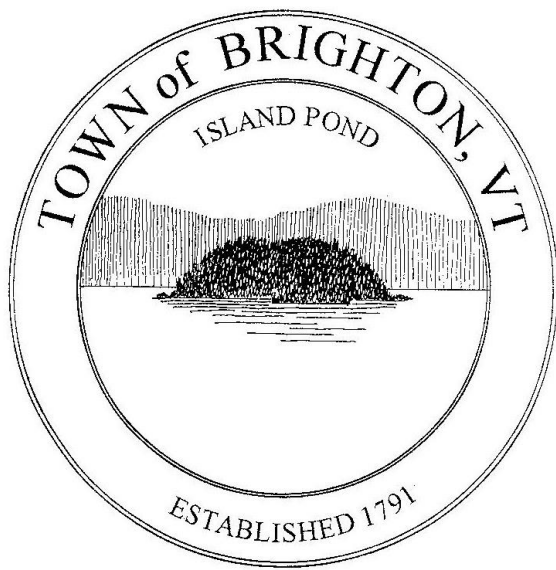


# Town of Brighton



## Zoning Bylaw

Adopted ~~March 20, 2012~~

Bylaw Amendments/Technical Revisions

<b>Date</b>	<b>Amendment or Technical Revision</b>	<b>Section Affected</b>
8/11/2009	Amendments	
3/20/2012	Amendments	

MAP TO BE UPDATED SPRING 2012 TO SHOW CHANGES  
TO VILLAGE DISTRICT BOUNDARY WEST ON THE  
SOUTHERN SIDE OF RAILROAD STREET TO MEADOW  
STREET.

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## **ARTICLE 1: ENACTMENT AND INTENT**

### **§101 Enactment**

In accordance with the Vermont Planning and Development Act, hereinafter 24 V.S.A. §4401, there is hereby established a zoning bylaw for the Town of Brighton which is set forth in the text and map that constitute this bylaw. This bylaw shall be known and cited as “The Town of Brighton Zoning Bylaw.”

### **§102 Intent**

It is the intent of this zoning bylaw to provide for orderly community growth and to further the purposes established in 24 V.S.A. §4302.

## **ARTICLE 2: ESTABLISHMENT OF DISTRICTS AND REGULATIONS**

### **§201 Zoning Map and Districts**

The zoning map officially titled “Brighton Zoning Map,” is hereby adopted as part of this bylaw. The Town of Brighton Zoning Map shows a division of the town into the following districts:

- “V” Village
- “NR” Neighborhood Residential
- “L” Lake
- “RR” Rural Residential
- “I” Industrial
- “RL” Rural Lands
- “CL” Conservation Lands
- “SO” Shoreland Overlay

### **§202 Copies of Zoning Map**

Regardless of the existence of other printed copies of the zoning map, the official zoning map shall be located in the Brighton Town Clerk’s office. The official zoning map shall be the final authority as to the current zoning status of all properties within the Town of Brighton.

### **§203 District Boundaries**

- (1) Any district that is shown on the zoning map to follow a public road shall have a depth of 500 feet, as measured from the center lines of such road.
- (2) If a lot in such a district, as described above in (1), has road frontage and extends beyond 500 feet in depth, the entire lot will be considered being in the district that has the road frontage, except that any subdivision of such a lot shall adhere to the district boundaries, as shown on the zoning map, and be subject to all dimensional and use restrictions in each zoning district.
- (3) Where the zoning district boundary divides a lot of record on the zoning map, other than a lot that has public road frontage, as described in (1) and (2), at the time such district boundary is adopted, the district that contains more than 50% of the square footage of the lot shall determine the district and its respective

uses, except that any subdivision of such a lot shall adhere to the district boundaries, as shown on the zoning map, and be subject to all dimensional and use restrictions in each zoning district.

- (4) When the Zoning Administrator cannot definitely determine the location of a district boundary by the scale or dimensions shown on the zoning map, he or she shall refuse action, and the Development Review Board 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 portions of this bylaw.

## **§204 Use and Development of Land**

Except as otherwise provided in this ordinance, no person may use or occupy any land or buildings or authorize or permit the use or occupancy of land or buildings under his or her control except in accordance with the applicable provisions of this ordinance.

### **204.1 Zoning Permits**

Permits Required for Land Development. Unless specifically exempted or to the extent limited by this ordinance or applicable statute, no land development may be commenced without a zoning permit theretofore issued by the administrative officer.

**204.2** Building on an existing footprint shall require a new permit.

*[Editor's Note: This means that even if someone tears down an existing structure and re-builds on the same site and re-builds to the same height, length and width, a new permit is needed.]*

**204.3** Storage sheds and storage containers larger than 100 Square feet require a permit and must meet setback requirements.

### **204.4 Remedial permits**

Permits sought after the land development has already occurred are charged at the rate of \_\_\_\_\_. The ZA may issue such a permit only if the structure or other land development meets the requirements of this bylaw. If the land development or structure or use does not meet the bylaw requirements, the ZA shall deny the permit. The applicant may in that case appeal the decision of the ZA to the DRB or remove or cease the offending land development, structure or use.

**204.3** No land development may occur that causes a drainage problem for another property.

1

**§204.4 Uses Not Permitted**

Uses not listed in this zoning bylaw are not permitted in the Town of Brighton, unless the uses in question are legally exempt from zoning regulation.

**§205 Uses Exempt from Zoning**

- (1) This zoning bylaw shall not regulate public utility power generating plants and transmission facilities, which are regulated under 30 V.S.A. §248.
- (2) In accordance with 24 V.S.A. §4413(d) 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 Brighton Town Clerk of such intent in writing and abide by setbacks approved by the Secretary of Agriculture, Food and Markets.
- (3) One small accessory structure associated with residential use which is one hundred (100) square feet of floor area or less, is less than ten (10) feet in height with a flat roof or less than twelve (12) feet in height with a peaked roof, and is not located within required setback areas.
- (4) Garage sales, yard sales, auctions, or similar activities that do not exceed five (5) consecutive days, nor more than twelve (12) days in any calendar year.

**§206 Limitations of this Bylaw**

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:

- (1) State- or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state department of education.
- (3) Churches and other places of worship, convents, and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.



- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

### **§207 Other Land Use and Relevant Regulations**

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 sewage systems and outdoor furnaces, regulated by the Agency of Natural Resources; underground storage tanks, regulated by the Department of Environmental Conservation; and setback of farm structures, regulated by the Secretary of Agriculture, Food and Markets.

### **§208 Application of District Regulations**

- (1) No building shall hereafter be erected or altered:
- A. To accommodate or house a greater number of families than permitted in the district in which the building is located; or
  - B. To have narrower or smaller front, side, or rear setbacks than as specified herein for the district in which the building is located.
- (2) Space required under this bylaw to satisfy setback, area, or other open space requirements in relation to one building shall not be used to satisfy the same requirements for any other structure.
- (3) All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side or rear yard. This shall not apply to landings less than 25 square feet, steps, or wheelchair ramps; or eaves or overhangs that do not extend more than two feet from the structure.

