

# Town of Concord Zoning Bylaws Amended

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## **Article 1 Enactment and Intent**

### **Section 101: Enactment**

**101.1** Within the framework of the Vermont Planning and Development Act hereinafter referred to as the "Act", 24 V.S.A., Chapter 117 Section 4401 we hereby establish the Zoning Regulations for the Town of Concord which are set forth in the text and map that constitute these regulations. These regulations shall be known and cited as the "Town of Concord Zoning Bylaw".

### **Section 102: Intent**

**102.1** This zoning bylaw is designed to provide for the orderly development of the Town, to further the purposes established in Section 4302 of the Act, and to implement the goals of the Concord Town Plan.

**102.2** State and Federal government may regulate certain aspects of land use; compliance with this zoning bylaw in no way implies compliance with such State or Federal regulations. Such regulations include, but are not limited to: on-lot potable water and wastewater systems, and outdoor wood furnaces, underground storage tanks, regulated by the Department of Environmental Conservation; and the setback of farm structures, regulated by the Secretary of Agriculture, Food, and Markets.

## **Article 2 Establishment of Districts and District Regulations**

### **Section 201: Zoning Map and Districts**

**201.1** The Zoning map officially titled "Concord Zoning Map" is hereby adopted as part of this bylaw. The Town of Concord Zoning Map shows division of the town into the following five districts:

- "RL" Rural Lands
- "LD" Low Density
- "MD" Medium Density
- "HD" High Density
- "LAKE" Lakeshore

### **Section 202: Copies of Zoning Map**

**202.1** Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map which shall be located in the office of the Town Clerk shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the town.

### **Section 203: District Boundaries**

**203.1** When the Zoning Administrator cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he or she shall refuse action, and the Planning Commission shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this bylaw.

**203.2** When a lot is located in multiple zoning districts, (district boundary line divides a lot of record at the time such line is adopted), the regulations for the less restricted part of such lot shall extend not more than thirty feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

#### **Section 204: Lots**

**204.1** Lots which abut on more than one street shall provide the required frontage along every street.

**204.2** All structures, whether attached to the principal structure, and whether open or enclosed, including porches carports, balconies, or platforms shall not project into any minimum front, side or rear yard.

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

**204.4 Existing Small Lots** – Any lot, that is legally subdivided, is in an individual and separate and non-affiliated ownership from surrounding properties, and is in existence on the effective date of these Zoning Regulations, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the Zoning Regulations, provided that:

- (i) The lot is not less than one-eighth acre, or
- (ii) Has a width or depth dimension of at least 40'. Existing small lots must be in conformance with all possible district regulations, and any proposed development on such a lot that would increase non-conformance with any district standard shall require a variance and satisfy State requirements.

If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot.

#### **Section 205: District Objectives and Land Use Controls**

**205.1** No building or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

**205.2** No structure hereafter shall be erected or altered:

- a) To exceed the height;
- b) To accommodate or house a greater number of families; or
- c) To have narrower or smaller rear yards, front yards, side yards than is specified herein for the district in which such structures are located.

**205.3** Yard sales held on any lot shall not exceed a total of thirty days per calendar year.

**TABLE 205.4 "RL" RURAL LAND**

**Objective:** includes land generally characterized by poor access, poor soil, steep topographic conditions and remoteness from existing concentrated settlement which would be unduly expensive to serve with public utilities and services. Primary uses in this category should be forestry and other non-intensive uses such as agriculture.

**Permitted Uses**

Accessory Structure  
Agriculture (See Section 208)  
Dwelling, Accessory Unit (See Section 301.3)  
Dwelling, Single-family  
Dwelling, Two-family  
Forestry (See Section 208)  
Home Occupation (See Section 303.1)

**Conditional Uses**

Camp  
Dwelling, Accessory (See Section 301.4)  
Essential Service  
Home Industry (See Section 303.2)  
Recreation Facility, Outdoor

**Area and Dimensions**

Minimum Lot Size in Acres:	25
Minimum Width of Lot in Feet:	200
Minimum Yard Dimensions in Feet	
Front	50
Side	50
Rear	100

**TABLE 205.5 "LD" LOW DENSITY**

**Objective:** These areas are designed to maintain an open quality through a large part of the more developable parts of Concord by requiring a five acre minimum lot size. Five acres will be needed in this district to support the sewage disposal and water needs of a proposed use.

**Permitted Uses**

- Accessory Structure
- Agriculture (See Section 208)
- Dwelling, Accessory Unit (See Section 301.3)
- Dwelling, Single Family
- Dwelling, Two-Family
- Forestry (See Section 208)
- Home Occupation (See Section 303.1)

**Conditional Uses**

- Camp
- Cemetery
- Community Center
- Dwelling, Accessory (See Section 301.4)
- Drive-In Establishment
- Essential Service
- Home Industry (See Section 303.2)
- Industry
- Recreation Facility, Outdoor

**Area and Dimensions**

Minimum Lot Size in Acres:	5
Minimum Width of Lot in Feet:	200
Minimum Yard Dimensions in Feet	
Front	50
Side	50
Rear	75

**TABLE 205.6: "MD" MEDIUM DENSITY**

**Objective:** This is focused upon the areas of Concord that are in close proximity to existing areas of settlement, which have good road and utility access. The purpose of this district is to incorporate a balance of residential, community, and commercial uses that will complement the adjacent village core and accommodate new residential uses as the villages grow. Non-residential uses will be carefully sited in order to protect the walkability of the village core.

**Permitted Uses**

Accessory Structure  
Dwelling, Accessory Unit (See Section 301.3)  
Dwelling, Single Family  
Dwelling, Two Family  
Essential Service  
Forestry (See Section 208)  
Home Occupation (See Section 303.1)  
Religious Facility  
School

**Conditional Uses**

Agriculture, (See Section 208)  
Camp  
Dwelling, Accessory (See Section 301.4)  
Home Industry (See Section 303.2)  
Industry  
Neighborhood Commercial Facility  
Personal Services  
Private Club  
Recreation Facility, Indoor  
Recreation Facility, Outdoor

**Area and Dimensions**

Minimum Lot Size in Acres:	2
Minimum Width of Lot in Feet:	150
Minimum Yard Dimensions in Feet	
Front	25
Side	25
Rear	50



**TABLE 205.7: "HD" HIGH DENSITY**

**Objective:** This area represents the town's pre-existing village centers, which are serviced by adequate road and utility services. All pre-existing development in these districts is currently serviced by individually owned water and sewage systems. While future development or redevelopment within these districts shall be limited to the ability of the district's soils and natural water resources to support the proposed development, the objective of this district is to realize its significant development potential. Development should maintain the current mix of uses, which are mostly residential and small businesses that encourage or create public gathering areas, such as shops, restaurants, and services. This shall be achieved through small lot sizes, pedestrian amenities, neighborhood green spaces, adaptive reuse of historic structures, and mixed-use development.

