/or replacements, including those in mobile home parks.

### **8.4. Mobile Home Park Regulations**

A mobile home park may be permitted by the DRB for those districts that they are allowed in under Section VII figure 7.2 Matrix as a conditional use provided that the DRB finds that:

- a. The mobile home park conforms to the standards enumerated in Section 4.2.2 of this Bylaw.
- b. The mobile home park conforms to the requirements for mobile home parks in 10 V.S.A., Chapter 153.
- c. The mobile home park conforms to the requirements for subdivisions in the Town of Pownal Subdivision Regulations.
- c. The mobile home park establishment and continuing management conform to the following regulations:

(Where state and local regulations conflict, the more stringent shall apply.)

#### **8.4.1. Non-Conforming Uses**

Any lawful mobile home park existing at the time of the adoption of this section may be continued although it does not conform to the standards and provisions contained herein. All such mobile home parks, however, must comply with and maintain the minimum

standards set forth by the Vermont State Department of Health. Any nonconforming mobile home park that is no longer operated as a business enterprise shall not be issued a license for re-establishment except in conformity with this section. Expansion of existing mobile home parks will be permitted only in strict conformity with this section.

#### **8.4.2. Location, Size and Sites**

- a.** The minimum lot size for a mobile home park shall be 25 acres, or the minimum lot size for a lot containing the same number of residential units in that zone as specified in Section VII Figure 7.2, whichever is less, or meet cluster subdivision regulations.
- b.** The park shall be located on a well-drained site properly graded to insure the rapid drainage of water and freedom from stagnant pools of water. The site shall not be exposed to objectionable smoke, noise, odors or any other adverse instances, and no portion subject to unpredictable sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- c.** A mobile home site shall be complete before occupancy is permitted. At least 8,000 square feet of lot area shall be provided for each mobile home in each park, including at least 5,000 square feet for each mobile home site, plus at least 3,000 square feet for each mobile home in common space, exclusive of roads. A mobile home shall be so harbored on its site that there shall be a minimum of side and end clearance of 40 feet between adjacent mobile homes. Any enclosed accessory structure that is attached to the mobile home unit shall, for purposes of clearance requirements, be considered to be part of the mobile home. No accessory building shall be erected within any yard setback requirement unless a variance is issued by the DRB, except that the minimum side and rear yard setback shall be 5 feet for minor storage sheds of 100 square feet or less. No mobile home shall be located closer than 25 feet to a graveled or paved road or service buildings within the park. A minimum of 20 feet shall be maintained between a mobile home on its side and rear boundaries. These rules apply to all new mobile home parks and old ones except where lesser setbacks maybe allowed as in Section VII Figure 7.2 for other dwellings within the same zoning district. In all cases state fire code setback requirements must be met.

#### **8.4.3. Streets, Walks, Parking, and Lighting**

- a.** All mobile home parks shall be provided with safe and convenient vehicular access from abutting public roads. All park roads shall be well drained, graveled, hard surfaced, or paved and maintained in good condition, and may not exceed a grade of 8 percent. All mobile home sites where off-street parking areas are provided shall abut upon a graveled, hard surfaced, or paved road at least 30 feet in width. If on street parking is permitted, the minimum width of the graveled, hard surfaced, or paved area of road shall be 40 feet.
- b.** No mobile home shall be located closer than that allowed within the district as outlined in Section VII Figure 7.2 setback requirements from the traveled portion of any town road or public highway.

#### **8.4.4. Refuse Disposal, Sewage Disposal, and Water Requirements**

**a.** The storage, collection, and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, insect breeding areas, accident or fire areas, or air pollution. Garbage and rubbish cans must be provided by the park owner with tight fitting covers or an incinerator or other means of disposal approved by the health officer. Adequate garbage and rubbish collection must be provided.

**b.** Each mobile home park shall provide or have available a water system which will meet and conform to the requirements of the State Department of Health and each mobile home space or site in said park shall be provided with facilities necessary to connect to said systems. All parks located where public water and sewer is provided must hookup to such facilities before expansion or replacement of an existing mobile home unit or structures in pre-existing parks.

**c.** No open fire shall be permitted except in specified areas approved by the local fire chief.

**d.** In any mobile home park to be served by subsurface sewage disposal systems, a seepage test shall be made in accordance with the procedure recommended by the State Department of health, and a statement showing the results of these tests and the soil conditions, signed by its duly qualified professional engineer, shall be submitted in duplicate with the application.

All mobile home parks located within the Pownal Sewer district area are required to hookup to the public waste treatment system. All mobile home parks within a water district are required to hookup to that system's water supply.

**e.** Each mobile home park shall provide or have available a sewerage system which will meet and conform to the requirements of the State Department of Health and each mobile home space or site in said park shall be provided with facilities necessary to connect said system.

#### **8.4.5. Fire Protection**

Must meet all the State, Health and Federal codes.

#### **8.4.6. Miscellaneous Park Management Responsibilities**

**a.** The licensee shall provide street lights of not less than 2000 lumens each which shall be installed in intervals of not more than 300 feet apart.

**b.** The person to whom a license for a mobile home park is issued shall operate the park in compliance with this section, and shall provide adequate supervision to maintain the park, its facilities, and equipment in good repair and in clean and sanitary condition.

- c. Park management shall notify park occupants of all applicable provisions of this section and inform them of their duties and responsibilities thereunder.
- d. Park management shall be responsible for the proper placement of each mobile home on its mobile home stand and installing of all utility connections.
- e. The park management shall be responsible for notifying the chairman of the Board of Lister's and Town Clerk of the arrival or pending departure of any occupied mobile home or change of ownership that occurs in the park.
- f. Park management shall maintain the entire park area free of dry brush, leaves, weeds, and debris.

#### **8.4.7. Responsibilities of Park Occupants**

- a. The park occupants shall comply with all applicable requirements of the section, and shall maintain their mobile home site, its facilities and equipment in good repair and in a clean and sanitary condition

#### **8.4.8. Enforcement and Penalties**

- a. If the ZA shall find that any of the provisions of this section are being violated, he/she shall notify in writing the person responsible for such a violation indicating the nature of the violation and ordering the action necessary to correct it. ZA shall take any other action authorized or required by this section to insure compliance with, or prevent violation of, its provisions.
- b. Any person who shall violate any provision of the ordinance shall upon conviction by court of competent jurisdiction be punished by a fine of not more than \$100.00, for each day such violation exists.

#### **8.5. Protection of Streams and Drainage ways**

No structure or on-site sewage disposal system shall be placed, and no land shall be excavated, filled or graded in any zoning district within a distance of 50 feet from the normal bank of any stream or watercourse, shown on the Town Plan of Development as a drainage way, or within a distance of 50 feet from the shoreline of a natural or artificial pond, lake or water body, except with the approval of the DRB. Application for such approval shall be submitted to the DRB with such surveys, maps, and other data, as the DRB may require in order to reach its decision.

The DRB shall refer all applications and accompanying surveys, maps, and data, to the DRB site review for its report and recommendations. Prior to granting approval, the DRB shall have found that the proposed construction, earth excavation, filling or grading, shall not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on natural conditions, or on fish or wildlife habitat. The DRB may ask Planning Commission for interpretation and input when necessary.

### **8.6. Prohibition of the Disposal of Hazardous and Toxic Wastes**

There shall be no disposal of hazardous and toxic wastes, as defined in 10 V.S.A Section 6602, within the Town of Pownal, other than at the town transfer station on days set forth by the town as collection days for such items. The town reserves the right to refuse all such items even on collection days.

### **8.7. Clean Fill**

In any district, dumping of refuse and waste materials for fill is prohibited. Loam, soil, rock, stone, gravel, cinders, sand and other inert materials may be used for fill. The spreading of animal manure or vegetable wastes on garden plots, or composting such materials, shall not be considered fill.

### **8.8. Performance Standards**

Nothing herein shall prevent the continuation and use of buildings, structures, and premises in existence on the effective date of this Bylaw.

#### **8.8.1. Lighting**

Exterior lighting, including but not limited to lighting of exterior walls of buildings and lighting of walks and drives, shall be done in a manner to direct light away from adjacent lots and public ways. No light standard shall exceed 25 feet in height.

#### **8.8.2. Noise**

The maximum sound pressure level radiated on a continuous basis by any use or facility at the property line shall not exceed 70 DB (A) after 6:00 A.M. and before 10:00 P.M., and shall not exceed 60 DB (A) after 10:00 P.M. and before 6:00 A.M.

#### **8.8.3. Vibration**

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at, or at any point beyond, the lot line.

#### **8.8.4. Dust, Fly Ash, Fumes, Gases, Odors, Smoke, and Vapors**

Atmospheric emissions of gaseous or particulate matter shall conform to all current provisions of the Air Pollution Control Regulations of the Vermont Agency of Natural Resources, and such conditions that the PC may require.

#### **8.8.5. Water Quality**

All local, State, and federal measures shall be taken to ensure that materials, which because of their chemical nature or temperature may contaminate surface or groundwaters, are not discharged into a private sewer or water system, surface watercourse or waterbody, or the ground. Storage facilities for fuel, toxic chemicals, industrial wastes, and potentially harmful raw materials shall be located on an impervious surface and enclosed in a manner that will prevent any spillage or overflow from leaving the containment area. Toxic materials that will be used or produced on the site shall be identified, and adequate plans provided for the safe storage, transport, and disposal of such materials.

#### **8.8.6. Solid Waste Disposal**

No refuse shall be dumped upon any part of the lot outside the buildings constructed thereon. Storage of refuse outside buildings shall be in completely enclosed containers, secure from vermin and other animals, screened from view from public ways and adjoining properties, and located to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure.

#### **8.8.7. Explosives, Flammable Materials and Fire Protection**

Adequate fire prevention and suppression plans and equipment shall be provided for all uses that employ or store flammable or explosive materials. No highly flammable or explosive materials shall be stored in a manner that does not meet state and federal codes. Fire protection measures shall be consistent with the State requirements for public buildings, and input from the local Fire District will be required.