### **§209 Permitted and Conditional Uses**

[See Article 5: Administration and Enforcement for a complete explanation of the permitting process.]

- (1) Permitted uses are uses that require, at a minimum, Administrative Review by the Zoning Administrator. All permitted uses other than single- and two-unit dwellings shall also be subjected to Site Plan Review by the Development Review Board after public notice and hearing.
- (2) Conditionally approved uses are uses that require, following Administrative Review by the Zoning Administrator, referral to the Development Review Board for Conditional Use Review after public notice and hearing.
- (3) *In residential districts served by sewer and water, "affordable housing" developments (defined in the statute) may add additional units that increase density by 40 percent and may include an additional floor above height limitations*

in the bylaws as long as the structure complies with fire and building safety codes.

[Editor Note: This language will be adjusted upon legal review.]

**§210 District Objectives and Land Use Control**

The following tables state the objectives and regulations of each district. These tables establish permitted and conditional uses, as well as lot area and dimensional requirements for each district.

**§210(1) “V” Village**

This is a mixed-use district in a traditional downtown environment that is served by municipal water and sewer services. The area is characterized by pedestrian traffic and commercial and civic uses, as well as apartments.

<i>Permitted Uses</i>	<i>Conditional Uses</i>
Accessory use	Auto repair
Bakery	Car Wash
Bed & Breakfast	Church
Business/Professional office	Communication facility
Commercial service	Daycare Center, Adult
Community center	Daycare Center, Child
Dwelling, Accessory	Funeral home
Dwelling, Multiunit	Gas station
Dwelling, Single Unit	Hotel/motel
Dwelling, Two-unit	Laundromat
Emergency service	Lumber transfer yard
Health Club/Spa	Medical clinic
Library	Motor vehicle sales
Municipal office	Nursing home
Museum	Public agency office
Post office	Public facility
Restaurant	Recreation, indoor
Retail store	Recreation, outdoor
Visitor facility	School
	Transportation/shipping facility
	Veterinary clinic

Minimum size and dimensions:

- Minimum Lot Size: ..... 9,000 sq. ft.
- Minimum Lot Width: ..... 80 ft.
- Minimum Setbacks:
  - Front..... 15 ft.
  - Side:..... 10 ft.
  - Rear ..... 15 ft.

**§210(2) “NR” Neighborhood Residential**

This residential zone surrounds the Village District and is served by municipal water and/or sewer services. Its predominant use is single unit dwellings. Multi-unit buildings must be served by municipal water and sewer.

*Permitted Uses*

- Accessory use
- Bed & breakfast
- Church
- Dwelling, accessory
- Dwelling, single unit
- Dwelling, two unit
- Multi-unit dwelling\*

*Conditional Uses*

- Bakery
- Cemetery
- Commercial service
- Communications facility
- Daycare Center, Adult
- Daycare Center, Child
- Dwelling, multiunit
- Emergency service
- Funeral home
- Medical clinic
- Mobile home park
- Planned residential development
- Public agency office
- Recreation, indoor
- Recreation, outdoor
- Restaurant
- School
- Veterinary clinic

Class 1<sup>1</sup> Minimum size and dimensions:

- Minimum Lot Size: ..... 15,000 sq. ft.
- Minimum Lot Width: ..... 100 ft.
- Minimum Setbacks:
- Front ..... 25 ft.
- Side: ..... 15 ft.
- Rear ..... 35 ft.

Class 2 Minimum size and dimensions:

- Minimum Lot Size: ..... 40,000 sq. ft.
- Minimum Lot Width: ..... 120 ft.
- Minimum Setbacks:
- Front ..... 25 ft.
- Side: ..... 25 ft.
- Rear ..... 50 ft.

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<sup>1</sup> See §211 Class – Source of Water and Sewer Service

**§210(3) “L” Lake**

This district is a quiet residential zone that is served by ~~on-site~~ municipal water and ~~or partly~~ sewer. The primary objective of this district is to maintain water quality and scenic values. Duplexes and multi-unit buildings must be served by municipal water and sewer.

*Permitted Uses*  
 Dwelling, accessory  
 Dwelling, single unit  
 Accessory Use  
Multi-unit dwelling  
Duplexes

*Conditional Uses*  
 Campground  
 Public facility  
 Recreation and education camp  
 Recreation, outdoor

Minimum size and dimensions:

Minimum Lot Size: ..... 20,000 sq. ft.  
Minimum Lot Width: ..... 120 ft.  
Minimum Setbacks:  
Front ..... 30 ft.  
Side: ..... 30 ft.  
Rear ..... 30 ft.

Class 1<sup>2</sup> Minimum size and dimensions:

Minimum Lot Size: ..... 15,000 sq. ft.  
Minimum Lot Width: ..... 100 ft.  
Minimum Setbacks:  
Front ..... 25 ft.  
Side: ..... 15 ft.  
Rear ..... 35 ft.

Class 2 Minimum size and dimensions:

Minimum Lot Size: ..... 40,000 sq. ft.  
Minimum Lot Width: ..... 120 ft.  
Minimum Setbacks:  
Front ..... 25 ft.  
Side: ..... 25 ft.  
Rear ..... 50 ft.

**Commented [ALM1]:** The planning commission didn't quite know if this was going to be okay, but they didn't make a decision either!

<sup>2</sup> See §211 Class – Source of Water and Sewer Service

**§210(4) “RR” Rural Residential**

This district is a low-density residential area within close proximity of public roads and electrical service, which is served by on-site water and sewer. Other typical uses in the area include farming, forestry, and municipal service facilities.

*Permitted Uses*

- Accessory use
- Bed & breakfast
- Childcare facility
- Church
- Dwelling, accessory
- Dwelling, single unit
- Dwelling, two unit
- Dwelling, multiunit
- Recreation shelter
- Recreation, outdoor

*Conditional Uses*

- Auto repair †
- Campground
- Cemetery
- Commercial service
- Commercial storage facility
- Communications facility
- ~~Dwelling, multiunit~~
- Funeral home
- Hangar
- Heavy equipment yard \*
- Kennel
- Light industry \*
- Motor vehicle sales †
- Planned residential development
- Public service facility
- Recreation, indoor
- School
- Solid waste facility \*
- Transportation/shipping facility\*
- Veterinary clinic

\* Allowed on state highway only  
† Must comply with Section 309(2)

Minimum size and dimensions:

- Minimum Lot Size: ..... 2 acres
- Minimum Lot Width: ..... 200 ft.
- Minimum Setbacks:
- Front ..... 50 ft.
- Side: ..... 50 ft.
- Rear ..... 50 ft.

Class 1<sup>3</sup> Minimum size and dimensions:

- Minimum Lot Size: ..... 15,000 sq. ft.
- Minimum Lot Width: ..... 100 ft.
- Minimum Setbacks:

<sup>3</sup> See §211 Class – Source of Water and Sewer Service

Front..... 25 ft.  
Side:..... 15 ft.  
Rear ..... 35 ft.