**Permitted Uses**

Accessory Structure  
 Business Office  
 Community Center  
 Dwelling, Accessory Unit (See Section 301.3)  
 Dwelling, Single Family  
 Dwelling, Two-Family  
 Essential Service  
 Funeral Home  
 Home Occupation (See Section 303.1)  
 Public Facility  
 Religious Facility  
 Retail Store  
 School

**Conditional Uses**

Auto Service Station  
 Car Wash  
 Dwelling, Accessory (See Section 301.4)  
 Dwelling, Multi-Family  
 Home Industry (See Section 303.2)  
 Hotel  
 Industry  
 Motel  
 Neighborhood Commercial Facility  
 Personal Service  
 Private Club  
 Recreation Facility, Indoor  
 Recreation Facility, Outdoor  
 Restaurant

**Area and Dimensions**

Minimum Lot Size in Square Feet:	40,000
Minimum Width of Lot in Feet:	100
Minimum Yard Dimensions in Feet	
Front	25
Side	25
Rear	50

**TABLE 205.8: "LAKE" LAKESHORE**

**Objective:** The area surrounding Shadow Lake and Miles Pond is designated to provide adequate setback from the seasonal high water mark of the water bodies to protect them from water pollution and help protect the visual qualities of the shoreline.

**Permitted Uses**

Agriculture (See Section 208)  
Forestry (See Section 208)  
Dwelling, Accessory Unit (See Section 301.3)  
Dwelling, Single Family  
Home Occupation (See Section 303.1)

**Conditional Uses**

Accessory use  
Camp  
Dwelling, Accessory (See Section 301.4)  
Essential service  
Recreation Facility, Outdoor

**Area and Dimensions**

Minimum Lot Size in Acres:	2
Minimum Width of Lot in Feet:	150
Minimum Yard Dimensions in Feet	
Front	35
Side	35
Rear	35

## **Section 206: Permitted Uses**

**206.1** Permitted uses are those that require, at a minimum, Administrative Review by the Zoning Administrator. All permitted uses other than single, two-family dwellings, and dwelling accessory units, shall also be subjected to Site Plan Review by the Planning Commission after public notice and hearing.

## **Section 207: Conditional Uses**

**207.1** Conditionally approved uses are uses that require, following administrative review by the Zoning Administrator, referral to the Zoning Board of Adjustment for Conditional Use Review after public notice and hearing.

**207.2** A change of use, expansion or contraction of land, area, or alteration of structures or uses which are designated as a conditional use within the district in which they are located and are existing therein, prior to the effective date of this regulation, shall conform to all regulations herein pertaining to conditional uses.

## **Section 208: Uses Exempt From Zoning**

**208.1** This zoning bylaw shall not regulate public utility power generating plants and transmission facilities, which are regulated under 30 V.S.A. Section 248.

**208.2** In accordance with Section 4413(d) of the Act this zoning bylaw shall not regulate accepted silvicultural practices and accepted agricultural practices, as defined by the Secretary of Agriculture, Food, and Markets, including the construction of farm structures, except that the farm residence must meet the setback requirements of the zoning bylaw. In addition, any person who intends to build a farm structure other than a farm residence shall notify the Zoning Administrator of such intent and abide by the setbacks approved by the Secretary of Agriculture, Food and Markets.

**208.3** This zoning bylaw shall not regulate hunting, fishing, and trapping, as specified under 24 V.S.A. Section 2295 on private or public land. This exemption, however, does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of this bylaw shall be defined as outdoor recreation facilities.

**208.4** The following shall not require a building permit:

- a) Exterior alterations to structures which do not result in a change of use, any change to the building footprint, or a building height in excess of thirty-five feet.
- b) Allowance to build not more than one unpermitted accessory structure having a footprint of less than one hundred and fifty square feet provided the same shall meet all lot setback requirements.
- c) Fences not exceeding 48" in height which do not extend into or obstruct public rights of way, or interfere with corner visibilities or sight distances for vehicular traffic.
- d) Above-ground pools and hot tubs provided that they meet all necessary setback requirements.

**208.5** Handicap access ramps shall be subjected to administrative review by the Zoning Administrator, but no permit fee shall be required.

### **Section 209: Limitations of This Bylaw**

**209.1** The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- a) State- or community-owned and operated institutions and facilities.
- b) Public and private schools and other educational institutions certified by the State Department of Education.
- c) Churches and other places of worship, convents, and parish houses.
- d) Public and private hospitals.
- e) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
- f) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. Section 6606a.

## **Article 3 General Provisions**

The following provisions shall apply to all districts except where listed:

### **Section 301: Equal Treatment of Housing**

**301.1** This zoning bylaw shall not have the effect of excluding affordable housing from the municipality.

**301.2** Pursuant to Section 4412(1)(B) of the Act, mobile homes, modular homes, and prefabricated homes shall be considered single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under this zoning bylaw.

**301.3** An accessory dwelling unit that is located within or appurtenant to an owner occupied single-unit dwelling shall be a permitted use. An accessory dwelling unit shall be defined as an efficiency or one bedroom apartment, located within or appurtenant to an owner-occupied single-unit dwelling that is clearly subordinate to the single-unit dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provide there is compliance with all of the following:

- a) The property has sufficient wastewater capacity.
- b) The unit does not exceed 30% of the total habitable floor area of the single-unit dwelling, or 600 square feet, whichever is larger.
- c) Applicable setback, coverage, and parking requirements specified in this zoning bylaw are met.

**301.4** Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when one or more of the following is involved:

- a) A new accessory structure, constructed after the enactment of this zoning bylaw,
- b) An increase in the height or floor area of the existing dwelling,
- c) An increase in the dimensions of the parking area.

### **Section 302: Non Frontage Lots**

**302.1** No land development may be permitted on lots that do not have adequate means of access, either frontage on a maintained public road or access by means of a permanent easement or right of way to such a public road.

**302.2** Access easements or rights of way shall not be less than 50' in width.

**302.3** Access to non-frontage lots shall be submitted for the Planning Commission for Site Plan Review after public notice and hearing.

## **Section 303: Home Occupation and Home Industry**

**303.1 Home Occupation.** No regulation herein is intended to infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character thereof. No zoning permit shall be required for a home office within a principal dwelling or accessory structure which is carried on by a resident of that dwelling, and involves no signs, public access or outdoor storage or displays. For other home occupations that meet the following requirements, a zoning permit issued under Section 604 shall be required:

- a) The home occupation shall be carried on by residents of the dwelling, as well as a maximum of three on-premise employees who are not residents of the dwelling.
- b) No exterior display of the home occupation shall be allowed other than one sign, not exceeding three feet by four feet in size.
- c) Exterior displays or signs other than those permitted in (b) of this subsection, and/or exterior storage of materials and/or exterior indication of the home industry and/or a variation from the residential character of the principal structure and/or the residential area, shall not be permitted.
- d) Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced.
- e) Parking shall be provided off-street and shall not be located in front lawns.
- f) Traffic generated by the home occupation shall not be greater than what would normally be expected in the residential area in which the dwelling is located.
- g) Retail sales or services on-site are limited to the sale of goods or services produced on the premises, and related products, by appointment only.