#### **8.8.8. Storm Water Run-Off**

Increases in storm water discharges shall be minimized and detained on-site whenever possible or practicable. If it is not possible to detain water on-site, downstream improvements to drainage ways may be required to prevent flooding. At no time shall storm water be discharged to the public wastewater system. The DRB shall require conformance with Vermont storm water discharge requirements.

#### **8.8.9. Erosion Control**

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by using the following erosion control practices:

Any stripping of vegetation, soil removal, and regrading or other development shall be accomplished to minimize erosion. Exposed or disturbed areas shall be permanently stabilized within six months of occupancy of a structure.

During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. 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 DRB.

Permanent erosion control and vegetative plantings shall be in accordance with erosion/vegetative practices recommended by the Soil Conservation Service.

All slopes exceeding 15% resulting from site grading shall be either covered with four inches of topsoil and planted with a vegetative cover sufficient to prevent erosion, or be stabilized with retaining walls.

Dust control shall be employed during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business.

If significant site disturbance is planned, the applicant shall contact the U.S. Soil Conservation Service and secure comments regarding erosion control.

#### **8.8.10. Parking and Access**

Vehicular parking and access shall conform to all applicable provisions of Section 8.2 Off-Street Parking.

#### **8.8.11. Screening and Landscaping**

A landscaped buffer at least 15 feet wide, continuous except for approved driveways, may be required adjacent to any public or private road. The buffer strip shall be planted with grass, medium height shrubs, and trees. At street and driveway intersections, trees and shrubs shall be set back a sufficient distance so that they do not present a traffic visibility hazard. Additional landscaping may be required when the premises are viewed from a public way or where the project abuts an existing residential or business use. Open storage areas, exposed machinery, and loading areas shall be visually screened from roads and surrounding land uses. Suitable types of screening include opaque wooden fences and dense evergreen hedges of five feet or more in height. Where evergreen hedges are proposed, a temporary fence may be required to provide screening until the evergreens are of a sufficient height. Where new fencing would create a continuous surface greater than ten feet in length, it shall be visually softened with tree and shrub plantings.

#### **8.8.12. Building and Site Design**

The project shall be designed to take advantage of the natural terrain and protect natural vegetation and important views to the greatest extent possible. To the extent practicable and feasible, the project shall utilize an architectural design that compliments the rural environment and is compatible with surrounding land uses. Consideration shall be given to building height and size, roof shape, pitch and direction, exterior materials and textures, color and architectural features, and accessory structures

### **8.9 Recycle Facility**

#### **8.9.1. Permit for Recycle Facilities**

The DRB, after public hearing, may grant a permit for Recycle Facilities if all zoning requirements are met.

Applicant will provide all information as outlined in section 4.2.2 and 4.2.3. The ZA will review permit application to make sure all criteria are met and then pass it on to DRB within 15 days for review and public hearings

**a.** The DRB will provide site review and then record its decision as required. The DRB shall prepare findings of fact upon each decision under this section setting forth its determination upon each of the criteria. Copies of the decision shall be sent, certified mail, to the appellant within forty-five days. Copies shall also be mailed to every land abutter and person or body having been heard at the hearing, and a copy shall be filed with the Zoning Administrative Officer and the Town Clerk as part of the public record. If a decision is not rendered within forty-five days, the DRB shall have been deemed to render a decision in favor of the appellant and granted the relief requested on the forty-sixth day.

**b.** In addition to the normal standards for a conditional use, the DRB shall consider whether the storage will: (1) endanger the general health or safety, 2) constitute a nuisance, (3) result in detriment to the normal use of adjacent property by reason of noise, dust, or vibration, or (4) result in traffic hazards in residential areas or excessive congestion or physical damage on public ways. The DRB may also consider the location and use of structures, equipment, routes to transport material, and hours of operation.

**c.** A permit for the recycle facilities may be issued for a period up to but not exceeding five (5) years. Permits may be renewed upon reapplication under the same procedure.

### **8.9.2 Place for Accumulation and Storage of materials**

No junk or inoperable motor vehicle without valid registration and/or inspection may be stored on any lot except by a licensed and permitted dealership or repair business, for a period in excess of 30 days where it is visible from a state or town highway. Such vehicle may not be stored except within a building or concealed by fencing, except that one utility vehicle in running condition may be kept that does not meet the above requirements.

Decommissioned motor vehicles, box trailers and mobile homes shall not be permitted for anything other than original intended use.

Scrap or waste material may be stored at a solid waste disposal area or within a building or outside but fully concealed from view. No construction debris or related scrap or waste material originating on the premises may be stored on any lot except within a building or out of view, except that 30 days shall be allowed for removal of scrap or waste material resulting from business operations, or from fire, flood or similar emergencies.

All recycling facilities must meet all state and federal guidelines and requirements for handling material kept on the property. They must also meet all of the Town of Pownal conditional use requirements that the DRB requires.

The business providing this service must meet all set back and lot sizes as outlined in the zoning matrix for the zone in which the service is allowed along with the state and federal requirements.

### **8.10 Sign**

Sign means an object with lettering or other advertisement on it that is readable by the public and used by a business or individual to be found or recognized from the highway or travel way

#### **8.10.1 Permit not required**

No permit shall be required for signs that are less than 10 sq ft in size and directly associated with the operation of the business. Sign must be located at the business property and meet required setbacks, and meet sign limitations noted in 8.10.2.B.

### **8.10.2 Permit required**

DRB shall provide permits for certain signs that meet the following requirements by granting a zoning variance with conditions

- a. For signs larger than 10 square feet.
  - b. For all lighted signs.
  - c. Sign Limitations
1. A sign may be lighted only during active operating hours of the business or organization unless granted by the DRB
  2. No sign shall exceed 20 feet in height.
  3. No sign shall be permitted which prevents a clear and unobstructed view of official signs and approaching or merging traffic.
  4. Signs related to tag sales and other short-term purposes shall be permitted for limited time periods and must be removed at end of function or sale.
  5. No sign shall be placed within street or road right of way.
  6. No sign or display shall contain any moving parts, nor contain, include, or be illuminated by flashing, moving or intermittent light.



## **SECTION IX – SUBDIVISION OF LAND**

It is hereby declared to be the policy of the Town of Pownal to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the Town of Pownal pursuant to the Vermont Planning and Development Act (Act) (24 V.S.A., Chapter 117) for the orderly, planned, efficient and economical development of the Town.

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until available public facilities exist and proper provision has been made for drainage, water supply, sewage disposal, and capital improvements such as schools, parks and recreation facilities, transportation facilities and other facilities.

This section establishes regulations for the subdivision of land to assure that all lots created and uses that are developed have an adequate water supply, means of sewage disposal, utilities and have access to the public street system. This bylaw include standards for subdivision design including the design of streets, storm drainage, water and sewage disposal systems, installation of utilities, and a requirement that the subdivider provide a financial guarantee for the construction of all necessary improvements. The purpose and intent of this section is to safeguard the public health, safety and welfare, to encourage well-planned, stable neighborhoods, and to protect the Town's natural environment. More specifically:

- To conform to and/or to implement the Pownal Town Plan.
- To ensure conformity and compatibility with the Zoning Bylaw, as presently enacted or as updated from time to time.
- To protect and provide for the health, safety, and general welfare of the Town of Pownal.
- To guide the future growth and orderly development of the Town.
- To encourage subdivision design which protects wildlife habitat, wetlands, native vegetation, existing landforms, and the Town's historical and archeological resources.
- To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.
- To provide for the preservation, protection, and/or conservation of natural resources such as wildlife habitat, wetlands, and natural vegetation, and to encourage the wise use and management of natural resources in order to preserve the integrity, stability and beauty of the Town and the value of land.
- To provide for public facilities and services such as parks, open spaces, recreation areas, schools, churches, police and fire protection, off-street parking, water supply and sewage disposal.
- To insure that existing public services and facilities are available, will be available, and will have sufficient capacity to serve any proposed subdivision.

- To require the cost of improvements necessary for the development of a proposed subdivision and of benefit to its eventual residents be paid by the proponent of such development.

## **9.1 Applicability**

These subdivision regulations apply to any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, tracts, sites, plots, units or interests for the purpose of conveyance, transfer, offer for sale, lease or development. It shall also include the development of a parcel of land as a mobile home park, shopping center complex, new multi-family housing project, elderly housing project, planned residential development or industrial park development.

### **(a) 9.1.1 Minor or Major Classification**

At submittal of application or within 30 days after submittal, the Zoning Administrator will classify the project as a minor or major subdivision in accordance with the following definitions:

**Minor Subdivision:** If a property owner submits an application to subdivide a tract of land into no more than two lots and if the subdivider and the predecessors in title to the subdivider have not subdivided said tract of land within five years prior to the date of the application, the project may be classified as a minor subdivision. An application to modify existing lot lines or boundaries between lots within a parcel may also be classified as a minor subdivision.

**Major Subdivision:** Any application to subdivide a tract into three or more lots, or to subdivide a tract more than once in five years, or to create a Cluster Subdivision, shall be classified as a major subdivision.

### **9.1.2. Cluster Subdivision**

The ZA may recommend that an applicant resubmit a subdivision plan under the provisions of a Cluster Subdivision, Section 3.11 of the Zoning Bylaw. Under special circumstances, an applicant may be entitled to a density bonus for a cluster subdivision. At the discretion of the DRB, an application may increase the density of the subdivision by 20% beyond the number which could be allowed under existing zoning regulations if the land is subdivided into lots that are in conformance with the zoning regulations for the districts where such land is situated, giving due consideration to site conditions limiting development, such as shallow depth of soil, wetness and steep slopes. In granting a density increase, the DRB shall also consider the capacities of community facilities and services and the character of the area affected, as well as require the applicant to set aside the equivalent acreage that would be required for an individual lot within the district.