**Class 2 Minimum size and dimensions:**

Minimum Lot Size: ..... 40,000 sq. ft.  
Minimum Lot Width: ..... 120 ft.  
**Minimum Setbacks:**  
Front..... 25 ft.  
Side:..... 25 ft.  
Rear ..... 50 ft.

**Class 3 Minimum Lot Size:..... 120,000 sq. ft.**

Minimum Lot Width: ..... 300 ft.  
**Minimum Setbacks:**  
Front..... 25 ft.  
Side:..... 25 ft.  
Rear ..... 50 ft.

**§210(5) “I” Industrial**

This zone is characterized by manufacturing, warehousing, offices and freight services. Duplexes and multi-unit buildings must be served by municipal water and sewer.

*Permitted Uses*

Light industry  
Business Office  
Warehousing  
Freight or Trucking terminal  
Communications facility  
Accessory use or structure  
Commercial storage facility  
Heavy equipment yard  
Transportation/shipping facility

*Conditional Uses*

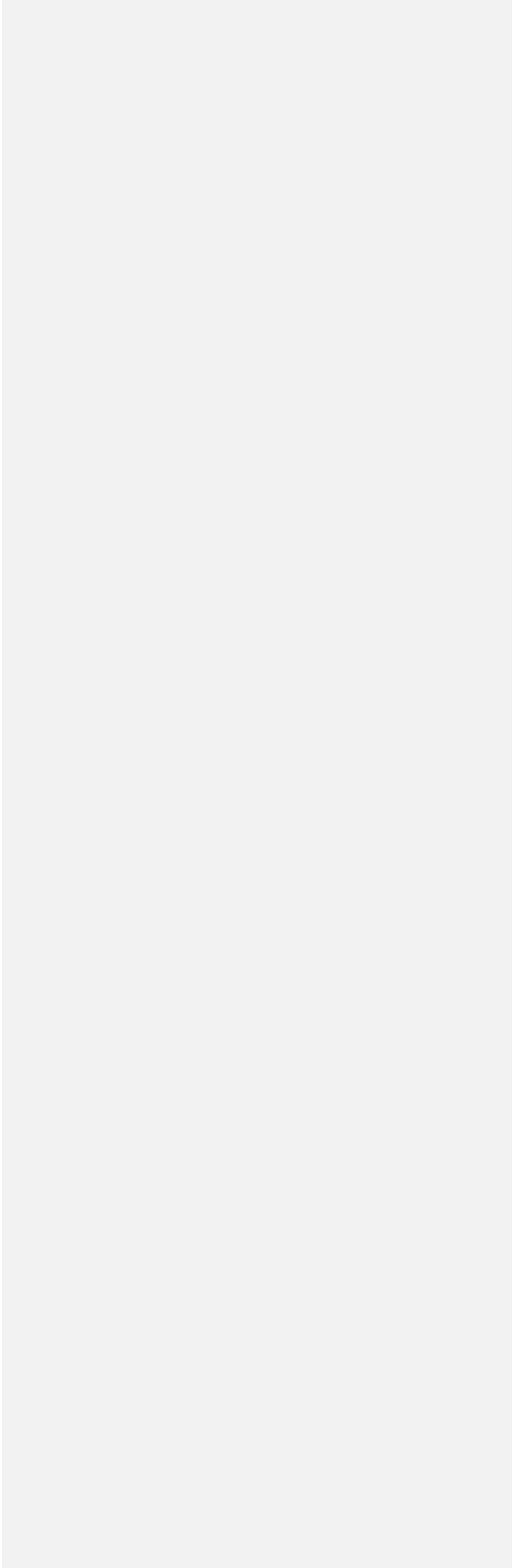
Major industry  
Auto Repair †  
Gas station  
Dwellings: Single, Two-unit,  
Multi-unit, Accessory  
Extraction of earth resources  
Hangar  
Public facility  
Solid waste facility  
Commercial Service  
Motor Vehicle Sales †

† Must comply with Section 309(2)

Minimum size and dimensions:

Class	Minimum	Minimum	Minimum Setback Dimensions in Feet		
	Lot Size In SQ FT	Width of Lots in Feet	Front	Each side	Rear
1	20,000	100	20	10	20
2	60,000	100	50	20	20
3	120,000	300	75	50	75

\*See Section 211 for information on Lot Class.



**§210(6) “RL” Rural Lands**

This district is characterized by forestry and agriculture, as well as camps and scattered homes, which rely on on-site water and wastewater disposal. There are limited roads and electrical infrastructure in this district, and the soil tends to have limited capacity to support on-site wastewater disposal. Many areas of this district have great scenic values that would be lost, if the land were overdeveloped. Duplexes and multi-unit buildings must be served by municipal water and sewer.

*Permitted Uses*

- Accessory use
- Dwelling, accessory
- Dwelling, single unit
- Recreation shelter
- Duplex\*
- Multi-unit dwelling\*

*Conditional Uses*

- Campground
- Extraction of earth resources
- Kennel
- Planned residential development
- Public facility
- Recreation and education camp
- Recreation, outdoor
- Communications Facility

Minimum size and dimensions:

- Minimum Lot Size: ..... 5 acres
- Minimum Lot Width: ..... 300 ft.
- Minimum Setbacks:
  - Front ..... 50 ft.
  - Side: ..... 50 ft.
  - Rear ..... 100 ft.



**§210(7) “CL” Conservation Lands**

The objective of this district is to conserve natural resources. The district, which is to a large extent in its natural state, is comprised of sensitive water recharge areas and other public lands.

*Permitted Uses*

Recreation, outdoor

*Conditional Uses*

Accessory use  
Campground  
Public facility  
Recreation and education camp  
Recreation shelter

Minimum size and dimensions:

Minimum Lot Size: ..... 20 acres

Minimum Lot Width: ..... 500 ft.

Minimum Setbacks:

Front..... 100 ft.

Side:..... 100 ft.

Rear ..... 100 ft.

### **§210(8) “SO” Shoreland Overlay**

The Shoreland Overlay District is designed to protect all surface water quality and applies to all natural lakes and ponds in the Town of Brighton. A 30-foot vegetative buffer, consisting of **grass**, shrubs and/or trees, shall be maintained adjacent to the shoreline, except that a path of not more than 8 feet wide and stairs not exceeding 4 feet wide may be cut through it to provide access to the water, provided that the path or stairs are as perpendicular to the water as possible. There shall be no application of fertilizer, pesticides, or nutrients in the buffer zone.

### **§211 Class – Source of Water and Sewer Service**

In Table §210(2), the Classes shall refer to the type of water and sewer services available on a given property. These classes determine the minimum lot size, lot width, and setback requirements.

- (1) Class 1 refers to availability of both municipal water supply and sewage disposal.
- (2) Class 2 refers to availability of either municipal water supply or sewage disposal, but not both.
- (3) Class 3 refers to a lack of availability of both municipal water and municipal sewer.

## **ARTICLE 3: GENERAL PROVISIONS**

### **§301 Dwellings Per Lot**

- (1) Single unit dwellings shall be limited to one per lot.
- (2) A lot with a single-unit dwelling shall contain no other uses than accessory uses.