**303.2 Home Industry** Home industry, as distinguished from “Home Occupation,” may be allowed as an accessory to a single family dwelling in all zoning districts, except for the Lakeshore District, subject to conditional use review under Section 606, and the following provisions:

- a) The home industry shall be conducted on-site by residents of the dwelling, as well as a maximum of five (5) on-premise employees who are not residents of the dwelling.
- b) The home industry shall be allowed one sign, not exceeding three feet by four feet in size.
- c) Exterior storage of materials and equipment associated with a home industry shall be limited to a clearly designated yard or storage area approved by the Zoning Board of Adjustment, which meets all applicable setbacks for the district in which the property is located. The Board may require greater setbacks as deemed necessary to avoid adverse impacts to neighboring properties or public rights-of-way. The Board also may require that such areas be adequately screened year-round from public view and neighboring properties, and secured to protect public safety.

- d) The storage of hazardous materials anywhere on the premises shall be limited to those materials necessary for the operation of the home industry and shall be stored in accordance with all applicable State and Federal regulations.
- e) The home industry shall not change the character of the neighborhood, nor result in a change in the outward appearance of the dwelling or the accessory structure.
- f) Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced.
- g) The home industry shall not generate traffic, including delivery traffic, in excess of volumes characteristic of other uses allowed in the district in which the home industry is located.
- h) Off-street parking shall be provided in accordance with Table 3.1. Commercial vehicles or equipment associated with the home industry shall be parked within designated yards or parking areas, approved by the Zoning Board of Adjustment. The Board may also require that parking areas are adequately screened year-round from public view and adjoining properties.
- i) Adequate provisions shall be made for water, wastewater, and disposal of solid waste, in accordance with applicable municipal and State regulations.
- j) On-site retail sales or services are limited to sale of goods or services produced on the premises and related products.
- k) The Zoning Board of Adjustment may limit the hours of operation necessary to minimize undue adverse impacts to neighboring properties and to protect the character of the area in which the home industry is located.

**Table 3.1: Summary of Home Occupation and Home Industry Standards**

<b>Characteristics/Review Process</b>	<b>Exempted Home Occupations</b>	<b>Regulated Home Occupations</b>	<b>Home Industry</b>
Secondary/Subordinate to residential use	Yes	Yes	Yes
Within principal dwelling or accessory structure	Yes	Yes	Yes
Maximum square footage	50% of principal dwelling	1,000 sq. ft.	Not specified
Outdoor storage of Materials	No	No	With approval of Zoning Adjustment Board
Non- resident employees	Maximum: 1	Maximum: Three	Maximum: Five
Parking	Not applicable	One per non-resident employee	One per non-resident employee
Signs	No	One 3' x 4' foot sign allowed	One 3' x 4' foot sign allowed
Traffic	No	Residential (Ten trips a day)	Characteristic of other uses in the district
Landscaping/Screening	No	No	May be required
Retail Sales	No	Limited to products, services produced on premises and related products; by appointment only	Limited to products, services produced on premises and related products
Zoning Permit Required	No	Permitted Use, subject to Administrative Review	Conditional Use (Not allowed in Lakeshore District)

**303.3** When it is determined by the Zoning Administrator that the proposal does not meet the definitions or standards of home occupation or home industry above, the applicant may apply for a permit under the broader use regulations (commercial, industrial, retail), as is determined by the district in which the proposed use is located.

**Section 304: Temporary Uses and Structures**

**304.1** Temporary permits may be issued by the Zoning Administrator for a period not exceeding one year, for non-conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the period not exceeding one year.



**304.2** A limit of one freight storage container may be parked on an owner's property provided that:

- a) It is parked to meet setback requirements.
- b) A temporary no fee permit is required for one calendar year.
- c) After one year the owner must receive permitting for the freight storage container as a permanent and taxable structure.

### **Section 305: Abandonment of Structures**

**305.1** Within nine months after work on an excavation for a building has begun or within nine months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation remaining shall be covered over or filled to the normal grade, by the owner.

### **Section 306: Discontinued Use**

**306.1** No use that requires a zoning permit may be resumed without first obtaining a permit if such use has been discontinued for a period of two years or more or if the use has been replaced by another use.

### **Section 307: Height Regulations**

**307.1** Except for farming purposes, in all districts structures shall not exceed a height of 35' above average ground level unless approved by the Zoning Board of Adjustment.

### **Section 308: Family Child Care Homes**

**308.1** A family child care home serving six or fewer children shall be considered to constitute a permitted use of a single-family dwelling.

**308.2** A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. Section 4902(3)(A), shall be considered to constitute a permitted use of a single-family dwelling, but shall require Site Plan Review from the Planning Commission.

**308.3** A family child care facility serving more than six full-time children and four part-time children shall be treated as a conditional use.

### **Section 309: Residential Care and Group Homes**

**309.1** A residential care home or group home, to be operated under State licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. Section 4501, shall be considered to constitute a permitted use of a single-family dwelling, except that no such home shall be considered if it locates within 1,000 feet of another existing or permitted such home.

## **Section 310: Junkyards and Salvage Yards**

**310.1** Junkyards and Salvage Yards are not permitted in any districts in Concord.

## **Section 311: Storage of Flammable Liquids and Gases**

**311.1** The storage of any flammable liquid or gas in a tank with a capacity of more than 1,000 gallons above the ground shall be permitted only upon approval of the Board of Adjustment, which may attach such conditions as it finds necessary to protect the public welfare. Any such use must also comply with the following:

**311.2** Tanks with a capacity greater than 1,000 gallons, but less than 10,000 gallons shall be placed not less than 80' from all property lines and from all other such tanks.

**311.3** Tanks with a capacity exceeding 10,000 gallons shall be placed not less than 200' from all property lines and from all other tanks regulated by this Section.

**311.4** Any such tank(s) with a capacity exceeding 1,000 gallons for the storage of flammable liquids shall be completely surrounded by proper retaining dike(s). Said dike(s) must have a capacity of no less than one and one half times the total capacity of the tank(s) that they/it surrounds.

## **Section 312: Burned Buildings**

**312.1** No owner or occupant of land in any district shall permit fire or other ruins to be left, but within one year shall remove and fill in basement excavation to ground level or shall repair, rebuild or replace the structure.

## **Section 313: Recreational Vehicles**

**313.1** Owners or users of recreational vehicles (or any conveyance constructed so as to allow occupancy thereof) shall abide by the following regulations except when located in an approved campground.

**313.2** A property owner may park his own recreational vehicle or that of a bona fide visitor, on his property without special approval, provided it is parked no closer than six feet to any lot line.

**313.3** Parked recreational vehicles shall not be occupied as permanent living quarters, and not be hooked up to any utilities, for more than a total of 180 days in a calendar year.

**313.4** No more than two recreational vehicles (no more than one in the lakeshore district) including the property owner's recreational vehicle, shall be parked on any lot or parcel of land, developed or undeveloped, which is not an approved campground.

## **Section 314: Signs**

**314.1** Signs that are painted or mounted on a wall of a building shall not:

a) Extend above any part of the eaves or gables of the building upon which the sign has been placed.

b) Exceed 20 square feet in area.