Section .02 Table 9.1 Subdivision Review at a Glance

<b>Steps in the Process:</b>	<b>Who is responsible:</b>	<b>Section</b>
<b>Application &amp; Sketch Plan Review (all subdivision types):</b>		
<b>1. Submit application with sketch plan, including any waiver requests</b>	Applicant, at least 15 days prior to a regularly scheduled DRB meeting	9.3.1
<b>2. Classification of subdivision as minor or major</b>	Zoning Administrator, within 30 days of application submittal	9.3.2
<b>3. Development Review Board meeting</b>	Applicant or designee must attend.	9.3.3
<b>Minor Subdivisions (2 residential lots or 2-lot boundary adjustment):</b>		
<b>1. DRB initial recommendation – approve sketch plan or request additional information</b>	DRB	9.3.3
<b>2. Additional DRB meetings as required</b>	DRB (if requesting additional information) Applicant or designee must attend.	9.3.3.2
<b>3. DRB decision – approve or deny</b>	DRB, in writing; should be within 30 days of initial meeting for a minor subdivision	9.3.4
<b>Major Subdivisions (all situations other than minor)</b>		
<b>1. DRB initial recommendation – deny or pass to preliminary plat review</b>	DRB, in writing, with any suggested modifications prior to preliminary plat review	9.3.4
<b>2. Preliminary plat review</b>	Zoning Administrator to schedule w/DRB within 30 days of completed application	9.4.1- 9.4.4
<b>3. Additional DRB meetings as required</b>	DRB (if requesting additional information)  Applicant or designee must attend.	
<b>4. Public hearing</b>	DRB to warn community, Regional Planning Commission, adjacent towns	9.4.5
<b>5. DRB decision on preliminary plat</b>	DRB, within 45 days of Public Hearing completion	9.4.7
<b>6 Final plat review</b>	Applicant may submit up to 1 year from preliminary plat approval.  Zoning Administrator to schedule w/DRB within 30 days of completed final plat	9.5.1 – 9.5.4
<b>7. Public hearing</b>	DRB to warn community, Regional Planning Commission, adjacent towns	9.5.5
<b>8. DRB decision on final plat</b>	DRB, within 45 days of Public	9.5.7

	Hearing completion	
<b>9. Filing of documents</b>	Applicant, within 75 days of approval	9.6.1

## **9.2 Administration and Enforcement**

These subdivision regulations shall be administered by the Development Review Board (DRB); as authorized and empowered by the Act. The DRB may waive or vary the provision of any improvements or application submission requirement which in its judgment of the nature of the land or the project would be inappropriate and not required in the interest of public health, safety and general welfare. In granting waivers, the DRB may impose such appropriate and reasonable conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of the Bylaw, the Pownal Town Plan, and 4412 of the Act. Any decision of the DRB may be appealed to Environmental Court as provided in Sections 4471, and 4472 of the Act. Violations of these subdivision regulations shall be subject to the penalties, remedies and enforcement procedures provided in Sections 4451 and 4452 of the Act.

### **9.3 Sketch Plan Review** (required for all applications for subdivision)

The purpose of the application/sketch plan review is to identify potential constraints, to evaluate the suitability of the subdivision layout in light of the constraints, and to determine whether the project is a minor or major subdivision.

#### **9.3.1 Application Requirements**

As the first step in submitting a subdivision application, the applicant shall submit a filled-out subdivision application with sketch plans for review and discussion with the Zoning Administrator (ZA). Sketch plans should include the entire planned subdivision, even if approval is to be requested for only an initial phase. Applicants are encouraged to explore different schemes by presenting several alternative plans that represent thoughtful site planning and are in keeping with the Town Plan. The level of detail provided in the sketch plan may vary depending on the size and scale of the proposed development, and how it will be phased. The following “Minimum Submittal Requirements” will be required with the application in all cases, and the Development Review Board may require additional materials to be submitted in subsequent stages of the review process.

##### **9.3.1.1 Permit Application**

**9.3.1.2 Plans and drawings – Sketch Plan Review:** Two 11” x 17” copies of all plans plus such additional 11”x17” copies of the subdivision layout as may be requested. Where possible, the information required below may be combined on the maps, provided that the maps are clear and legible.

- a. Date, scale and true north arrow.
- b. Proposed subdivision name or identifying title (in compliance with E-911 standards).

- c. A location map showing proposed roads and the relation of the proposed subdivision to adjacent property and the surrounding area.
- d. A complete boundary survey of the proposed subdivision by a licensed surveyor. Such survey shall show the names of all abutting and cross-street property owners.
- e. A plan showing all lots numbered consecutively, and indicating the land area in each lot.

**9.3.1.3 Written and Other Material:**

- a. The name, address and parcel ID# of the owner of record of the land, and of the applicant, if different.
- b. A list and two addressed and stamped envelopes for each current owner of record of all abutting properties, which shall include properties directly across any public right-of-way.
- c. If evidence of any historical and archeological resources are in the project site area, they are to be depicted in the sketch plan. The DRB may require that a professional archaeological resource assessment be conducted by a trained archaeology consultant for the proposed project area.
- d. A list of waivers from these regulations, if any, that applicant is requesting from the DRB.
- e. An application fee as may be established by the Select Board.

**9.3.2 Initial Meeting with ZA**

The initial application/sketch plan review is intended to be an informal exchange of ideas between the applicant and ZA, and presentations and suggestions are not binding. At the initial application review, the Zoning Administrator (ZA) shall notify the subdivider of any inconsistencies with current zoning, and identify issues that the applicant needs to address prior to meeting with the DRB. The ZA shall study the sketch plan and may reasonably continue the sketch plan review to subsequent meetings in order to visit the site, consult with appropriate agencies, organizations and officials, and make recommendations to the subdivider regarding required improvements or changes needed for conformance with the planning standards and zoning regulations. No approval or disapproval of a subdivision plan is determined without the formal action of the DRB.

**9.3.3 Plan Review by DRB**

The applicant or a designated representative shall attend a regularly scheduled meeting of the Development Review Board to discuss the sketch plan and pending subdivision application. At this meeting the DRB may request additional information as needed to act on the sketch plan.

**9.3.3.1 Review of Minor Subdivision/Lot Line Adjustment**

In the case of a minor subdivision, the DRB may issue a two-lot subdivision permit to said subdivider upon the payment of the fee established by the Board of Selectmen if the DRB, upon investigation of the completed application, is satisfied that both lots meet the minimum dimensional and setback requirements of the district in which the lots are located. No plat approval will be required for a two-lot minor subdivision.

### **9.3.3.2 Possible Additional Submittal Requirements**

During the course of the sketch plan review, the Development Review Board may require the applicant to satisfy additional submittal requirements in addition to the Minimum Submittal Requirements, Section 9.3.1. When requested, the additional information shall be supplied before the DRB may complete the Sketch Plan Review.

### **9.3.3.3 Possible additional requirements for Plans and Drawings (any or all of the following):**

- a. Indicate on plans all Zoning Districts involved, including the Overlay Districts.
- b. Sketches of the proposed subdivision (roads, building locations, etc.) at a scale of not more than 200 feet to the inch.
- c. General location and size of significant natural features such as woods, swales, waterways, ridgelines, ledges, wetlands, 100 year flood plain, etc.
- d. Mapping of the soil classifications on the site. These sketches may be prepared on overlays to photo enlargements of aerial photographs or USGS maps.
- e. Relationship of proposed plan to significant features specified in Pownal's Town Plan.
- f. Best available topographic information.
- g. Approximate layout of existing and proposed streets, easements and rights-of-way.
- h. Approximate layout of existing and proposed water and sewer utilities and facilities.
- i. Approximate layout of proposed open spaces reserved for parks, playgrounds or other common or public uses.

### **9.3.3.4 Possible additional Written Requirements (any or all of the following):**

- a. A statement of the soil types on the site, along with their capabilities and limitations.
- b. A narrative addressing how the subdivision proposal meets with the Goals and Objectives of the Town Plan.
- c. Other materials as specified by the ZA.

### **9.3.4 Actions by the DRB – Sketch Plan Review**

Following the initial DRB meeting (and any additional meetings required to review additional information requested by the DRB), the DRB shall, based on all information provided, issue in writing:

- DRB'S determination of whether the subdivision is a minor subdivision or major subdivision;
- The granting or denial of applicant's requested waiver provisions;
- A preliminary determination of whether or not the proposed subdivision plan generally conforms to applicable subdivision review standards, or would be in conflict with the municipal plan and other municipal regulations currently in effect;

- If a minor subdivision, the granting or denial of the subdivision permit;
- OR -
- If a major subdivision, recommendations for any DRB-proposed changes in subsequent submissions, including any requests for additional studies or supporting documentation.

For major subdivisions, approval of a sketch plan shall not constitute approval of the subdivision plat and is merely authorization to proceed to the next step in the subdivision review process, which is Preliminary Plat Review.

**Table 9.2 Subdivision Application Submittal Requirements**

	<b>Sketch plan</b>	<b>Prelim plat</b>	<b>Final plat</b>
Subdivision application form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Application fee	As set by	Select	Board
Waiver request, in writing-optional	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Drawings and Plans:</b>			
11"x17" subdivision layout i.e. sketch plan	2	7	7
24"x36" drawings, scale no more than 200 ft to the inch		1	1
Endorsement plate for recording approval by DRB			<input type="checkbox"/>
Date, scale, true north arrow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proposed subdivision name	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Location map, proposed roads, relation to adjacent property	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Boundary survey by licensed surveyor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> w/seal
Numbered lot plan indicating land area in each lot	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Identify Zoning Districts, including Overlay Districts	<input type="checkbox"/>		
Scale drawing of subdivision roads, building locations, etc.	<input type="checkbox"/>		
Location and size of significant natural features	<input type="checkbox"/>	<input type="checkbox"/>	
Mapping of soil classifications on site (separate drawing OK)	<input type="checkbox"/>		
Relationship of plan to significant features from Town Plan	<input type="checkbox"/>		
Topographic information – best available	<input type="checkbox"/>		
Approximate layout of existing/proposed streets, rights-of-way	<input type="checkbox"/>		
Approximate layout of existing/proposed water & sewer	<input type="checkbox"/>		
Approximate layout of proposed open/public spaces	<input type="checkbox"/>		
Map showing existing streets and utilities, preserved features		<input type="checkbox"/>	
Topographic plan with 5-ft contours (2-ft intervals in sewage disposal areas)		<input type="checkbox"/>	
Preliminary drawing of proposed public facilities - roads, water systems, fire hydrants, etc.		<input type="checkbox"/>	
Map showing location of all test pits and soil borings,		<input type="checkbox"/>	