### **§302 Equal Treatment of Housing**

- (1) This bylaw shall not have the effect of excluding low- and moderate-income housing from the municipality.
- (2) Pursuant to 24 V.S.A. §4412(1)(B), mobile homes, modular homes, and prefabricated homes shall be considered single-unit dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under this bylaw.
- (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 a single-unit dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:

- A. The property has sufficient wastewater capacity.
  - B. The unit does not exceed either 30% of the total habitable floor area of the single-unit dwelling, or 600 sq. ft, whichever is larger.
  - C. Applicable setback, coverage, and parking requirements specified in the bylaws are met.
- (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 these bylaws,
  - B. An increase in the height or floor area of the existing dwelling, or
  - C. An increase in the dimensions of the parking area.
- (5) Mobile home parks are a conditional use in the Neighborhood Residential (NR) district. Mobile home parks with more than five (5) units must be served by municipal sewer.
- A. Mobile home parks shall have no more than two access points onto public roads.
  - B. Internal roads serving the mobile home park must have a right-of-way at least 50 ft. in width, have a crushed gravel surface at least 24 ft. in width, and be appropriately marked and illuminated for emergency vehicular access.
  - C. Individual lots within the mobile home park must be at least 60 ft. in width and 120 ft. in depth. Either dimension may have frontage on the internal road.
  - D. Mobile homes shall be placed on each lot to have minimum setbacks of 12 ft. on all sides. Individual lots that abut a public road must meet the front setback requirements of that district.

**§303 Required Frontage/Access to Public Roads**

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. Access easements or rights-of-way shall not be less than 50 feet in width. Access to non-frontage lots shall be submitted to the Development Review Board for Site Plan Review.

**§304 Curb Cuts and Drainage**

Curb cuts and Driveways adjoining or affecting town roads, state highways, or surrounding private properties may not be created without adequate drainage. Prior to the creation of any curb cut, the individual seeking to establish such curb cut shall obtain a Driveway Access Permit approval from the Town of Brighton Road Foreman or the appropriate district office of the Vermont Agency of Transportation, depending on jurisdiction. Approval may be conditioned upon installation of one or more culverts in specified size(s) and location(s).

A zoning permit (for home construction?) shall not be issued if a Driveway Permit is not in place.

### **§305 Temporary Uses and Structures**

Temporary permits for nonconforming uses incidental to construction projects may be issued by the Zoning Administrator for a period not exceeding one year, provided such permits are conditioned upon the owner removing the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

### **§ 306. Burned, Abandoned and Dilapidated Structures**

(1) Burned, abandoned and dilapidated structures shall be removed, the property secured in such a way that it is not a public safety hazard, and the property cleared of all debris in a reasonable time upon notice of the zoning administrator, but not to exceed six months.

(2) The property on which a burned, abandoned or dilapidated structure rests shall be filled to normal grade level and graded smooth, within one year of notice by the zoning administrator.

### **§307 Height Regulations**

Except for communications facilities and agricultural structures, new structures in all districts shall not exceed a height of 40 feet above the average grade level of the footprint of the structure.

### **§308 Off-Street Parking**

Off-street parking shall be provided as follows: 2 spaces per single dwelling unit; 1 space per accessory dwelling unit; and 1.5 spaces per unit of a multi-unit dwelling, except that in residential districts served by municipal sewer and water infrastructure, one parking space shall be provided per dwelling unit. In areas without sewer and water and in areas more than one-quarter

~~mile from public parking for duplexes and multi-unit dwellings 1.5 parking spaces shall be required if existing parking isn't sufficient.~~

Off-street parking for all other permitted uses must be approved under Site Plan Review; and off-street parking for all other conditionally permitted uses under Conditional Use Review.

### **§309 Auto Repair Stations**

In all districts where permitted, auto repair stations shall comply with the following:

- (1) ~~An auto repair station lot shall not be located within three hundred feet of any lot occupied by a school or medical facility, hospital, library, or religious institution.~~
- (2) All automobile parts and dismantled or wrecked vehicles are to be stored within a building, or effectively screened from public view by a fence or vegetation at least eight feet in height, so that they cannot be seen from the roadway or adjoining property. No major repair work is to be performed outside a building. Any fence shall be of sound construction and of solid vertical board or 'stockade' type construction, and shall be maintained neatly and in good repair. Such a fence shall not be used for advertising signs or other displays which are visible from the traveled way of a highway. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view. Failure to provide screening as required herein shall be considered a violation of the zoning permit and this Bylaw.
- (3) There shall be no more than two access driveways from any road. The maximum width of each access driveway shall be forty feet.
- (4) ~~A curbed~~, landscaped area shall be maintained at least five feet in depth along all road frontage not used as driveway.

### **§310 Private Swimming Pools**

~~Private swimming pools installed below ground level shall be enclosed by a lockable fence not less than 5 feet in height with no opening greater than 4 by 4 inches.~~

### **§311 Extraction of Earth Resources**

- (1) The commercial extraction or removal of topsoil, sand, gravel, rock, minerals, or other similar earth resource is allowed in the Industrial, and Rural Lands districts and is subject to conditional use review under §507 of this bylaw. In addition to the conditional use standards set forth in §507, for commercial extraction operations that are likely to impact surrounding properties due to the scale, intensity, and timing of the extraction, the presence of fragile natural features (e.g. steep slopes, riparian land), and/or the relative density of nearby land uses, the Development Review Board may also require erosion control and site reclamation plans showing:

- A. existing grades, drainage patterns, and depths to bedrock and the seasonal high water table;
  - B. the extent and magnitude of the proposed operation, including proposed phasing;
  - C. finished grades at the conclusion of the operation; and
  - D. a detailed plan for the restoration of the site, including final grading and revegetation.
- (2) In granting approval, the Development Review Board may impose conditions with regard to any of the following:
- A. depth of excavation or quarrying;
  - B. slopes created by removal;
  - C. effects on surface drainage, both on- and off-site;
  - D. storage of equipment and stockpiling of materials on-site;
  - E. hours of operation for blasting, trucking, and processing operations;
  - F. effect on adjacent properties due to noise, dust, or vibration;
  - G. effect on traffic and road conditions, including potential physical damage to public roads;
  - H. creation of safety hazards;
  - I. temporary and permanent erosion control, including project phasing to limit exposed area;
  - J. effect on ground and surface water quality, and drinking water supplies;
  - K. effect on natural, cultural, historic, or scenic resources, either on-site or in the vicinity of the project;
  - L. effect on agricultural land; and
  - M. public health, safety, and general welfare.
- (3) In approving an application, the Development Review Board shall ensure reclamation of the land upon completion of the excavation, to include any regrading, reseeding, reforestation, or other reclamation activities that may be required as deemed reasonable. This provision specifically does not apply to mining or quarrying operations; however upon failure of the permit holder, or their successors, to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.
- (4) This section shall not apply to normal agricultural and/or forestry operations, public (municipal and state) road maintenance and construction, the operation of a cemetery, or the removal of earth resources for a use that is incidental to

another duly permitted construction activity located on the same parcel from which the materials were extracted.