**314.2** Signs that are painted or mounted on the roof of a building shall not be permitted.

**314.3** Every sign shall be designed and located in such a manner as to:

a) Not impair public safety.

b) Not restrict clear vision between a sidewalk and road.

c) Not be confused with any traffic sign or signal.

d) Not prevent free access to any door, window, or fire escape.

**314.4** Signs may be illuminated by a steady light, provided that such lighting will not illuminate or reflect onto other properties or into traffic.

**314.5** Flashing, oscillating, and revolving signs shall not be permitted unless necessary for public safety or welfare.

**314.6** Nonconforming signs shall be brought into compliance when they are replaced.

### **Section 315: Lighting**

**315.1** All outdoor lighting shall be kept to the minimum required for safety, security, and intended use, consistent with the character of the neighborhood in which it is located.

**315.2** Permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties, roads, or public waters, or result in excessive lighting levels that are uncharacteristic of the surrounding neighborhood or area.

**315.3** Outdoor lighting fixtures shall be cast downward or be designed to minimize glare. Such fixtures may include recessed, shielded, or cutoff fixtures, or low luminance lamps.

**315.4** Whenever feasible outdoor lighting fixtures shall include timers, dimmers, and/or sensors to reduce energy consumption and eliminate unnecessary lighting.

**315.5** Temporary holiday light displays are exempted from these regulations.

## **Article 4 Flood Hazard Areas**

### **Section 401: Lands to Which These Regulations Apply**

**401.1** These regulations shall apply to development in all areas in the Town of Concord identified as areas of special flood hazard on the current National Flood Insurance Program maps which are hereby adopted by reference and declared to be part of these regulations.

### **Section 402: Conditional Use Permit Required**

**402.1** All development including fill, excavation, grading, erection or placement of structures, substantial improvement of existing structures and storage of equipment and material prescribed by the Town of Concord zoning bylaw are permitted within an area of special flood hazard only upon the granting of a conditional use permit by the Zoning Board of Adjustment.

**402.2** Prior to issuing a permit for the construction of a new building, the substantial improvement of existing buildings, or for development in the floodway, the Administrative Officer shall mail a copy of the application to the Vermont Agency of Natural Resources in accordance with Section 4424 of the Act. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.

**402.3** Adjacent communities and the Vermont Department of Water Resources and Environmental Engineering shall be notified at least 15 days prior to issuing any permit for the alteration or relocation of a watercourse, and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

**402.4** Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.

### **Section 403: Base Flood Elevations and Floodway Limits**

**403.1** Where available, i.e.; Zones AI-A30, AE, and AH, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.

**403.2** In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program, i.e.; Zone A, base flood elevation and floodway information available from State and Federal agencies or other sources, shall be obtained and reasonably utilized to administer the provisions of these regulations.

### **Section 404: Conditional Use Review Procedures**

**404.1** Upon receiving an application for a conditional use permit under these regulations, the Board of Adjustment shall, prior to rendering a decision thereon:

a) Obtain from the applicant:

- i. The elevation (in relation to mean sea level) of the lowest floor, including basement, of new buildings or buildings to be substantially improved;
- ii. Where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be flood proofed;
- iii. Plans drawn to scale showing the existing and proposed land contours, buildings, structures, streams, roads and other pertinent physical features;
- iv. Base flood elevation data for subdivisions and other proposed development which contain at least 50 lots or five acres (whichever is the smaller).
- v. Such other information deemed necessary by the Board of Adjustment for determining the suitability of the site for the proposed development.

b) Obtain from the Vermont Department of Water Resources of other State or Federal agencies any available base flood elevation data.

**404.2** In reviewing each application, the Board of Adjustment shall consider:

- a) the elevation of the Vermont Department of Water Resources;
- b) the availability of alternative locations not subject to flooding for the proposed use;
- c) the susceptibility of the proposed improvement to flood damages;
- d) the safety of access to the property in times of flood of ordinary and emergency vehicles;
- e) the potential for damage to the property caused by erosion;
- f) the danger that materials may be swept onto other lands and cause damage to others; and
- g) such other factors as are relevant to the purpose of this bylaw.

**404.3** The Board of Adjustment may grant a conditional use permit for development provided: all necessary permits are obtained from those governmental agencies from which approval is required by State and Federal Law; and the development standards of Section 405 are met or exceeded.

### **Section 405: Development Standards Within Areas of Special Flood Hazard**

**405.1** All development and structures shall be:

- a) designed to minimize flood damage to the proposed development and to public facilities and utilities, and;

- b) designed to provide adequate drainage to reduce exposure to flood hazards;
- c) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
- d) constructed with materials resistant to flood damage;
- e) constructed by methods and practices that minimize flood damage, and;
- f) 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.

**405.2** The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

**405.3** New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters.

**405.4** On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**405.5** New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.

**405.6** Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

**405.7** The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.

**405.8** Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of 405.7.

**405.9** Existing buildings to be substantially improved for non-residential purposes shall either:

- a) meet the requirements of 405.7; or
- b) be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

**405.10** Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

### **Section 406: Duties and Responsibilities of the Zoning Administrator**

**406.1** The Zoning Administrator shall maintain a record of:

- a) all permits issued for development in areas of special flood hazard;
- b) the elevation, in relation to the mean sea level of the lowest floor, including basement, of all new or substantially improved buildings;
- c) the elevation, in relation to mean sea level, to which buildings have been flood-proofed;
- d) all flood-proofing certifications required under this regulation; and
- e) all variance actions, including justification for their issuance.

### **Section 407: Variances**

**407.1** Variances shall be granted by the Board of Adjustment only:

- a) in accordance with provisions of 24 VSA Section 4469;
- b) upon a determination that during the base flood discharge the variance will not result in increased flood levels; and
- c) upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

### **Section 408: Warning of Disclaimer of Liability**

**408.1** These regulations do not imply that land outside the area of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Concord or any official or employee thereof for any flood damages that result from reliance on this bylaw or any administrative decision lawfully made thereunder.

## **Article 5 Special Provisions**

### **Section 501: Nonconforming Uses and Structures**

**501.1** Nothing contained in these regulations shall require any change in plans or construction of a nonconforming structure for which a building (zoning) permit has been issued, and which has been substantially commenced within one year from the effective date of these regulations.

**501.2** Any non-conforming use of structures or land, except those specified below, may be continued indefinitely, but:

- a) shall not be moved, enlarged, altered, extended, reconstructed, or restored (except as provided below), nor shall any external evidence of such use be increased by any means whatsoever;
- b) shall not be changed to another non-conforming use;
- c) shall not be restored for other than a conforming use after damage from cause, unless the nonconforming use is reinstated within one year of such damage; if the restoration of such structure is not completed within one year, the non-conforming use of such structures shall be deemed to have been discontinued, unless such non-conforming use is carried on without interruption in the undamaged part of the building;
- d) shall not be resumed if such use has been abandoned or discontinued for a period of one year or more. A non-conforming use shall be considered discontinued when either of the conditions exist:
  - i. when the use has been replaced by a conforming use;
  - ii. when the use has been discontinued for a period of one year.