preliminary design of sewage disposal systems			
Indicate all spaces to be retained or designated as public space		<input type="checkbox"/>	<input type="checkbox"/>
Preliminary plan of landscaping to be installed by subdivider		<input type="checkbox"/>	
Names of all proposed streets		<input type="checkbox"/>	<input type="checkbox"/>
Dimensioned lines, curves, angles & tangent bearings of roads			<input type="checkbox"/>
Location of all monuments for boundaries, road intersections, points and curves as required by Town			<input type="checkbox"/>
Final construction drawings by professional engineer			<input type="checkbox"/> w/seal
<b>Written and Other Material:</b>			
Name, address and parcel ID# of owner and applicant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
List and (2) addressed stamped envelopes for all abutters	<input type="checkbox"/>	<input type="checkbox"/>	
Identify any historical/archeological resources on sketch plan	<input type="checkbox"/>	<input type="checkbox"/>	
Statement of soil types, capabilities and limitations	<input type="checkbox"/>		
Narrative of how subdivision meets goals of the Town Plan	<input type="checkbox"/>		
Results of test pits and soil borings		<input type="checkbox"/>	
For proposed private water systems, documentation of water supply		<input type="checkbox"/>	
Estimate of traffic volumes and traffic impact report		<input type="checkbox"/>	
Documentation of review from town departments and school		<input type="checkbox"/>	
Offers of dedication and deeds for all land to be acquired by the Town			<input type="checkbox"/>
Covenants or other legal documents used to preserve open or public lands			<input type="checkbox"/>
Charters and bylaws of property owners'/tenants' association			<input type="checkbox"/>

#### **9.4 Preliminary Plat (required only for major subdivisions)**

Within six (6) months of receiving a sketch plan approval for a subdivision the subdivider shall submit a complete application for preliminary approval of the subdivision plat to the DRB. If the application is not submitted within six (6) months, a new sketch plan must be submitted for review. The application for preliminary approval shall contain those items set forth in Section 9.4.1 of these regulations, and shall conform to the layout approved by the DRB during the sketch plan review. If the DRB determines that the application is substantially changed from the previously approved layout, then the DRB may remand the application to sketch plan review.

##### **9.4.1 Submittal Requirements – Preliminary Plat**

The preliminary plans shall consist of updates of all information required in previous submittals, plans and drawings, as well as written and other material as follows:

**9.4.1.1 Plans and drawings – Preliminary Plat:** Seven (7) 11” x 17” copies of all plans plus one 24”x 36” or larger copy of the subdivision layout, drawn to a minimum scale of 1”=200ft, unless otherwise required by the DRB. Where possible, the information required below may be combined on the maps, provided that the maps are clear and legible.

- a. Date, scale and true north arrow.
- b. Proposed subdivision name or identifying title (in compliance with E-911 standards).
- c. A location map showing proposed roads and the relation of the proposed subdivision to adjacent property and the surrounding area.
- d. A complete boundary survey of the proposed subdivision by a licensed surveyor. Such survey shall show the names of all abutting and cross-street property owners.
- e. A plan showing existing and proposed contour lines at five (5) foot intervals; two (2) foot intervals are required for all sanitary sewage disposal areas.
- f. A plan showing all lots numbered consecutively, and indicating the land area in each lot.
- g. All spaces to be retained by the subdivider or designated as common or public open space.
- h. Building envelopes with consideration given to topographic constraints and to setbacks from property lines, streams and other natural features.
- i. Sketches from Sketch Plan Review showing the location and size of significant natural features such as woods, swales, waterways, ridgelines, floodplain boundaries, ledges, wetlands, etc.
- j. A map showing the natural features and site elements to be preserved as well as all existing roads and utilities that will serve the subdivision.
- k. Preliminary drawings of all proposed public facilities (roads, water systems, fire hydrants, sewage systems, storm water treatment facilities, erosion control measures, bridges, culverts, etc.).
- l. Landscaping, including street trees and/or berms, to be installed by the subdivider.
- m. Names of all proposed streets (in compliance with E-911 standards).
- n. A map showing the location of all test pits and soil borings, along with preliminary designs of sewage disposal systems.

**9.4.1.2 Written and Other Material – Preliminary Plat:**

- a. The name, address and parcel ID# of the owner of record of the land, and of the applicant, if different.
- b. A list and two (2) addressed and stamped envelopes for each current owner of record of all abutting properties, which shall include properties directly across any public right-of-way.
- c. Results of test pits, soil borings and other soils data.
- d. Evidence of any historical and archeological resources that may be present in the project site area. The DRB may require that a professional archaeological resource assessment be conducted by a trained archaeology consultant for the proposed project area.

e. For proposed private water systems, documentation of available water supply in the area including, if required by the DRB, test well logs.

f. Estimate of average weekday and p.m. peak hour traffic volumes to be generated and a traffic report that analyzes impact on existing roads and intersections and proposes measures to mitigate any adverse impacts.

g. A list of waivers from these regulations, if any, requested by the applicant.

h. Documentation from the following Town departments that the subdivider's plans have been reviewed and are deemed acceptable. If additional facilities are required, they should be described in the documentation from the relevant department.

i) Police

ii) Fire

iii) Public Works

iv) School (for residential subdivisions)

v) Rescue

i. Other materials and information as may be specified by the DRB.

j. An application fee as may be established by the Select Board.

#### **9.4.1.3 Staking out the Site**

The subdivider should be prepared, at the request of the DRB, to stake out the property in such a manner that the DRB, on a site visit, can perceive and understand the layout and organization of the proposed subdivision.

#### **9.4.2 Review by Zoning Administrator**

The Zoning Administrator shall review all submitted materials and may require additional information to be submitted. When the Administrator has determined that the preliminary plat application is complete, he/she shall schedule it for review by the DRB.

#### **9.4.3 Preliminary Plat Review by DRB**

The applicant, or his/her agent, should attend the meeting at which the Preliminary Plat is being considered. If the applicant or his/her agent is not present at such a meeting, the DRB may act on the application or table it to a subsequent meeting. However, it shall not be tabled for longer than 60 days at which time the application can be denied for lack of information if the board determines there is a lack of adequate information with which to make a decision.

#### **9.4.4 Modification of Submitted Plans**

The applicant shall not submit revised plans or revisions to other application materials between the time the submission is accepted as complete and the meeting at which the Preliminary Plat is being considered, unless specifically requested by the DRB to do so. If the applicant, of his/her own volition, wishes to revise the submitted plans prior to review by the DRB, the pending application must be withdrawn via a written request, a

complete package of application materials shall be resubmitted (Section 9.4.1), and the DRB review shall be rescheduled.

#### **9.4.5 Public Hearing**

Within thirty (30) days of receiving a completed preliminary plat application and fee, the DRB shall hold a formal public hearing. At least fifteen (15) days prior to the hearing, public notice shall be given as follows:

- a. Publication of the date, place and purpose of the hearing in the newspaper of general circulation in the Town and posting of such notice in at least one public space in Town; and
- b. Copies of the notice shall be sent to the applicant, the Regional Planning Commission, the Town Clerk of an adjacent community, and to other persons thought to have substantial interest in the proceedings.

The DRB shall hear the presentation of the applicant and the testimony of all participants wishing to be heard. The DRB shall consider the adequacy of the proposed plan, improvements and related aspects of the proposal, and shall find or require as a condition of approval, conformance with the standards and requirements set forth in Sections 9.4.6 and 9.7 of these regulations.

#### **9.4.6 Criteria for Preliminary Plat Approval**

The following criteria must be met to approve a preliminary plat:

- a. The proposed subdivision is consistent with the zoning and subdivision regulations applicable to the property.
- b. The proposed subdivision considers the advisory goals, policies and provisions of the Pownal Town Plan.
- c. The applicant has provided evidence that provision has been made for a water supply that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed.
- d. The applicant has provided evidence to establish that, if a public sewage disposal system is proposed, provision has been made for such system, and if onsite sewage disposal is proposed, results from percolation tests and profile holes have been provided which demonstrate that sewage disposal systems would comply with state and local laws and regulations in effect at the time of submission of the preliminary plat.
- e. The applicant has provided evidence to show that all areas of the proposed subdivision, which may involve soil or topographical conditions presenting

hazards or requiring special precautions, have been identified and that the proposed uses of these areas are compatible with such conditions or can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

f. The applicant has provided evidence that all lots and parcels created by the subdivision will have access to the Town road system and to the State highway system.

g. When the DRB requires it, the plan shall show a park or open space suitably located for playground or other recreational purposes.

h. That streets be laid out, buildings oriented, and vegetation controlled so as to promote the conservation of energy and to permit the utilization of renewable energy sources.

#### **9.4.7 Action by the DRB on Preliminary Plat**

The DRB shall, within forty-five (45) days after the completion of the public hearing, or any continuation thereof, approve, approve with modifications, or disapprove such plat. The grounds for any modifications and the grounds for disapproval shall be set forth in a written notice of decision. Failure to act within forty-five (45) days shall be deemed approval of the Preliminary Plat. Copies of the notice of decision of the DRB shall be sent to the applicant and abutting property owners. In addition, copies of the notice of decision shall be available at the Town Office. As a condition of Preliminary Subdivision Approval, the DRB shall identify all land and interests therein that are intended to be dedicated to or acquired by the Town.

#### **9.4.8 Effect of Preliminary Plat Approval**

Approval of the Preliminary Plat shall not constitute approval of the final subdivision plan. Prior to approval of the final subdivision plat, the DRB may require additional changes as a result of further study. The approval of a Preliminary Plat shall be effective for a period of one year. Any plat not receiving final approval prior to the expiration of one year from Preliminary Plat approval shall be null and void, and the subdivider shall be required to submit a new plat for sketch plan approval (Section 9.3.1), subject to all new zoning and subdivision regulations. The DRB shall extend the one-year deadline if the final plat approval is in process but not completed when the deadline is reached

#### **9.5 Final Plat**

Within one (1) year of receiving Preliminary Plat approval, the subdivider shall submit a complete application for approval of a final subdivision plat to the Administrator. The application must contain those items set forth in Section 9.5.1 of these regulations, and shall conform to the layout shown on the Sketch Plan for minor subdivisions and the Preliminary Plat for major subdivisions, with any modifications recommended by the

DRB. If the DRB determines that the application is substantially changed from the previously approved layout, then the DRB may remand the application to Sketch Plan or Preliminary Plat review.