### **§312 Animals**

The raising or harboring of all animals not related to accepted agricultural practices or veterinary clinics shall be prohibited in all districts except for the Rural Residential, Rural Lands, and Industrial districts. Common household pets are exempted from these provisions, provided that there are not more than four cats or dogs over six months old per household, or in the case of other pets, that they are traditionally caged or otherwise contained indoors.

### **§313 Signs**

The purpose of this section is to limit the use of signs to those purposes which serve the public interest.

- (1) Signs in the Village and Industrial districts 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.
- (2) Signs shall not be painted or mounted on the roof of a building.
- (3) Signs 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.
- (4) Signs may be illuminated by a steady light, provided that such lighting will not illuminate or reflect onto other properties or into traffic. No more than two illuminated signs per property are allowed.
- (5) Flashing, oscillating, and revolving signs shall not be permitted unless necessary for public safety or welfare.
- (6) Free-standing signs are limited to one per property and shall not exceed 32 square feet in the village district. [setbacks?]
- (7) Nonconforming signs shall be brought into compliance when they are replaced.
- [8] Home occupation and residential signs shall not exceed 3 square feet, and be limited to one per residence.
- [9] Signs on the face of the building at an angle shall not be more than 20 square feet.
- 10) do signs need a permit and what would be the fee?*

### **§314 Home Occupations**

- (1) No provision of this bylaw shall 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 have an undue adverse effect upon the residential area in which the dwelling is located. The home occupation shall be carried on by residents of the dwelling unit. Three additional employees who are not residents of the dwelling unit are permitted. Home occupations are:
  - A. Clearly incidental and secondary to the residential use.
  - B. Conducted wholly within the dwelling and occupy a minor portion of the dwelling.
- (2) To ensure that a home occupation will not have an undue adverse effect on the residential area in which the dwelling is located, the owner must demonstrate that it will comply with all of the following standards:
  - A. All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit; no outside storage shall be permitted.
  - B. Traffic generated by such home occupation shall not be greater than what would normally be expected in the neighborhood.
  - C. New parking required for the home occupation shall be provided off-street.
  - D. No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, light, or glare shall be produced by the home occupation.
- (3) Where it is determined by the Zoning Administrator that the proposal does not meet the definitions or standards of home occupations above, the applicant may apply for a permit under the broader use regulations (commercial, industrial, etc.) as determined by the district in which the parcel is located.

### **§315 Family Child Care Homes**

A family childcare home serving six or fewer children shall be considered to constitute a permitted use of a single-unit dwelling. 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. § 4902(3)(A), shall be considered to constitute a permitted use of a single-unit dwelling but requires site plan approval from the Development Review Board. A family childcare facility serving more than six full-time and four part-time children shall be treated as a conditional use.

In this bylaw, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:



- A. these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
- B. during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902(3).

**§316 Residential Care and Group Homes**

- (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. §4501, shall be considered to constitute a permitted use of a single-unit dwelling, ~~except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted such home.~~
- (2) A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. §4501, shall be reviewed as a multi-unit dwelling and shall be subject to conditional use review.

**§317 Planned Residential Development**

- (1) The purpose of a planned residential development shall be to encourage development that will result in:
  - A. A choice in the types of environment and living units available to the public, and quality in residential land uses.
  - B. The conservation of open space and recreation areas.
  - C. The protection of natural resources.
  - D. The efficient use of roads and infrastructure.
- (2) With the approval of a development plan, the Development Review Board is empowered to vary certain zoning regulations under the criteria and procedures established in 24 V.S.A. §4417.
- (3) Proposals for planned residential developments will be reviewed by the Development Review Board under the Site Plan Review process as described in §504 of this bylaw, but in accordance with 24 V.S.A. §4464(a)(1), the warning period for the hearing shall not be less than 15 days. Proposals presented to the Development Review Board shall consist of a development plan showing all buildings; on-site water and sewer facilities, or municipal water and sewer connection; parking areas, and landscaping at a scale sufficient to allow the study of all elements of the plan. All utilities shall be shown and described. In addition, the development plan shall show all adjacent outstanding features

within 200 ft. Typical elevations and floor plans of all buildings may also be required. Any grading shall be shown.

- (4) Land uses in a planned residential development may include single-, two- and multi-unit dwellings.
- (5) Lot size, width, and setbacks requirements may be waived; however, these will be evaluated by the Development Review Board on their individual merit.
- (6) A planned residential development shall comply with the following standards:
  - A. The planned residential development shall be at least four contiguous acres.
  - B. Municipal water and sewer may be required for more than six residential units.
  - C. Planned residential developments of less than 10 acres shall have at least 50 percent of the development in open space reserved for common use. Planned residential developments larger than 10 acres shall have at least 25 percent of the development in open space reserved for common use.
  - D. Internal roads serving the planned residential development must be at least 50 ft. in width, have a crushed gravel surface, and be appropriately marked and illuminated for emergency vehicular access.
- (7) The Development Review Board may allow as many as 25 percent more dwelling units than could be permitted if the land was subdivided into lots in conformance with the regulations for the district in which such land is divided.
- (8) The Development Review Board may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in this zoning bylaw for planned unit development, provided the rules and regulations are not inconsistent with the zoning bylaw.

### **§318 Travel Trailers**

Owners or users of camping trailers, pick-up coaches and/or motor homes (hereinafter referred to as “travel trailers”), shall abide by the following regulations except when located in an approved campground:

- (1) Only one travel trailer per property is allowed, except as provided in (4) and (6).
- (2) The owner of a travel trailer may park it on his or her own property, in the rear or side yards, provided the trailer is not closer than **six** feet to any lot line, and provided the travel trailer is not occupied as living quarters.
- (3) A Landowner's Parked travel trailers shall not be occupied as living quarters, nor be hooked up to any utilities, for more than a total of 90 days in any calendar year, except as provided in (5).
- (4) Visitors may park their travel trailers on their hosts' land, provided they are parked in conformance with subsections ~~(1) and (2)~~, and provided that there is

no fee involved. Visitors may park their travel trailers on the host's property for no more than 14 days.

- (5) Not more than two travel trailers, including the landowner's travel trailer, shall be concurrently parked on any lot, unless such lot is an approved trailer park.
- (6) Any travel trailer that is occupied or connected to utilities for more than a total of 90 days in any calendar year shall be considered a permanent structure, and the owner shall obtain a zoning permit ~~for a recreation shelter~~ in accordance with §504, as well as any applicable state permit. Any such structure shall meet required setbacks.
- (7) Visiting or occupied RV's are allowed on owner's property up to two weeks but no gray water may be discharged to the watershed.

*[Editor's Note: This doesn't say if there has to be a regular house on the property for a visitor to park his/her trailer.]*

### **§319 Inoperable or Unregistered Vehicles, Fishing Shanties, and Household Debris**

- (1) Inoperable vehicles, household appliances, ~~fishing shanties~~, and other household debris shall not be stored on any property unless shielded from view ~~of~~ from any public highways.
- (2) No more than one unregistered yet operable vehicle shall be parked in any yard of any property for more than 30 days.