**501.3** Any lawful structure existing at the time of the enactment of this zoning bylaw shall continue to exist, provided that the following conditions are met:

- a) The nonconforming structure shall not be moved, enlarged, or extended except in accordance with 501.5;
- b) A nonconforming structure may be reconstructed, structurally altered, restored, or repaired, in whole or in part, provided that the degree of nonconformance does not increase.

**501.4** A nonconforming structure shall not be restored to other than a conforming structure after the structure has been substantially damaged from any cause, unless the restoration of such structure is substantially commenced within one year.

**501.5** The Planning Commission may, after public notice and hearing, allow the expansion of any nonconforming structure, provided the expansion does not increase the degree of nonconformance or have an undue adverse impact on the character of the neighborhood, as determined by the objectives of this zoning bylaw and by policies and standards in the Municipal Plan.



**501.6** Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure providing that such action does not increase the degree of non-conformance.

**501.7** For purposes of this zoning bylaw, the degree of nonconformance shall be measured only in the dimension, e.g. yard setback or height, which does not meet the standard for the district in which the structure is located.

**501.8** Any structure or use that does not conform to this zoning bylaw because it was improperly permitted shall be treated as a nonconformity.

## **Article 6 Administration and Enforcement**

### **Section 601: Zoning Administrator**

**601.1** The Zoning Administrator shall be appointed by the Selectboard, following the nomination by the Planning Commission, to administer the zoning bylaw, as provided for in Section 4448 of the Act. The Selectboard may remove a Zoning Administrator for cause at any time after consultation with the Planning Commission. The Zoning Administrator shall literally enforce the provisions of this bylaw and in so doing shall inspect development, maintain records and perform all other necessary tasks to carry out the provisions of these regulations.

**601.2** An acting Zoning Administrator may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Zoning Administrator in the Zoning Administrator's absence, or if the Zoning Administrator has a conflict of interest. In the event an acting Zoning Administrator is appointed, the Selectboard shall establish clear policies regarding the authority of the acting Zoning Administrator.

### **Section 602: The Planning Commission**

**602.1** The Planning Commission shall consist of not less than five (5) nor more than nine (9) members appointed by the Selectboard in accordance with Sections 4322-4323 of the Act. The Selectboard may be nonvoting ex officio members of the planning commission. Any member may be removed at any time unanimous vote of the Selectboard.

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

**602.3** The Planning Commission shall have the following duties regarding this bylaw in accordance with Section 4441 of the Act:

- a) To prepare proposed amendments to this bylaw, and consider proposed amendments submitted by others, including amendments supported by a petition signed by at least 5 percent of the voters of the Town of Concord;
- b) To prepare and approve written reports on any proposed amendment to this bylaw; and
- c) To hold one or more warned public hearings on a proposed amendment to this bylaw.

**602.4** The Planning Commission shall have all powers and duties set forth in the Act to administer the provisions of this bylaw, including:

- a) Applications for right-of-way or easements for development lacking frontage (Section 302);

- b) Applications for Site Plan Approval (Section 605);
- c) Applications for Subdivisions of Land (Section 607).

### **Section 603: Zoning Board of Adjustment**

**603.1** There is hereby established a Zoning Board of Adjustment whose members shall consist of the members of the Planning Commission, until such time that the Board of Selectmen appoints a separate Zoning Board of Adjustment of 5 members as provided in the Act.

**603.2** The Zoning Board of Adjustment shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under Section 4461(a) of the Act and Vermont's Open Meeting Law.

**603.3** The Zoning Board of Adjustment shall have all powers and duties set forth in the Act to administer the provisions of this bylaw, including:

- a) Appeals from any decision, act or failure to act by the Zoning Administrator, as described in Section 608 of this bylaw, and any associated variance requests, as described in Section 609 of this bylaw; and
- b) Applications for Conditional Use Approval, as described in Section 606 of this bylaw.

### **Section 604: Administrative Review**

**604.1** No land development as defined in Section 4303(10) in the Act may be commenced without a permit issued by the Zoning Administrator. Before issuing any permit, the Zoning Administrator shall conduct a site visit. The Zoning Administrator shall not issue a zoning permit unless the proposed development complies with all applicable sections of this bylaw, and all applicable approvals required by the Planning Commission and the Zoning Board of Adjustment have been granted. In addition, initial construction under a zoning permit is prohibited unless and until a wastewater and potable water supply permit is issued under 10 V.S.A. chapter 64.

**604.2** No zoning permit shall be required for the following activities:

- a) Public utility power generating plants and transmission facilities, which are regulated under 30 V.S.A. Section 248. Such facilities, however, should conform to the policies and objectives specified for such development in the Concord Municipal Plan;
- b) Accepted silvicultural (forestry) practices, as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with Section 4413(d) of the Act;
- c) Accepted agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food, and Markets in accordance with Section 4413(d) of the Act. Written notification, including a sketch plan showing structure setback distances from road right-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for accepted agricultural practices. Such structures shall meet all setback approved by the Secretary;

d) Hunting, fishing, and trapping, as specified under 24 V.S.A. Section 2295 on private or public land. This exemption, however, does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of this bylaw shall be defined as outdoor recreation facilities;

e) All uses specified in 208.4.

**604.3** An application for a zoning permit shall be filed with the Zoning Administrator on forms provided by the Town of Concord. All required application fees for all applicable review processes, as set by the Town of Concord Selectboard, shall be submitted with the application as well. The applicant shall submit two sets of sketch plans, drawn to scale on a sheet no smaller than 8.5" x 11" which shall include the following information:

a) The name and address of person or firm preparing the map(s). Scale of map, north point and date;

b) Name and address of the property owner(s) of record. Name and address of the owner(s) of record of adjoining lands;

c) The dimensions of the lot, including existing boundaries;

d) The location, footprint, and height of existing and proposed structures or additions;

e) The location of existing and proposed wastewater and potable water systems;

f) The location of existing and proposed accesses (curb cuts), driveways, parking areas, loading spaces, and pedestrian walkways;

g) Streets, utility easements, rights-of-way;

h) Documentation of any existing land use and deed restrictions;

i) Landscape plans;

j) Erosion and sedimentation control; and

k) Other such information as required by the Zoning Administrator.

**604.4** Within thirty (30) days of receipt of a complete application the Zoning Administrator shall, in writing, either issue or deny a zoning permit or refer the application to the appropriate municipal panel (i.e. the Planning Commission or the Zoning Board of Adjustment) for review. If the Zoning Administrator fails to act within the thirty day period, the permit will be deemed issued on the 31<sup>st</sup> day.

**604.5** Zoning permits and letters of denial shall include a statement of the time within which appeals may be taken under Section 608 of this bylaw.

**604.6** Within 3 days of the date of issuance, the Zoning Administrator shall deliver a copy of the zoning permit to the Town of Concord Listers; shall post a copy of the permit in the Town of Concord

Municipal Offices; and shall post a notice of permit within view from the public right-of-way nearest the subject property for a period of 15 days from the date of issuance.

**604.7** No zoning permit shall take effect until the time for appeal under Section 608 of this bylaw has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

**604.8** If the zoning permit is approved, all development authorized by its issuance shall be substantially commenced within one year of its date of issue, or the zoning permit shall become null and void and reapplication shall be required to continue development.