### **9.5.1 Submittal Requirements – Final Plat**

Final plat submittal shall include updates of all information required in previous submittals plus plans and drawings and written material as follows:

**9.5.1.1 Plans and drawings – Final Plat:** Seven (7) 11” x 17” copies of all plans plus one 24”x36” or larger copy of the subdivision layout, drawn to a minimum scale of 1”=200ft, unless otherwise required by the DRB. Where possible, the information required below may be combined on the maps, provided that the maps are clear and legible.

- a. The final subdivision plat shall consist of one or more sheets of drawings which conform to the following requirements: they shall be clearly and legibly drawn on mylar or linen, on standard sheets of 24” by 36”, suitable for recording under Vermont Statutes. The final plat shall carry the following endorsement on the copy to be filed with the Town Clerk:

Approved by Resolution of the Development Review Board of the Town of Pownal, Vermont, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_, subject to the requirements and conditions of said resolution. Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_, by, \_\_\_\_\_, Chair.

- b. The final plat shall conform to the preliminary plan approved by the DRB, with any revisions requested by the Board. The final plat shall show:

- i) Date, scale and true north arrow.
- ii) Proposed subdivision name or identifying title.
- iii) The name, license number and seal of the registered land surveyor who prepared it.
- iv) The boundaries of the subdivision and its general location in relation to existing roads and other landmarks.
- v) Road names and lines, pedestrian ways, lots, reservations, easements and area(s) to be dedicated to public use.
- vi) The length of all straight lines, the deflection angles, the radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each road.

vii) By proper designation on the plat, all public open space for which offers of dedication are made, and all spaces for which title is reserved by the subdivider.

viii) Lots within the subdivision numbered consecutively, and indicating the land area in each block.

ix) Monuments which shall be set at all corners and angle points of the boundaries of the subdivision, at all lot corners, all road intersections, angle points in road lines, points of curve and such intermediate points as shall be required by the Town.

c. Construction drawings that shall include the name, license number and seal of the professional engineer who prepared them.

#### **9.5.1.2 Written and other Materials – Final Plat:**

a. The name, address and parcel ID# of the owner of record of the land, and of the applicant, if different.

b. Draft copies of the following legal documents:

i) Offers of dedication and deeds for all land and interests therein to be dedicated to or acquired by the Town.

ii) Any covenants or other legal devices used to preserve open or public lands, or to restrict the use of any lots.

iii) Charters and bylaws of property owners' or tenants' associations, if any.

iv) Any other legal documents required by the DRB.

c. Other materials as specified by the DRB.

d. An application fee as may be established by the Select Board.

#### **9.5.2 Review by Zoning Administrator**

The Zoning Administrator shall review all submitted materials and may require additional information to be submitted. When the Administrator has determined that the application is complete, he/she shall schedule it for review by the DRB.

### **9.5.3 Final Plat Review by DRB**

The applicant, or agent, should attend the meeting at which the Final Plat is being considered. If the applicant or agent is not present at such a meeting, the DRB may act on the application or table it to a subsequent meeting. However, it shall not be tabled for longer than 60 days at which time the application can be denied if the DRB determines there is a lack of adequate information with which to make decision.

### **9.5.4 Modification of Submitted Plans**

The applicant shall not submit revised plans or revisions to other application materials between the time the submission is accepted as complete and the meeting at which the Final Plat is being considered, unless specifically requested by the DRB to do so. If the applicant, of his/her own volition, wishes to revise the submitted plans prior to review by the DRB, the pending application must be withdrawn via a written request, a complete package of application materials shall be resubmitted (Section 9.5.1) and the DRB review shall be rescheduled.

### **9.5.5 Public Hearing**

Within thirty (30) days of receiving a completed final plat application and fee, the DRB shall hold a formal public hearing. At least fifteen (15) days prior to the hearing, public notice shall be given as follows:

- a. Publication of the date, place and purpose of the hearing in the newspaper of general circulation in the Town and posting of such notice in at least one public place in Town; and
- b. Copies of the notice shall be sent to the applicant, the Regional Planning Commission, the town clerks of adjacent communities, and to other persons thought to have substantial interest in the proceedings.

The DRB shall hear the presentation of the applicant and the testimony of all participants wishing to be heard. The DRB shall consider the adequacy of the proposed plan, improvements and related aspects of the proposal, and shall find or require as a condition of approval, conformance with the standards and requirements set forth in Sections 9.5.6 and 9.7 of these regulations.

### **9.5.6 Criteria for Final Plat Approval**

- a. Final approval by the DRB shall not be deemed evidence of any acceptance by the Town of any proposed street, easement, utilities, open space or other required public improvements shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Select Board and such approval is endorsed in writing on such plat.

b. All streets, drainage, water, sewer, and other required improvements shall be provided and installed at the sole expense of the subdivider as a condition of plat approval. The DRB may require a performance bond, letter of credit, or other security acceptable to the DRB to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the Select Board that it is satisfied either with the bonding or surety company, or with the security furnished by the subdivider. The amount and terms of the bond shall be determined by the DRB, but in no case shall the terms run longer than three years. The bond shall be released only when the conditions have been satisfied in the judgment of the Select Board. In the event any required improvements have not been installed or maintained in accordance with the terms of the bond, such bond shall be forfeited to the Town to install and maintain such improvements as are covered by the conditions of the bond.

c. The DRB shall review all conditions of final approval and require that all of the conditions be recorded in the Town's land records as restrictions on the property affected by the subdivision.

### **9.5.7. Action by the DRB on Final Plat**

The DRB shall, within forty-five (45) days after the completion of the public hearing, or any continuation thereof, approve, approve with modifications, or disapprove such plat. The DRB may attach such reasonable conditions to any approval as may be necessary to protect the public health, safety and welfare, or to implement the purposes of 24 V.S.A., Chapter 117 or these regulations. The grounds for any modifications and the grounds for disapproval shall be set forth in a written notice of decision. Failure to act within forty-five (45) days shall be deemed approval. Copies of the notice of decision of the DRB shall be sent to the applicant and abutting property owners. In addition, copies of the notice of decision shall be available at the Town Office.

## **9.6 Actions After Final Plat Approval**

### **9.6.1 Procedure for Filing of Approved Subdivision**

Following Final Plat Approval, final subdivision plans shall be submitted and distributed as follows:

a. The applicant shall file with the Zoning Administrator within seventy-five (75) days of approval a mylar copy of the approved Final Plat and any portion of the submitted plans that are required to be recorded as a stipulation of the final subdivision approval, prepared as specified in Section 9.5.1.1. The Zoning Administrator shall have the mylar signed by the DRB Chair or his/her designee and shall file the signed mylar with the Town Clerk's Office within ninety (90) days of the date of approval.

b. The applicant shall file with the Zoning Administrator within seventy-five (75) days of approval a copy of the approved final plat in digital format with all survey data projected in Vermont State Plane meters. Under special circumstances, the DRB may waive this requirement for minor subdivision projects.

c. The applicant shall file with the Zoning Administrator within seventy-five (75) days of approval two paper copies of the approved Final Plat and construction drawings. The Administrator shall have the plans signed by the DRB Chair or his/her designee and shall distribute one copy to the applicant.

d. If the plat is not filed with the Town Clerk's Office in accordance with these provisions, the subdivision approval shall become void.

e. The plat is void if changes are made to it after the DRB has endorsed it in writing.

### **9.6.2 Public Acceptance of Streets, Reservations, and Other Public Facilities**

Every street shown on a plat filed or recorded as provided in these regulations shall be deemed to be a private street until such time as it has been formally accepted by the Select Board.

No Zoning Permit shall be issued until establishment of an adequate performance guarantee, as specified in Section 9.5.6b, for streets and facilities.

As-built drawings showing the location of all required facilities shall be certified by a Vermont licensed professional engineer (with civil or related specialty) or registered land surveyor and shall be filed with the DRB. Until as-built drawings are filed, the balance of the performance guarantee or other surety guaranteeing the completion of such facilities shall not be released.

Upon satisfactory completion of facilities (as reviewed by the Town Highway Department and certified by the DRB or its agent), the DRB shall recommend to the Select Board that all security covering construction of facilities be released. After completion of facilities a sufficient guarantee in the form of a Letter of Credit or other security shall be retained, to guarantee maintenance of the streets and other public facilities, as provided for in Section 9.6.3.

Final approval of the subdivision plat, or filing for record thereof, shall not constitute or be evidence of an acceptance of any street, park or other open space shown on such plat. Such acceptance shall be by resolution of the Select Board.

### **9.6.3 Maintenance of Facilities**

The subdivider shall be required to maintain all facilities and provide for snow removal on streets and sidewalks, or until a homeowners' or tenants' association or other approved organization is established and assumes the maintenance responsibilities.

#### **9.6.4 Expiration of Approval**

If no action is taken by the subdivider to implement the proposed subdivision within three years of the final plat approval, the approval shall become null and void. If, however, the DRB determines, after a public hearing, that an extraordinary hardship not created by the subdivider has prevented action to implement the subdivision, the approval may be extended for up to two additional years.

### **9.7 Subdivision Design Criteria and Required Improvements**

#### **Overview of Standards**

The DRB shall evaluate any subdivision in accordance with the following standards. The DRB shall approve the subdivision application only if it determines that these basic standards have been met:

1. The proposal is in compliance with the Pownal Town Plan, Zoning Bylaw and any other bylaws and ordinances then in effect.

2. The proposal preserves existing features of the site, retains natural contours, avoids disturbance of streams and natural drainage ways, controls erosion, and meets requirements for excavation, grading or fill.

3. The proposal provides access for emergency and other services.

4. The proposal provides sidewalks or recreation paths to accommodate pedestrian circulation and meets standards for construction of walkways and curbs.

5. The proposal lays out lots and building envelopes that consider topography, soils and drainage conditions; that avoid development of floodplains, wetlands or other unbuildable land; and that meet the standards of the Zoning Bylaw.