### **§320 Outdoor Furnaces**

- (1) Outdoor furnaces may be installed and operated in the following districts, after applying for and receiving a zoning permit:
  - A. Rural Residential (RR)
  - B. Rural Lands (RL)
  - C. Industrial (LI)
- (2) The installation and operation of outdoor furnaces is prohibited in all other districts.
- (3) In accordance with state air pollution control regulations, outdoor furnaces shall not be used to burn any materials other than untreated wood.
- (4) All outdoor furnaces shall be equipped with a catalytic converter that meets EPA standards as well as state standards.
- (5) Vermont uncertified outdoor hydronic heaters shall be setback 200 feet from any property line.

- (6) A Phase I outdoor hydronic heater must be located more than 200 feet from the nearest neighbor's house that is not served by the outdoor hydronic heater.
- (7) Phase II outdoor hydronic heaters are subject to a set back of 200 feet from nearest residence, school or health care facility. The distance is measured from the nearest point on the residence or structure to the nearest point on the outdoor hydronic heater, excluding any concrete or other pad. An attached garage is considered part of the residence, but if the garage is detached from the house, it is not considered part of the residence. Setback requirements may be increased under difficult geographic or environmental conditions because standard set backs may not be far enough away to prevent nuisance or excessive smoke exposures to neighbors, even with a tall stack.

Stack Height Requirement: If a neighbor's residence is between 200 and 500 feet from an uncertified outdoor hydronic heater installed after October 1, 1997, the stack on the outdoor hydronic heater must extend higher (in elevation) than the peak of the roof of the tallest structure being served by the outdoor hydronic heater. The stack shall be tall enough to avoid nuisance to neighbors. Locating the outdoor hydronic heater downhill from the house it is heating may make the stack height requirement much more difficult to meet.

#### **Fire dept inspection required?**

#### **§321 Wellhead Protection Areas**

- (1) Lots within the wellhead protection area with a higher elevation than the well site shall have no more than 5% coverage of impermeable surfaces, excluding the roof of the building.
- (2) Driveways and internal roads in areas within the wellhead protection area with a higher elevation than the well site shall have crushed gravel surfaces.

#### **§322 Hedges and Privacy Fences**

Hedges and privacy fences at intersections may not be higher than 40 inches for a distance of 20 feet from the corner of the fence.

### **ARTICLE 4: NONCONFORMITIES**

#### **§401 Nonconforming Uses**

- (1) Any lawful use of any structure or land existing at the time of the enactment of this bylaw, that does not conform with the provisions of this bylaw, may be continued, provided the following conditions are met:
  - A. The nonconforming use shall not be changed to another nonconforming use.

- B. The nonconforming use may be continued, provided that such use shall not be enlarged or extended, except in accordance with (5).
- (2) No nonconforming use may be resumed if such use has been abandoned for a period of one year or more. A nonconforming use shall be considered abandoned when either of the following conditions exist:
- A. when it is replaced by a conforming use.
  - B. when the use has been discontinued for one year, unless the structure devoted to the nonconforming use has been damaged.
- (3) A structure that is devoted to a nonconforming use shall not be restored for other than a conforming use after damage from any cause, unless the restoration of such structure is substantially commenced within one year.
- (4) Nothing in this section shall be construed to prohibit normal maintenance and repair of a structure devoted to a nonconforming use.
- (5) The Development Review Board may, after public notice and hearing, allow the expansion of any nonconforming use by up to 20 percent greater than its existing size, provided it does not adversely affect the character of the surrounding area.
- (6) Any use of any structure or land that does not conform to this bylaw because it was improperly permitted shall be treated as a nonconforming use.

**§402 Nonconforming Structures**

- (1) Any lawful structure existing at the time of the enactment of this bylaw may continue to exist, provided the following conditions are met:
- A. The nonconforming structure shall not be moved, enlarged, or extended, except as provided in (4).
  - 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.
- (2) A nonconforming structure shall not be restored to other than a conforming structure after the Development Review Board has determined that the structure is substantially damaged from any cause, unless the restoration of such structure is substantially commenced within one year.
- (3) Nothing in this section shall be construed to prohibit normal maintenance and repair of a nonconforming structure.
- (4) The Development Review Board may, after public notice and hearing, allow the expansion of any nonconforming structure, provided the expansion does not increase the level of nonconformance or adversely affect the character of the surrounding area.
- (5) Any structure that does not conform to this bylaw because it was improperly permitted shall be treated as a nonconforming structure.

#### **§403 Permits Issued Prior to Bylaw Amendment**

Permits issued prior to the enforcement of this bylaw that are valid on the effective date of this bylaw may be utilized, even if such permits will result in a nonconformity. In addition, nothing contained herein shall require any changes to the plans or construction of previously permitted structures and/or uses. Such nonconformities, however, shall be established within the permit's effective period of two years. Applications to renew expired permits issued under the prior bylaw will not be approved unless the structure or use for which the original permit was issued conforms to the requirements of this bylaw.

#### **§404 Existing Small Lots Served by Municipal Water and Sewer**

- (1) Any lot that is legally subdivided, is served by both municipal water and sewer services, is in separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to the minimum lot size requirements of the district in which the lot is located.
- (2) If such a nonconforming lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall not be deemed merged with the contiguous lot(s).

#### **§405 Existing Small Lots Served by Municipal Water or Sewer**

- (1) Any lot that is legally subdivided, is in separate and nonaffiliated ownership from surrounding properties on the date of enactment of this bylaw and is served by either municipal water or sewer service but not both, may be developed for the uses permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located, provided such lot is not less than one-eighth acre or has a minimum width or depth dimension of at least 40 feet.
- (2) If a lot that does not conform to minimum lot size requirements of the district in which it is located is legally subdivided on the date of enactment of this bylaw, and is served by either municipal water or sewer but not both, subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot(s), unless the conditions in the following subsections are met.
- (3) A nonconforming lot that meets the criteria of subsection (2) shall not be deemed merged and may be separately conveyed if all of the following apply:
  - A. The lot is conveyed in its preexisting, nonconforming configuration.
  - B. On the date that this bylaw was enacted, the lot was developed with both a water supply and wastewater disposal system.
  - C. At the time of transfer, the on-site water supply or wastewater system is functioning normally.

D. In the case of a nonconforming lot with on-site sewage disposal, the deed of conveyance identifies, through a deed restriction on the nonconforming lot or easement on a contiguous lot, a suitable area for a replacement wastewater system, should the existing system fail, as defined in 10 V.S.A. Chapter 64.