**604.9** Within 30 days of the issuance of the zoning permit, the Zoning Administrator shall deliver a legible copy of the permit to the Concord Town Clerk for recording in the Town of Concord land records.

### **Section 605: Site Plan Review**

**605.1** No zoning permit shall be issued by the Zoning Administrator for any use or structure, except for one-family and two-family dwellings and accessory structures subordinate and appurtenant to such dwellings, until the Planning Commission grants Site Plan Approval after public notice and hearing and in accordance with Section 4416 of the Act.

**605.2** In reviewing site plans, the Planning Commission may impose appropriate safeguards with the respect to the following:

- a) The adequacy of parking, traffic access, and circulation for pedestrians and vehicles;
- b) Landscaping and screening;
- c) The protection of the utilization of renewable energy resources;
- d) Exterior lighting;
- e) The size, location and design of signs;
- f) Freedom from flooding and ponding; and
- g) Hours of operation.

### **Section 606: Conditional Uses**

**606.1** No zoning permit shall be issued by the Zoning Administrator for any use or structure which require conditional use approval in this regulation until the Board of Adjustment grants such approval after public notice and hearing and in accordance with Section 4414(3) of the Act.

**606.2** In considering its action, the Zoning Board of Adjustment shall determine if a proposed use has the potential to have an undue adverse effect on any of the following:

- a) The capacity of existing or planned community facilities;

- b) The character of the area affected, as determined by the objective of the zoning district within which the project is located, and specifically stated policies and standards of the Concord Municipal Plan;
- c) Traffic on roads and highways in the vicinity;
- d) Bylaws in effect with special reference to these zoning regulations; and
- e) Utilization of renewable energy resources.

**606.3** In permitting a conditional use, the Zoning Board of Adjustment may impose in addition to the regulations and standards expressly specified by this regulation, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood, or the municipality as a whole. These conditions may include the following:

- a) Increasing the required lot size or yard dimensions in order to protect adjacent properties;
- b) Limiting the coverage and/or height of buildings because of obstruction to view and reduction of light and air to adjacent property;
- c) Controlling the location and number of vehicular access points to the property;
- d) Increasing street width;
- e) Increasing the number of off street parking or loading spaces required;
- f) Limiting the number, location and size of signs;
- g) Limiting the hours of operation;
- h) Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;
- i) Specifying a specific time limit for construction, alteration, or enlargement to begin for a structure to house a conditional use; and
- j) Requiring that any future enlargement or alteration of the use be viewed by the Board of Adjustment to permit the specifying of new conditions.

**606.4** As a condition of the grant of a conditional use, the Board of Adjustment may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act and these zoning regulations.

### **Section 607: Subdivisions of Land**

**607.1** Applications for minor subdivisions of land shall be reviewed by the Zoning Administrator under the Administrative Review process.

**607.2** Applications for major subdivisions of land shall also be subject to Site Plan Review by the Planning Commission after public notice and hearing.

**607.3** Any application for subdivision of land shall be accompanied by a plat of sufficient scale and clarity to portray existing conditions and proposed development. The plat shall include all lot lines and boundary dimensions, names of roads abutting the property, location and size of existing improvements identified as “existing,” location and size of proposed improvements identified as “proposed,” setback dimensions of proposed and existing structures, location of existing and proposed driveways and culverts, location of existing and proposed wells and/or septic systems and location of waterways, wetlands, and flood plains. In addition, a topographic survey may be required.

**607.4** No lot that is created as the result of subdivision of land shall have more than 50% of its buildable area in slopes greater than twenty percent.

**607.5** An undersized lot resulting from subdivision of land may be created, provided it is combined with land from an adjacent property to form a conforming lot, and a single property description with a new warranty or similar deed is filed in the Town’s land records.

**607.6** The approved subdivision may not be officially filed until all appeal periods have expired and/or all appeals are concluded.

**607.7** A final plat on Mylar must be submitted to the Zoning Administrator for approval before the subdivision is filed in the Town’s land records.

### **Section 608: Appeals of the Zoning Administrator Decisions**

**608.1** Any interested person as defined under Section 4465 of the Act may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Town Clerk, and by filing a copy of the notice with the Zoning Administrator. A notice of appeal filed under this section shall be in writing and include the following information:

- a) The name and address of the appellant;
- b) A brief description of the property with respect to which the appeal is taken;
- c) A reference to applicable provisions of these regulations;
- d) The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
- e) The alleged grounds why such relief is believed proper under the circumstances.

**608.2** The Zoning Board of Adjustment shall hold a public hearing on a notice of appeal within 60 days of its filing, as required in Section 4468 of the Act. The Zoning Board of Adjustment shall give public notice of the hearing under Section 510 of this bylaw, and shall mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

**608.3** The Zoning Board of Adjustment may reject an appeal or request for reconsideration without a hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts presented by or on behalf of the appellant.

### **Section 609: Variances**

**609.1** The Zoning Board of Adjustment shall hear and decide requests for variances in accordance with Section 4469(a) of the Act and appeal procedures under Section 608 of this bylaw. In granting a variance, the Zoning Board of Adjustment may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Zoning Board of Adjustment may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

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

### **Section 610: Public Hearings**

**610.1** In accordance with Section 4464 of the Act, all development review processes will be conducted in a public hearing, with notice of hearing given not less than 15 days prior to the date of the public hearing.

**610.2** Warning of the all public hearings shall be issued accordingly:

- a) By publishing the date, place and purpose of the hearing in a local newspaper of general circulation; and



b) By posting the same information in three (3) or more public places within the municipality, including posting of a notice within view from the public right-of-way nearest to the property for which the application is being made; and

c) By written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way. This written notice shall include a description of the proposed project, clearly identify how and where additional information may be obtained, and state that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

**610.3** All meetings and hearings of the Planning Commission and the Zoning Board of Adjustment, except for deliberative sessions, shall be open to the public and conducted in accordance with adopted Rules of Procedure and Vermont's Open Meeting Law.

**610.4** In any public hearing, there shall be an opportunity for each person to attempt to demonstrate interested party status. The Secretary of each respective municipal panel shall keep a record of the name, address, and participation of these persons.

**610.5** The Planning Commission or Zoning Board of Adjustment may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

**610.6** In accordance with Section 4464(b) of the Act, the Planning Commission or the Zoning Board of Adjustment shall issue all decisions within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day.

**610.7** All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken.

**610.8** In rendering a decision in favor of the applicant, the Planning Commission or the Zoning Board of Adjustment may attach additional reasonable conditions and safeguards as it deems necessary to implement this bylaw and the Concord Municipal Plan.

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

### **Section 611: Appeals to Environmental Court**

**611.1** In accordance with Section 4471, an interested person who has offered oral or written testimony in a hearing of the Planning Commission or Zoning Board of Adjustment may appeal a decision within 30 days of such decision, to the Vermont Environmental Court.

**611.2** The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and

by mailing a copy to the Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five 5 working days.