6. The proposal provides easements where necessary to facilitate pedestrian circulation.

7. The proposal has sufficient water supply to meet needs for domestic water usage and fire protection, and meets Town and State of Vermont requirements for construction of central and private water systems.

8. The proposed subdivision will be permitted to connect to the Town's sewage disposal system or suitable soils are available for private systems, and the proposal meets Town and State of Vermont requirements for construction of sewage disposal systems.

9. The proposal meets Town requirements for construction and location of utility lines and outdoor lighting fixtures.

10. The proposal minimizes storm water runoff, accommodates existing upstream development, prevents overload on downstream drainage facilities, and meets requirements for construction of drainage facilities.

11. The proposal provides monuments and lot corner markers.

12. The proposal provides open space as required by the DRB.

### **9.7.1 Site Preservation, Grading and Excavating**

#### **1. Existing Features**

Site amenities including trees, brooks or drainage ways, historic sites, farmland, ridgelines, unique geologic features, archaeological resources or any other unusual features, which the DRB determines are assets to the site and/or the community, shall be preserved. Preservation techniques may include Planned Residential Developments, careful layout of lots and roads, limitations on size and location of building envelopes, and requiring fixed percentages of developable open space in rural districts.

#### **2. Vegetation and Natural Cover**

Land shall be subdivided and developed to minimize grading and cut and fill, and to retain, to the degree possible, the natural contours. Wherever possible, the natural cover shall be conserved and storm water runoff shall be limited. Vegetation such as trees and shrubs shall be retained or may be reasonably required by the DRB for screening and aesthetic purposes. The DRB may require that suitable shade trees be planted along the streets where trees do not exist at intervals of at least 40 feet.

#### **3. Tree Removal**

Tree removal shall be limited to the following:

a. Forest management, including trimming and removal of small and/or diseased trees, is encouraged. Use of a professional forester is recommended to establish guidelines for tree removal under a forest management program.

b. Within areas designated for a building envelope and for an access drive, tree removal may be permitted as needed to accommodate the purposes of the lot. Mature trees that can be saved should be welled and protected against changes in grade.

c. Outside the area designated for a building envelope, the DRB may limit tree removal if it determines that such removal would cause soil erosion or would

adversely affect ridgelines or other scenic views, screening for abutting properties, or significant habitat sites. When tree removal is permitted to create view corridors, it should be accomplished with narrow view openings between trees and beneath tree canopies rather than with large openings. Selective cutting of small trees and the lower branches of large trees is preferred over the removal of mature trees.

d. Tree removal, either within or outside the area designated for a building envelope, shall not be permitted where the DRB determines that it would adversely affect the scenic qualities of a ridgeline.

#### **4. Streams and Drainage Ways**

Disturbance to the direction or location of streams or natural drainage-ways shall be avoided. Buffer strips along streams shall be protected according to provisions of Section 8.5 of the Zoning Bylaw.

#### **5. Erosion and Sediment Control**

Control measures shall follow the guidelines of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites.

#### **6. Excavation and Grading**

All excavation, filling and grading required for construction shall be as specified by the Town. The entire area of work shall be brought to the required elevations by excavation or filling. A minimum of four (4) inches of topsoil shall be provided to cover finished grades and slopes. All roads shall be graded from property line to property line to approved grades and cross sections.

#### **7. Fill**

No stumps, wood, roots or other fibrous materials shall be used as fill except in an area stipulated for no development. A stump dump may be permitted only if the DRB determines that its location will cause no adverse environmental effects. The DRB may require the subdivider to submit evidence of boring and/or other soil investigations to determine the depth, composition and stability of the subgrade within road sections or where homes are to be located.

### **9.7.2 Streets and Roads**

#### **1. Required Street Improvements**

Design of streets shall conform to Town and State of Vermont approved standards and shall be constructed logically in relation to the topography so as to provide safe intersections, grades, sight lines and alignments, adequate drainage and safe stopping

distances. As a condition of approval of any subdivision, the subdivider shall be required to provide the following street improvements:

- a. Construction of private streets shall coordinate with existing development adjacent to the tract.
- b. Construction of all streets shall avoid dead-end roads longer than 500 feet unless required by local conditions and approved by the DRB.
- c. Construction of streets outside the subdivision necessary to establish a connection between the subdivision and the existing street system, with the design and construction standards for such connections to be determined by the Select Board based on what part they play in the Town's overall street system.
- d. Where existing streets provide access between the subdivision and the state highway system, and the existing streets do not meet Town and State of Vermont standards for the traffic volumes which would occur once the subdivision is built, upgrading of existing streets to the Town standards required for the projected traffic volume.
- e. All improvements necessary for street drainage, including but not limited to culverts, drainage pans, inlets, curbs and gutters.
- f. Traffic control devices including signs and signals, street name signs, street lighting, striping and pedestrian crosswalks in conformance with the criteria contained in the "The Manual of Uniform Traffic Control Devices" as adopted by the State of Vermont.
- g. Street medians and median landscaping, if required.
- h. Any driveways designed to serve more than two single-family units.

### **9.7.3. Sidewalks and Curbs**

#### **1. Sidewalks**

Sidewalks or recreation paths may be required by the DRB where they are deemed necessary to safely accommodate pedestrian circulation within the subdivision or from the subdivision to other points of interest such as schools, parks, shopping areas, etc.

#### **2. Curbs**

In general, curbs and gutters shall be provided where sidewalks are provided within road rights-of-way. Curbs and gutters normally are not required along rural residential streets. Curbs and gutters may otherwise be omitted only upon recommendation of the DRB and upon demonstration that adequate drainage for streets and sidewalks will be provided.

Curbs, gutters and storm drainage grates shall be designed to accommodate safe bicycle travel.

#### **9.7.4 Lot Layout**

1. Lots shall be laid out in such a way that they can be developed in full compliance with the Zoning Bylaw, giving consideration to topography, soils and drainage conditions, unless otherwise permitted by the Zoning Bylaw.
2. The DRB may require that a subdivider divide lots according to the cluster subdivision regulations set forth in Section 3.10 of the Zoning Bylaw.
3. Corner lots shall be of sufficient dimensions so that any structure placed on the lot shall conform to the front yard setbacks required on each street by the Bylaw.
4. Lots without required frontage on a public road, waterway or approved private road shall not be permitted. However, easements may be approved by the DRB to serve no more than two lots where the shape of the original parcel makes the provision of public or private roads impracticable.
5. All lots shall have designated building envelopes which shall not include floodplain, wetlands, streams or drainage ways, or other unbuildable land. Dimensions of lots and building envelopes shall be large enough to accommodate the purpose for which they are intended to be used.
6. Irregular lot lines and shapes should be discouraged.
7. Side lot lines, to the extent possible, shall be at right angles to the road on which the lot faces, or symmetrical to curved road lines. When such an arrangement is not possible, the angle between the side lot line and the road line shall be shown on the plat.

#### **9.7.5 Water and Sewage**

Water and sewage disposal systems shall comply with all Town and State Regulations. The DRB may require that the proposed development be serviced by common or public water supply and sewage disposal systems, or that such systems be designed so that they may eventually be connected to municipal facilities, as required below:

##### **1. Town Systems**

Whenever the Town sewage disposal or water system is reasonably accessible and where connection to that system is consistent with the Town Plan and any other applicable Town ordinances, the subdivider is required to connect to the Town system and to provide all connections, collection lines, pumping, supply and distribution facilities, and other facilities in accordance with Town standards. The DRB may require the subdivider

to install, at no expense to the Town, larger lines, pumping and other facilities outside of the subdivision if the sewer service would otherwise be inadequate to serve the subdivision. Subdivisions located outside the sewer service area, as described in the Sewer Service Ordinance, should not be permitted to connect to the Town sewage disposal system.

## **2. Individual Systems**

For all subdivisions proposing individual, on-site systems, the subdivider shall submit acceptable evidence establishing adequate quality and quantity of water for domestic purposes, and acceptable evidence that the land has the capacity and is suitable for on-site sewage disposal.

### **9.7.6 Utilities**

#### **1. Utility Lines**

Gas, electric, telephone, outdoor lighting and cable television distribution systems are required to be underground. Wherever possible according to code the subdivider shall ensure that adequate and suitable areas for underground installations are provided, both for the proposed subdivision and for areas adjacent to the subdivision. Where practicable, utility lines that parallel public streets shall share the public right-of-way rather than require additional easements on private property.

#### **2. Street Lighting**

- a. Outdoor lighting design should minimize impacts to the night sky. Cut-off luminaires as defined by the Illuminating Engineering Society of North America (IESNA) are required. At certain locations, the DRB may require side or back shields to minimize light directed to the side or rear of the fixtures. Poles supporting streetlights shall be located so as not to obstruct vision or create a vehicular safety hazard.
- b. Illumination levels generated by outdoor lighting should be sufficient for the purpose intended. Excessive lighting and glare-producing conditions are to be avoided.
- c. A uniform level of lighting is recommended for outdoor applications. Excessively bright areas in contrast with very dark areas are to be avoided in lighting installations.
- d. Street Lights in the V (Village) and I(Industrial) districts: Street lights shall be mounted at heights of no more than 16 (sixteen) feet and shall be located at intersections of public streets and locations where the DRB determines that a light is required to illuminate a safety hazard. Except where located along state or

federal highways, fixtures shall be of a design other than highway-oriented "cobra head" fixtures.

e. Street Lights in the RR districts: Streetlights shall not be provided except at locations where the DRB determines that a light is required to illuminate a safety hazard. When required, streetlights shall be mounted at heights of no more than 20 (twenty) feet and shall be of a design other than highway-oriented "cobra head" fixtures.

f. All exterior lighting shall be subject to an overall lighting plan.

### **9.7.7 Open Space**

The DRB, pursuant to Section 4418 of the Development Act, may require as a condition to subdivision approval that the plat show open space suitably located for recreation, pedestrians, or other public common use. The DRB shall determine whether such open space(s) shall be designated for private or for general public use. In making its determination, the DRB shall consider the following:

- The size of the proposed subdivision.
- The physical suitability of the subdivider's land for use as open space.
- The minimum area required for such purpose.