## **ARTICLE 5: ADMINISTRATION AND ENFORCEMENT**

### **§501 Zoning Administrator**

- (1) The Zoning Administrator shall be appointed by the Selectboard, following the nomination by the Planning Commission, to administer the zoning bylaws, as provided for in 24 V.S.A. §4448. The Selectboard may remove a Zoning Administrator for cause at any time after consultation with the Planning Commission. The Zoning Administrator shall literally administer and strictly enforce the provisions of this bylaw, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate. All development review is initiated with the Zoning Administrator.
- (2) The Zoning Administrator is responsible for posting, on the applicant's property, within view of the public right-of-way, any permit issued by the Zoning Administrator or any development application awaiting a hearing by the Development Review Board. Such posting shall occur within 24 hours of any permit issued by the Zoning Administrator; or in the case of any scheduled hearing of the Development Review Board, posting shall adhere to the time-frames specified in §510 (1) and (3), with subsequent information on approval or denial added within 24 hours of the Board's decision. The Zoning Administrator may delegate the posting to the applicant, provided that the applicant agrees to accept responsibility for the posting by initialing acceptance on the application form.
- (3) 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 Zoning Administrator relative to the authority of the acting Zoning Administrator.

### **§502 Planning Commission**

- (1) The Planning Commission shall consist of not less than five (5) or more than seven (7) members appointed by the Brighton Selectboard in accordance with 24 V.S.A. §§4321-4323. At least a majority of members shall be residents of the municipality. Any member of the Planning Commission may be removed at any time by a unanimous vote of the Legislative Body.
- (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 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.

(3) The Planning Commission shall have the following duties regarding this bylaw, in accordance with 24 V.S.A. §4441:

- 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 five percent of the voters of the Town of Brighton.
- 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 proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Selectboard.

#### **§503 Development Review Board**

- (1) The Development Review Board shall consist of not fewer than five (5) nor more than nine (9) members appointed by the Selectboard for specified terms in accordance with 24 V.S.A. [§4460(b) and (c)]. The Selectboard also may appoint alternates, for specified terms, to serve on the Development Review Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Development Review Board may be removed for cause by the Selectboard upon written charges and after public hearing.
- (2) The Development Review Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.
- (3) The Development Review Board shall have all powers and duties as set forth in 24 V.S.A. Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
  - A. appeals from any decision, act or failure to act by the Zoning Administrator, as described in §508 of this bylaw, and any associated variance requests, as described in §509 of this bylaw; and
  - B. applications for conditional use approval, as described in §507 of this bylaw.
  - C. site plan approval, as described in §505 of this bylaw; and
  - D. rights-of-way or easements for development of non-frontage lots, as described in §303 of this bylaw; and
  - E. major subdivisions of land, as described in §506 of this bylaw; and
  - F. planned residential developments, as described in §317 of this bylaw.

#### **§504 Administrative Review**



- (1) No land development as defined in 24 V.S.A. §4303(10) may be commenced without a permit issued by the Zoning Administrator. No zoning permit may be issued by the Zoning Administrator unless the proposed development complies with all applicable sections of this bylaw, and all applicable approvals required by the Development Review Board have been granted.
- (2) The ZA is authorized to handle applications for Home Occupations generally and applications for Change of Use in the Village district if there is little or no impact and upon DRB chair agreement.
- (3) No zoning permit shall be required for the following activities:
  - A. Accepted agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with 24 V.S.A. §4413(d). Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for accepted agricultural practices. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
  - B. Accepted management practices for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with 24 V.S.A. §4413(d).
  - C. Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
  - D. Hunting, fishing, and trapping as specified under 24 V.S.A. §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.
  - E. Residential landings or stairways less than 25 square ft. (excluding decks and porches), handicap access ramps, and walkways which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
- (4) Small accessory structures associated with residential uses which are less than one hundred (100) square feet of floor area, less than ten (10) feet in height with a flat roof or less than twelve (12) feet in height with a peaked roof, and are not located within required setback areas.
- (5) Garage sales, yard sales, auctions, or similar activities that do not exceed five (5) consecutive days, nor more than twelve (12) days in any calendar year.
- (6) An application for a zoning permit shall be filed with the Zoning Administrator on forms provided by the Town of Brighton. All required application fees for all

relevant development review processes, as set by the Town of Brighton Selectboard, shall be submitted with the application as well. The applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:

- A. the dimensions of the lot, including existing property boundaries,
- B. the location, footprint and height of existing and proposed structures or additions,
- C. the location of existing and proposed accesses (curb cuts), driveways and parking areas,
- D. the location of existing and proposed easements and rights-of-way,
- E. existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
- F. the location of existing and proposed water and wastewater systems,
- G. proposed erosion and sedimentation control measures to be undertaken,
- H. snow removal; and
- I. other such information as required by the Zoning Administrator to determine conformance with these regulations.

- (7) Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the Development Review Board for consideration. In accordance with 24 V.S.A. §§4448 and 4449, if the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day. If the Zoning Administrator refers the application to the Development Review Board, additional fees will be required, and additional information may be required.
- (8) Zoning permits and letters of denial shall include a statement of the time within which appeals may be taken under §508 of this bylaw; and shall require posting of a notice of permit, on a form prescribed by the Town of Brighton. The applicant shall post this notice of permit within view from the public right-of-way nearest the subject property until the time for appeal has expired.
- (9) The Zoning Administrator, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Town of Brighton Listers; and shall post a copy of the permit in the Town of Brighton municipal offices for a period of fifteen (15) days from the date of issuance.
- (10) No zoning permit shall take effect until the time for appeal under §508 of this bylaw has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.
- (11) Zoning permits shall remain in effect for two years from the date of issuance. All development authorized by the permit shall be substantially completed

commenced within this two-year period or reapplication shall be required to continue development.

- (12) Within 30 days of the issuance of a zoning permit, the Zoning Administrator shall deliver the original, a legible copy, or a notice of the permit to the Brighton Town Clerk for recording in the Town of Brighton land records.

### **§505 Site Plan Review**

No zoning permit shall be issued by the Zoning Administrator for any use or structure except for one- and two-unit dwellings until the Development Review Board grants site plan approval after public notice and hearing and in accordance with 24 V.S.A. §4416. In reviewing site plans, the Development Review Board may impose appropriate safeguards with respect to the following:

- A. The adequacy of parking
- B. Traffic access and circulation for pedestrians and vehicles
- C. Landscaping and screening
- D. The protection of the utilization of renewable energy resources
- E. Exterior lighting
- F. The size, location, and design of signs
- G. Erosion and sedimentation control
- H. Snow removal

### **§506 Subdivisions of Land**

- (1) Applications for minor subdivisions of land shall be reviewed by the Zoning Administrator under the Administrative Review process.
- (2) Applications for major subdivisions of land shall also be subject to Site Plan Review by the Development Review Board after public notice and hearing. In accordance with 24 V.S.A. §4464(a)(1), the warning period for the public hearing shall not be less than 15 days.
- (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.

- (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 20%.
- (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.
- (6) The approved subdivision may not be officially filed until all appeal periods have expired and/or all appeals are concluded.
- (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.