**611.3** Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

### **Section 612: Interested Persons**

**612.1** The definition of an interested person under Section 4465(b) of the Act includes the following:

a) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;

b) The Town of Concord or any adjoining municipality;

c) A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the town plan or bylaw of Concord;

d) Any ten (10) voters or property owners within the Town of Concord who, by signed petition to the appropriate municipal panel, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the Concord Municipal Plan or zoning bylaw; and

e) Any department or administrative subdivision of the State owning property or any interest therein within the municipality, and the Vermont Agency of Commerce and Community Development.

### **Section 613: Certificate of Compliance**

**613.1** No use or occupancy of any land or structure may commence until the Zoning Administrator has issued a Certificate of Compliance in accordance with Section 4449(2) of the Act.

**613.2** When the Zoning Administrator issues a zoning permit, he or she shall also issue an application for a Certificate of Compliance. Prior to the use or occupancy of the land or structure, the applicant shall submit a completed Certificate of Compliance application to the Zoning Administrator.

**613.3** At the time the application for a Certificate of Compliance is submitted, the applicant shall also submit a copy of the Water Supply and Wastewater permit from the State of Vermont, or a letter of determination stating that no such permit is required.

**613.4** A Certificate of Compliance shall not be issued until all necessary approvals and permits required by these regulations have been obtained for the project, and the Zoning Administrator determines that the project has been fully completed in conformance with all such approvals and permits.

**613.5** Within thirty days of receipt of the application for a Certificate of Compliance, the Zoning Administrator may inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the Zoning Administrator fails to either grant or deny the Certificate of Compliance within thirty days of the submission of an application, the certificate shall be deemed issued on the 31st day.

#### **Section 614: Penalties**

**614.1** All violations shall be pursued in accordance with Sections 4451 and 4452 of the Act. The Zoning Administrator shall act on behalf of the Town of Concord to impose a fine of up to, but not more than, \$100 for each violation. Each day that a violation continues shall constitute a separate offense. All fines imposed and collected shall be paid over to the Town of Concord.

**614.2** The Zoning Administrator shall not bring any action against an alleged violation unless the alleged offender has had at least seven days notice by certified mail that such a violation exists. The notice of violation also shall be recorded in the land records of the Town of Concord. The notice of violation shall state that:

- a) A violation exists;
- b) The alleged offender has had an opportunity to cure the violation within the seven day notice period; and
- c) The alleged offender will not be entitled to an additional warning notice.

**614.3** Within 30 days of the issuance of a notice of violation, the Zoning Administrator shall deliver either the original or a legible copy to the Concord Town Clerk for recording in the Town of Concord land records.

**614.4** The Zoning Administrator may bring action without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven day notice period and within the next succeeding twelve months.

**614.5** In accordance with Section 4454(a) of the Act, the Zoning Administrator may take action against an alleged violation within fifteen years from the date the violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the alleged offender.

**614.6** In accordance with Section 4454(b) of the Act, the Zoning Administrator shall not take action against an alleged violation unless the permit or notice of the permit has been recorded in the land records of the Town of Concord.

## **Article 7 Amendments, Interpretation, Effective Date**

### **Section 701: Amendments**

**701.1** These regulations may be amended according to the requirements and procedures established in Sections 4441 and 4442 of the Act.

### **Section 702: Interpretation**

**702.1** In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

**702.2** It is not intended by these regulations to repeal, annul, or in any way to impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulation permit, easement, or agreement, the provisions of these regulations shall control and prevail.

### **Section 703: Effective Date**

**703.1** This regulation shall take effect in accordance with the voting and other procedures contained in Section 4442 of the Act.

### **Section 704: Separability**

**704.1** The invalidity of any article or section of these regulations shall not invalidate any other article or section thereof.

## **Article 8 Definitions**

### **Section 801: Word Definitions**

**801.1** The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

**801.2** The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

**801.3** The word shall is mandatory, and the word may is permissive.

**801.4** The words used or occupied include the words intended, designed, or arranged to be used, or occupied.

**801.5** The word lot includes the words plot or parcel.

### **Section 802: Term Definitions**

**Accessory Structure:** a structure, detached from the principle structure, which is incidental and subordinate to the principal or structure on the same lot.

**Accessory Use:** a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principle use or structure.

**Affordable Housing:** Housing that is either: (1) owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the median income for Essex County, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income; or (2) rented by its inhabitants whose gross annual household income does not exceed 80 percent of the median income for Essex County, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

**Area of Shallow Flooding:** a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard:** the land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area may be designed as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is defined into Zones A, AH, AI-A30, AE, or A99.

**Base Flood:** the flood having a one percent chance of being equaled or exceeded in a given year.

**Basement:** any area of the building having its floor subgrade (below ground level) on all sides.

**Building:** an assemblage of materials for the support or enclosure of persons, animals, chattel of any kind.

**Building Footprint:** The area encompassed by the building's outer walls.

**Building/Structure Front Line:** means a line parallel to the front line transecting that point in the structure face which is closest to the front line. This face includes porches whether enclosed or unenclosed but does not include steps.

**Building/Structure Height:** the vertical distance measured from the average elevation of the proposed finish grade at the front of the structure to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other type roofs.

**Business Office:** an establishment engaged in rendering administrative support; management or consultation; or service to other business establishments or individuals on a fee or contractual basis, such as advertising and mailing; building maintenance; employment services; and research, development, and testing.

**Camp:** a dwelling for private, noncommercial use, which is not intended for full-time occupancy, and which does not have all the amenities of a single-unit dwelling, such as plumbing or central heating.

**Club, Private:** a structure or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.

**Community Center:** A building that is owned and operated by a public or nonprofit group or agency, and is used for recreational, social, education, or cultural activities.

**Development:** the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure; or of any mining, excavation or landfill; and any change in the use of any building or other structure, or land, or extension of use of land.

**Drive-In Establishment:** An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**Dwelling Unit:** one or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, sharing the dwelling's sewage and water system, but containing independent cooking and sleeping facilities.

**Dwelling, Accessory Unit:** An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

**Dwelling, Single Family:** a detached, residential dwelling unit, including a mobile home, designed for

and occupied by one family only.

**Dwelling, Two Family:** means a residential building designed for occupancy by no more than two families living independently of each other in individual living units.

**Dwellings, Multi-Family:** a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**Emergency Services:** Police, firefighters, and emergency medical technicians, and other first responders to public safety crises.

**Essential Service:** The erection, construction, alteration, or maintenance of public or private utilities, or municipal or other governmental agencies of underground, or overhead gas, electrical, steam, or water transmissions, or distribution systems, including poles, wires, mains, drains, sewers, pipes, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories therewith and including buildings reasonably necessary for the furnishing of adequate service by such utilities.

**Family:** One or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.

**Fence:** An artificially constructed barrier or any material or combination of materials erected to enclose, screen, or separate areas of land.

**Flood Hazard Boundary Map (FHBM):** an official map or maps of a community, issued by the Administrator, where the boundaries of the flood, mud-slide (i.e., mudflow) related erosion areas having special hazards, have been designated as Zones A, M, and/or E.