### **9.8.8 Agricultural Land**

In order to prevent harm to the scenic and agricultural land resources in Pownal, while preserving the rights of the property owner to create the number of building sites allowable within the zone with adequate sewage disposal, the subdivision of lots and the siting of non-agricultural buildings in the RR districts shall be subject to the following:

- a. Lots shall be located and sized so as to preserve farmlands to the maximum extent possible.
- b. Buildings and other structures shall not be sited in the middle of open fields, but shall be located in wooded areas, or at the edge of fields so as to preserve agricultural utilization and scenic views and minimize the loss of open space to the maximum extent possible.

## **SECTION X - INTERPRETATION OF BYLAW**

In their interpretation and application, the provisions of this Bylaw shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this Bylaw to abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that

where this Bylaw imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger yards, courts, or other open spaces than are imposed or required by existing provisions of law or ordinance, or by rules, regulations or permits, or by easements, covenants or agreement, the provision of this Bylaw shall control.

Except as otherwise provided in this Bylaw, any use not specifically permitted shall be deemed to be prohibited.

Any disputes or question in interpretation of the bylaws and district boundaries will be settled by the PC, whose decision is final.

### **SECTION XI – VALIDITY**

If any section or provision of this Bylaw is adjudged to be unconstitutional or otherwise invalid, such decision shall not affect the validity of this Bylaw as a whole, or of any part thereof other than the part so adjudicated.

### **SECTION XII - PUBLIC NOTICE**

Any public notice required for public hearing under this Bylaw shall be given as required by Law.

### **SECTION XIII - PENALTIES AND ENFORCEMENT**

The property owner will be held responsible for any violations occurring on their land and will be fined not more than one hundred dollars (\$100) per day for each offense. The person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than one hundred dollars (\$100) per day for each offense.

### **SECTION XIII – AMENDMENTS**

This Bylaw and the boundaries of zone districts established herein, may be amended from time to time after a public hearing, as provided by Section 4442 of Title 24 V.S.A.

## **2.0. DESCRIPTIONS**

### **2.1. DESCRIPTION OF VILLAGE MIXED USE DISTRICTS**

**Pownal Center:** The area that extends for 1,000 ft. on both sides from the center line of Route 7 that is bounded on the south by a perpendicular line where the center line of Barber Pond Road bisects Route 7 and on the north by a perpendicular line where the center line of School House Road bisects Route 7.

**North Pownal:** Starting at the intersection of Route 346 and SA2, and running up the center line of Town Road SA2 to the elevation of 700 ft. Following the 700 ft. elevation line southeast to a line that is perpendicular to Route 346 at the center of the Rock Cut. Continuing along that line to the B & M Railroad tracks where it intersects Route 346, then travel southeasterly back along the center line of Route 346 to the intersection of the center line of SA2.

**Pownal:** Bounded on the west by a line that is perpendicular to Route 346 located where the center line of Lincoln Street bisects Route 346 and running from the Hoosic River to Route 7. Running south along Route 7 to the point where the southern boundary of the Green Mountain Mobile Home Park bisects it, then along a line perpendicular to Route 7 to the Hoosic River, then in a northwesterly direction following the Hoosic River to the point of beginning.

## **2.2. DESCRIPTION OF FOREST DISTRICTS**

**Western Forest Zone-** Northwest Hill Area: Starting at the 1,100 ft. contour elevation line at the Mass. border, follow the 1,100 ft. contour elevation to Frost Hollow stream, follow the stream to the 1,000 ft. contour elevation line in an easterly direction, then follow the 1,000 ft. contour elevation in a northwesterly direction to the new York State border.

**Eastern Forest Zone** - Henderson Hill Area: Starting at the 1,300 ft. contour elevation line at the Town of Bennington southeastern border, follow the 1,300 ft. contour line to the first powerline. Then follow the powerline east to the 1,600 ft. contour elevation to Old Military road. Then run 200 ft. west of Old Military Road and continue south following the parallel line made 200 ft. west of Old Military Road. When Old Military Road meets White Oaks Road continue the parallel line made 200 ft. west of White Oaks road to the Mass. State line.

**Northern Forest Zone** - Carpenter Hill Area: All land above the 1,600 ft. contour line in the northern part of Pownal known as the Carpenter Hill area is included.

## **2.3. DESCRIPTION OF INDUSTRIAL DISTRICTS**

Starting on the west by a line that is perpendicular to Route 346 located where the center line of Lincoln Street bisects Route 346 and running in a westerly direction along Route 346 approximately 2,000 ft., then heading in a southerly direction to the railroad tracks, then following the railroad tracks east to Lincoln Street to the point of beginning, incorporating the land of Mack Molding.

In North Pownal, the lands now dedicated to the Pownal Wastewater Treatment Facility.

## **2.4 DESCRIPTION OF COMMERCIAL DISTRICTS**

From Massachusetts State Line northerly on U.S. Route 7 to Oak Hill Drive, including 500 feet on both sides of Route 7.

## **APPENDIX**

### **3.0. DEFINITIONS**

#### **3.1 "A"**

Abandoned: Any use shall be considered abandoned (1) When the intent of the owner to discontinue the use is apparent; (2) When the characteristic equipment and the furnishings of the non-conforming or conditional use have been removed and have not

been replaced by similar equipment within one year; (3) When the building or premises are left vacant for a period of one year; or (4) When the use has been replaced by a conforming use.

Acceptance: Formal action by the Pownal Select Board, in keeping with statutory requirements.

Accessory Use: A use customarily incidental and subordinate to a principal use on the same lot.

Act: Title 24, Chapter 117; The Vermont Municipal and Regional Planning and Development Act as presently enacted or as from time to time amended.

Administrator: The Town Zoning Administrator, Town Planning Administrator or other person(s) acting for the Planning Commission and/or the Development Review Board.

Area of Special Flood Hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Automobile Filling Station: Building or land which is used for the sale of motor fuel and oil, with or without motor vehicle accessories.

Automobile Repair Garage: Any garage other than that of a private residence available to the public which is used for storage, repair, rental, greasing, washing, servicing, painting, adjusting or equipping of automobiles or other motor vehicles.

### **3.2. "B"**

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

Basement: Any area of a building having its floor subgraded (below the ground level) on all sides

Block: An area bounded by roads.

Building: Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, or materials including enclosure of a gas or liquid storage tank that is principally above ground. Any other structure more than eight feet high, shall be considered as a building, but excluding a utility pole, highway or railroad bridge or flag pole.

Building, Accessory: Any building which is subordinate to and whose use is incidental and accessory to the use of the principal building on the same lot, or on an adjoining lot under the same ownership. A detached accessory building shall be one that is not attached to the principal building by any covered porch, breezeway, or any other roofed

structure.

**Building Area:** The ground area enclosed by the walls of a building, together with the area of all enclosed porches and other roofed portions.

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

**Building envelope:** A three dimensional space within which the principal and accessory structures on a lot must be located. A building envelope shall be delineated laterally on the ground by setbacks or other limits, and vertically by height limits.

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

### **3.3. "C"**

**Camp:** Structure used for recreation purposes. To be considered a non-residential building without conventional electrical service or running water to be used only occasionally as a hiking or hunting shelter.

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

**Cluster Subdivision:** A form of land subdivision in which the residential density allowed by a property's zoning remains unchanged, but dwelling units are grouped together rather than distributed on a uniform basis over the property by reducing the lot area required for each dwelling unit and placing the remaining land in common open space.

**Commercial:** The exchange or buying and selling of commodities with the general public for more than four days in any one month. Farm stands are excluded from this provision.

**Community Care Home:** A residential facility traditionally utilized by the elderly, which provides custodial care which includes room and board, plus additional personal services and supervision for the residents' protection. Six community care home residents shall constitute a one-family unit as provided in 3.7.6.

Construction Drawing/Specifications: Those drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground utilities, pavements (above and below grade), cross section of streets, miscellaneous structures, etc.

### **3.4. "D"**

Development: Any man made changes to the division of a parcel into two or more parcels, the construction. The use of any building or other structure, or land, or extension of use of land.

Dedication: The action by a subdivider to formally offer to the Town of Pownal title to roads, easements or land to be used for public purposes.

Development Review Board: The Town of Pownal Development Review Board (DRB) as created pursuant to Section 4460 of the Act.

Dog Kennel: The keeping or care of more than four dogs greater than six (6) months old.

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

Dwelling, One Family: A building designated for or occupied as a residency by one family.

Dwelling Unit: A dwelling or part of a dwelling occupied or intended to be occupied by one family for residential purposes, containing full housekeeping facilities for the exclusive use of the occupants.

### **3.5. "E"**

Easement: The authorization by a property owner for the right of a specific use by another party of any designated part of his or her property.

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision 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) was completed before the Zoning Bylaw effective date of April 1, 1991

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads)

Extraction of Earth Resources: The use of a lot or portion thereof for the purpose of removing, screening or separating of minerals, stone, sand, gravel, or top soil for resale or

reuse, other than removal that is incidental to construction of a permitted building or other structure on the lot.

### **3.6. "F"**

**Family:** Any number of individuals related by blood, marriage, civil union or adoption, living together as a single housekeeping unit, provided that a group of not more than five persons keeping house together, but not necessarily related by blood or marriage, may be considered a family.

**Fence:** Fences of 8' or less in height do not need a zoning permit however those higher than 8' will require a permit and must meet setbacks that allow maintenance on both sides of fence to be performed. As used in "Recycle Facility," section 8.9 for purposes of this bylaw, a fence is a means to fully conceal junk motor vehicles, scrap or waste materials from view. Fences shall not be used for advertising signs or other displays unless in full compliance with standard sign ordinances and other bylaws of the Town of Pownal.

**Final Subdivision Plat:** The final drawings on which the subdivider's plan for subdivision is presented to the DRB for approval, and which, if approved, shall be filed with the Town Clerk.

**Flood Insurance Rate Map:** An official map of a community showing both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study:** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface evaluations. **Flood Plain:** The land lying between a lake, river, stream or watercourse and the high water mark of the 100-year storm event as indicated on the National Flood Insurance Program (FIRM) floodway maps.

**Flood Plain:** The land lying between lake, river, stream or watercourse and the high water mark of the 100- year storm event as indicated on the National Flood Insurance Program (FIRM) floodway maps.

**Flood Proofing:** Any combination of structural and non-structural additions, changes or adjustments to structures which 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.

**Fragile Area:** An area of land or water which has unusual or significant flora, fauna, geological or similar features of scientific, ecological or educational interest. **Fragile**

areas shall include Natural Features as identified by the Pownal Town Plan and the Vermont Natural Area Inventory.

Fringe Area: The area of the 100-year Flood Plain that is outside the floodway.

### **3.7. "G"**

Group Home: A residential care facility, house or other building serving not more than eight persons who have a physical handicap or disability or as defined in VSAT.24 §4412(G)

Growth Center: The purpose of a growth center is to designate areas appropriate for concentrated, high-density development and to provide a mix of land uses including commercial, retail, public service, transit, and residential that are in close proximity, planned as a unified complimentary whole, and functionally integrated. A growth center's existing or planned centralized infrastructure is capable of supporting future growth in the area and is also intended to: (a) provide a pedestrian-oriented circulation network that minimizes vehicular traffic, (b) encourage the traditional town center pattern of appropriately scaled buildings facing onto a well-defined and active public street, and (c) promote innovative site planning to maximize uses, shared parking, public open space and pedestrian amenities which create an aesthetically pleasing and socially active community center. The three designated growth centers in Pownal are Pownal, Pownal Center, and North Pownal.

### **3.8. "H"**

Halfway House: A facility, house, or other building where the persons serve a supervised community sentence.

Historic Structure means any structure that is: (a) Listed individually in the National Register of Historic Places ( a listing maintained by the department of the Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a 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: (ii) By an approved state program as determined by the Secretary of the Interior in states without approved programs.

Home Occupation: The use of a minor portion of a dwelling unit by a resident of that dwelling unit, or the use by a resident of an accessory building on the same lot as such dwelling for an occupation which is customary in residential areas, and which does not change the character thereof.

Hospital: Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanitarium, clinic, rest home, nursing home, convalescent center, or any other place for the diagnosis, treatment or other care of ailments where there are facilities for overnight occupation by patients, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments other than that performed in the professional office of a licensed medical practitioner. For the purpose of computing lot size, ten hospital patients shall constitute one family unit.

### **3.9. "I"**

Industrial Park: A planned, coordinated development of a tract of land intended to house two or more separate industrial buildings with separate uses. Such development is planned, designed and engineered on an integrated and coordinated basis with special attention given to on-site vehicular circulation and parking, utility needs, building design and orientation and open space.

### **3.10. "J"**

Junk: Scrap or waste materials including old or scrap copper, brass, iron, steel and other old scrap nonferrous material, including but not limited to rope, rags, batteries, glass, rubber, debris, waste, trash, appliances, construction debris or any discarded, dismantled, wrecked, scrapped motor vehicles or parts thereof.

Junk motor vehicle means a discarded, dismantled, wrecked or scrapped motor vehicle or parts thereof, or vehicle that is not capable of being inspected or has remained unregistered for a period of 30 days.

### **3.11. "K"**

### **3.12. "L"**

Legislative Body: The Selectmen of the Town of Pownal.

Location Map: A map, which shows the relation of the proposed subdivision to adjacent properties and the surrounding area.

Lot: A plot or parcel of land occupied or capable of being occupied by one principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Bylaw. A portion of land in a subdivision or plat, separated from other portions of land by a property line.

Lot Line: The established division line between lots or between a lot and a street.

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

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

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

Lowest Floor: The lowest floor of the lowest enclosed area (including basement)

### **3.13. "M"**

Major Subdivision: Any subdivision that meets any one of the following criteria:

- a) The subdivision contains three or more lots or dwelling units;
- b) The proposed action would subdivide a tract more than once in five years;
- c) The subdivision contains multi-family dwellings or elderly housing;
- d) The subdivision is a Cluster Subdivision as defined in the Town's Zoning Bylaw;
- e) The subdivision has more than one access to a public street not including existing driveways;
- f) The subdivision will generate more than fifty (50) vehicle trip ends per day;
- g) The subdivision will require an extension of a Town road or street, water main, or sewer main;
- h) The subdivision will require the expansion of municipal services such as fire, police, emergency, school, etc.

Mean Sea Level: For the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Subdivision: Any subdivision that is not a major subdivision.

Mobile Home: A trailer designed for year-round living in one place.

Mobile Home Park: A parcel of property as described by state regulations for mobile home parks.

Mobile Home Park Licensee: Any person licensed to operate and maintain a mobile home park under this ordinance.

Mobile Home Site: That parcel of a mobile home park that provides facilities for long-term occupancy of a mobile home and has the minimum size of 5000 square feet.

Mobile Home Stand: That part of an individual mobile home lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

Motel: A place of business containing sleeping rooms with outside entrances, which are rented primarily to transients.

Monument: A permanent concrete or stone marker, 4" x 4" x 4", placed in the ground to locate changes in property lines or intersections of property lines.

### **3.14. "N"**

Non-Conforming Use: A use of land or a structure which does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of such regulations (V.S.A. T10 4408(a-1)).

Non-Complying Structure: A structure or part thereof not in conformance with the zoning regulations covering building bulk, dimensions, height, area, density or off street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations (V.S.A. 4408).

Nuisance: An annoying, unpleasant, or obnoxious noise, odor, thing, or practice as determined by decision of the Pownal DRB.

### **3.15. "O"**

Open Space (1): A space, not occupied by a building or other roofed structure, but on the same lot as the principal building.

Open Space (2): Land unoccupied by structures, buildings, roads, rights-of-way, or automobile parking areas.

### **3.16. "P"**

Parcel: A unit of land of such size and dimensions that it may be divided into two (2) or more lots in accordance with the requirements of the land use zone in which it is located.

Planning Commission: The Town of Pownal Planning Commission as created pursuant to Section 4322 of the Act.

Plat: A map or representation on paper of a piece of land subdivided into lots and roads, drawn to scale.

Public Building: Per 18 VSA 1301, public buildings shall mean churches, courthouses, jails, municipal rooms, state and county institutions, railroad stations, school buildings, school and society halls, hotels and restaurants and buildings used or rented for tenements, borders or roomers, places of amusement, factories, mills, workshops, or buildings in which persons are employed and shall include buildings used as nurseries, convalescent homes, homes for the aged, and tents and outdoor structures used for public assembly. The word "building" as used, shall mean barns, sheds, office buildings, shops other than workshops, and space wherein goods are offered for sale at wholesale or retail.

Public Sewer: A system that provides a means of disposal for wastewater owned and operated by a municipality of other government unit, or corporation authorized and regulated by the State of Vermont for purposes of public waste treatment.

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

### **3.17. "Q"**

Quarry: See "Extraction of Earth Resources."

### **3.18. "R"**

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 permanently dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Ridgeline: The visual horizon formed where the vegetation on top of a hill or mountain meets the sky, as viewed from a public street, and where there is no landform visible behind the hill or mountain.

Road: See STREET.

### **3.19. "S"**

School: Any day care center or any school certified by the Vermont Department of Education, including parochial, private and public schools, colleges and universities.

Sewer Service Area: The area designated as the Sewer Service Area in the Pownal Sewer Ordinance.

Shopping Center Complex: Any development, existing or proposed, consisting of a group of commercial establishments which sell goods to the public, each with its own internal or external entrance, located in one or more buildings, with associated parking, circulation and green space.

Sign: An object with lettering or other advertisement on it that is readable by the public and used by a business or individual to be found or recognized from the highway or travel way.

Sketch Plan: A preliminary sketch of the proposed subdivision showing information specified in Section IX of these regulations, to enable the subdivider to save time and expense in discussing the proposed subdivision with the Development Review Board.

Street: Any road, street, highway, avenue, land or other way between right-of-way lines, commonly used by the public for vehicular traffic.

Structure: An assembly of materials for occupancy or use, including but not limited to, a building, mobile home or trailer, permanent swimming pool, tennis court, billboard, sign, wall, deck or solid fences greater than eight (8) feet in height and not connected with an operating farm.

Subdivider: Any individual, firm, corporation, partnership, limited liability company, limited liability partnership, association, or other type of group or entity which shall lay out for the purpose of sale or development or otherwise, any subdivision or part thereof as defined in these regulations, for himself/herself or others. The term shall include any applicant for subdivision approval.

Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, tracts, sites, plots, units or interests for the purpose of conveyance, transfer, offer for sale, lease or development. The term shall also include the development of a parcel of land as a shopping center complex, new multi-family housing project, elderly housing project, cluster subdivision or industrial park development.

### **3.20. "T"**

Temporary: In all Zones Districts all temporary uses are defined as not to exceed 90 days in any calendar year.

Town Plan or Plan: The Town Plan for Pownal and any amendment thereto, as defined and adopted under the provisions of the Act.

Trailer: Any vehicular, portable, and temporary structure or dwelling, designed for travel, recreational, and vacation purposes.

Transfer of Development Rights (TDR): a voluntary program that can relocate potential development from areas where proposed land use or environmental impacts are considered undesirable (“sending site”) to another (“receiving site”) site chosen on the basis of its ability to accommodate additional units of development beyond that for which it was zoned, with minimal environmental, social and aesthetic impacts.

**3.21. "U"**

**3.22. "V"**

Variance: an appeal wherein the relief requested by the applicant is a variance from --the provisions of this Bylaw

Violation: The failure of a structure or other development to be fully compliant with the community’s Town of Pownal Zoning Bylaws. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR60.3 is presumed to be in violation until such time as that documentation is provided.

**3.23. "W"**

Waiver: A written request by applicant to waive a requirement related to a section of the application filing as outlined within the bylaws.

**3.24. "X"**

**3.25. "Y"**

**3.26. "Z"**

Zoning Bylaw: The Town of Pownal’s Zoning Bylaw and any amendment thereto, as defined and adopted under the provisions of the Act.

Zones – designated areas defined within the Town of Pownal which has specific bylaw regulations laid out for development