**Flood Insurance Rate Map (FIRM):** an official map or maps of a community, on which the Administrator has delineated both the special hazard areas and the risk premium applicable to the community.

**Flood Insurance Study:** an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**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 a designated height.

**Freight Storage Containers:** Freight storage containers shall include containers unregistered for transportation use, but not limited to box trailers, flat bed trailers, storage boxes or utility trailers. They may be with or without wheels.

**Home Industry:** An expanded home-based business conducted by one or more residents of a single family dwelling and up to five nonresident employees, which is carried on within the principal dwelling and/or an

accessory structure, and meets all applicable requirements of these regulations (see Section 303.2). See also Home Occupation.

**Home Occupation:** an accessory use, of a service character, conducted within a minor portion of a dwelling or its accessory structure by the residents thereof and not more than three employees, and which is clearly secondary to the dwelling used for living purposes and does not change the character thereof.

**Junk:** Old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. Any of the above items used in a bona fide agricultural operation as defined by statute are excluded from this definition.

**Junkyard:** See "Salvage Yard."

**Light Industry:** manufacturing, assembly, converting, altering, finishing, cleaning or other processing, handling or storage of products or materials.

**Loading Space:** an off-street space used for temporary location for one licensed motor vehicle, which is at least 12' wide and 40' long and 14' high, not including access driveway, and having direct access to the street or alley.

**Lot:** means a parcel of land occupied or to be occupied by only one main structure and the accessory structures or uses customarily incidental to it. A lot shall be of sufficient size to meet zoning requirements for use, coverage, and area, and to provide such yards and other spaces as are herein required, such lots shall have frontage on an approved public street, or other means of access approved by the Planning Commission and may consist of: a single lot of record; a portion of a lot of record; a combination of complete lots of record, or portions of lots of record; or a parcel of land described in metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this bylaw.

**Lot Measurements:** Depth of a lot shall be considered to be the distance between the mid points of straight lines connecting the foremost points of the side lines in front and the rearmost points of the side lot lines in the rear. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, however, that width between the lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the 80 percent requirement shall not apply.

**Lot of Record:** a lot which is part of a subdivision recorded in the office of the Town Clerk, or a lot or parcel described in metes and bounds, the description of which has been so recorded.

**Lowest Floor:** the lowest floor of the lowest enclosed area including a basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than the basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 405.7.



**Mean Sea Level:** the National Geodetic Vertical Datum (NGVD) of 1929 or the datum, to which base flood elevations shown on a community Flood Insurance Rate Map are referenced.

**Mobile home:** a structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is: A) transportable in one or more sections; B) at least 8' wide or 40' long, or when erected, has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32' long; or C) any structure that meets all the requirements of this definition except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code.

**Neighborhood Commercial Facility:** any commercial facility such as a grocery, general, or drug store or retail service establishment intended principally to serve the area in which it is located.

**Non-Conforming Structure:** means a structure not complying with the zoning regulations for the district in which it is located, where such structure complied with all applicable laws and regulations prior to enactment of these regulations, including a structure improperly authorized by error of the Zoning Administrator.

**Non-Conforming Use:** a use of land or structure which does not comply with the zoning regulations for the district in which it is located, where such use conformed to all applicable laws and regulations prior to the enactment of these regulations, including a use improperly authorized by error of the Zoning Administrator.

**Non-Residential Use:** all uses of structures or lands except single family dwellings, two family dwellings, and multi-family dwellings.

**On-Lot Water and Sewage Disposal:** means the providing of water from a source such as a drilled well or spring and the disposal of sewage by such means as a septic tank and leach field located on the same or adjacent lot as the structure for which these utilities are located.

**Parking Space, Off-Street:** an off-street parking space shall consist of a space adequate for parking a vehicle with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. For the purpose of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated to be 300 square feet, but off street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, in a manner appropriate to the circumstances of the case, and in accordance with all bylaws and regulations of the town.

**Personal Service:** includes barber, hairdresser, beauty parlor, shoe repair, laundry and laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

**Public Facility:** includes auditorium, theatre, public hall, school hall, and meeting hall.

**Recreation Facility, Indoor:** A structure that is used for sport and leisure activities, and other customary and usual activities that can be performed indoors. For purposes of this bylaw this definition includes both facilities open to the general public and facilities which are open only to bona fide members and guests. This

definition does not include an accessory use to a single-family dwelling, to be used primarily by residents of said dwelling.

**Recreation Facility, Outdoor:** Lands and related accessory structures, which are designed to accommodate the conduct of outdoor sport and leisure activities, including swimming, tennis, horseback riding, field sports, and playground activities. For purposes of this bylaw, this definition includes both facilities open to the general public and facilities which are open only to bona fide members and guests. This definition does not include an accessory use to a single-family dwelling, to be used primarily by residents of said dwelling.

**Recreational Vehicles:** A portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodations for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

**Religious Facility:** A building or structure, or group of buildings or structures, which are maintained and controlled by a religious body organized to sustain public worship.

**Residential Use:** includes single family dwelling, mobile home dwelling, two family dwelling and multifamily dwelling.

**Retail Store:** includes enclosed restaurant, cafe, shop and store for sale of retail goods, personal service shop and department store; and shall exclude any drive-in service, free standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

**Salvage Yard:** Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. "Salvage yard" also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

**Sign:** Any structure, display, device, or representation that is designed or used or advertise, direct to, or call attention to any person, business, activity, or place; and is visible from any highway or other right-of-way.

**Sign Area:** The entire face of a sign, including any advertising surface that contains lettering, as well as any framing, trim, or molding, but not including the supporting structure.

**Street Frontage:** the lot lines which abut a public street.

**Street Line:** the right-of-way line of a street as dedicated by a deed of record. Where the width of the street is not established; the- street line shall be considered to be 25' from the center line of the street pavement.

**Street Public:** the public way for vehicular traffic which affords the principal means of access to abutting properties.

**Structure:** an assembly of materials for occupancy or use, including, but not limited to, a building,

mobile home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.

**Substantial Improvement:** any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and was being restored, before the damage occurred. The term does not, however include either (1) any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

**Substantially Commenced:** visible signs of activity on new construction of a new structure or repair of a damaged structure, including the commitment of resources and materials to a project, such as the pouring of a foundation, the completion of a frame, or the delivery of all required building materials to the construction site.

**Yard:** the space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main structure and shall not project into a required yard.

**Yard, Front:** the space between the front lot line and the front line of a structure extending to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the structure.

**Yard, Rear:** the space between the rear lot line and rear line of the structure extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the structure.

**Yard, Side:** the space between the principal structure or accessory structure and a side lot line, and extending through from the front yard to the rear yard.

#### Summary of Bylaw Changes – August, 2016

1. Clarify Concord Zoning Bylaw Section 203.1 relating to when the Planning Commission shall interpret district boundary locations.
2. Newly define freight storage container restrictions and permitting process in section 304.2
3. Clarify in Section 313 overall guidance for recreational vehicles.
4. Define town permit contingencies upon state water and waste water permits in section 604.1.
5. Clarify definitions of accessory structures, freight storage containers, and structures in Section 802.