**§507 Conditional Uses**

- (1) After public notice and hearing, the Development Review Board shall determine if a proposed conditional use has the potential to have an undue adverse effect on the following:
  - A. The capacity of existing or planned community facilities.
  - B. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
  - C. Traffic on roads and highways in the vicinity
  - D. Bylaws in effect with special reference to this zoning bylaw, and;
  - E. The utilization of renewable energy resources.
- (2) In permitting a conditional use, the Development Review Board may impose, in addition to the regulations and standards expressly specified by this bylaw, 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 or height of buildings because of obstruction of view or reduction of light or air to nearby properties.
  - C. Controlling the location and number of vehicular access points to the property.
  - D. Increasing road width.
  - E. Increasing the number of off-street parking or loading spaces required.
  - F. Limiting the number, location, and size of signs.

- G. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property of a character in keeping with the surrounding area.
  - H. Specifying a specific time limit for construction, alteration, or enlargement of a structure to house a conditional use.
  - I. Requiring that any future enlargement or alteration of the use be reviewed by the Development Review Board to permit the specifying of new conditions.
  - J. As a condition of the grant of a conditional use, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of 24 V.S.A. and this zoning bylaw.
- (3) Change of use, expansion or contraction of land area or expansion of structures for uses which are designated as conditional uses within the district in which they are located, and which are existing therein prior to the effective date of this bylaw, shall conform to all regulations herein.

**§508 Appeals of Zoning Administrator Decisions**

- (1) Any interested person as defined under 24 V.S.A. §4465 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.
- (2) The Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required in 24 V.S.A. §4468. The Development Review Board shall give public notice of the hearing under §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.
- (3) The Development Review Board may reject an appeal or request for reconsideration without 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.

- (4) All appeal hearings shall be open to the public and shall be conducted in accordance with the Development Review Board's rules of procedures, as required by 24 V.S.A. §4461. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date, time, and place of the continuation of the hearing are announced at the hearing.
- (5) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Municipal Clerk as part of the public records of the municipality, in accordance with §510 of this bylaw. If the Development Review Board fails to issue a decision within this 45-day period, the appeal will be deemed approved and shall be effective on the 46th day.

#### **§509 Variances**

The Development Review Board shall hear and decide requests for variances in accordance with 24 V.S.A. §4469(a) and appeal procedures under §508 of this bylaw. In granting a variance, the Development Review Board 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 Development Review Board 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:

- (1) 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;
- (2) 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;
- (3) The unnecessary hardship has not been created by the appellant;
- (4) 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

- (5) 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.

**§510 Public Hearings**

- (1) In accordance with 24 V.S.A. §4464, the following 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:
- A. appeals from any decision, act or failure to act by the Zoning Administrator, as described in §508 of this bylaw, and any associated variance requests, as described in §509 of this bylaw; and
  - B. applications for conditional use approval, as described in §507 of this bylaw; and
  - C. planned residential developments, as described in §317 of this bylaw; and
  - D. major subdivisions of land, as described in §506 of this bylaw.
- (2) Warning of the abovementioned hearings in (1) 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.
- (3) In accordance with 24 V.S.A. §4464, the following development review processes will be conducted in a public hearing, with notice of hearing given not less than seven days prior to the date of the public hearing:
- A. rights-of-way or easements for development of non-frontage lots, as described in §303 of this bylaw; and
  - B. site plan review, as described in §505 of this bylaw.
- (4) Warning of the abovementioned hearings in (3) shall be issued accordingly:

- A. by posting the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
  - B. 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, identify where and how the recipient may obtain additional information, and state that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.
- (5) All meetings and hearings of the Planning Commission and the Development Review Board, 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.
- (6) All hearings of the Development Review Board described in (1) and (3), with the exception of appeals of decisions of the Zoning Administrator, shall be held within 45 days from the more recent of either occurrence:
- A. the date the Zoning Administrator refers the application to the Development Review Board, or
  - B. the date the Clerk of the Development Review Board receives the names and addresses of abutting property owners.
- (7) 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.
- (8) The Development Review Board 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.
- (9) Any action or decision of the Planning Commission and the Development Review Board shall be taken by the concurrence of a majority of the members.
- (10) In accordance with 24 V.S.A. §4464(b), the Development Review Board 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 46<sup>th</sup> day.
- (11) 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. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.



- (12) In rendering a decision in favor of the applicant, the Development Review Board may attach additional reasonable conditions and safeguards as it deems necessary to implement these regulations and the town plan currently in effect.
- (13) 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.

#### **§511 Appeals to Environmental Court**

- (1) In accordance with 24 V.S.A. §4471, an interested person who has offered oral or written testimony in a hearing of the Development Review Board may appeal a decision within 30 days of such decision, to the Vermont Environmental Court.
- (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 of the Town of Brighton, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days.
- (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.

#### **§512 Interested Persons**

The definition of an interested person under 24 V.S.A. §4465(b) includes the following:

- (1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- (2) The Town of Brighton or any adjoining municipality;
- (3) 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 Brighton;
- (4) Any ten (10) voters or property owners within the Town of Brighton who, by signed petition to the Development Review Board, 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 town plan or bylaw of Brighton; and

- (5) 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.

### **§513 Certificate of Occupancy**

- (1) No use or occupancy of any land or structure may commence until the Zoning Administrator has issued a Certificate of Occupancy in accordance with 24 V.S.A. §4449(2).
- (2) When the Zoning Administrator issues a zoning permit, he or she shall also issue an application for a Certificate of Occupancy. Prior to the use or occupancy of the land or structure, the applicant shall submit a completed Certificate of Occupancy application to the Zoning Administrator.
- (3) At the time the application for a Certificate of Occupancy is submitted, the applicant shall also submit a copy of the septic permit from the State of Vermont, or a letter of determination stating that no such permit is required.
- (4) A Certificate of Occupancy 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.
- (5) Within 30 days of receipt of the application for a certificate of occupancy, 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 Occupancy within 30 days of the submission of an application, the certificate shall be deemed issued on the 31st day.

### **§514 Penalties**

- (1) All violations shall be pursued in accordance with 24 V.S.A. §§4451 and 4452. The Zoning Administration shall act on behalf of the Town of Brighton 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 Brighton.
- (2) The Zoning Administrator shall not bring any action against an alleged violation unless the alleged offender has had at least seven (7) 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 Brighton. The notice of violation shall state that:
  - A. a violation exists,

- B. that the alleged offender has had an opportunity to cure the violation within the seven-day notice period, and
  - C. that the alleged offender will not be entitled to an additional warning notice.
- (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 Brighton Town Clerk for recording in the Town of Brighton land records.
- (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 12 months.
- (5) In accordance with 24 V.S.A. §4454(a), the Zoning Administrator may take action against an alleged violation within 15 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.
- (6) In accordance with 24 V.S.A. §4454(b) 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 Brighton.

## **ARTICLE 6: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE, SEPARABILITY**

### **§601 Amendments**

This bylaw may be amended according to the requirements and procedures established in 24 V.S.A. §§4441 and 4442.

### **§602 Interpretation**

- (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.
- (2) Except for 24 V.S.A. §4413(c) and where in this bylaw it is specifically provided to the contrary, it is not intended by this bylaw to repeal, annul, or in any way impair any regulations or permits previously adopted or issued, provided however, that, where these regulations impose a greater restriction upon use of a structure or land than are required by any other statute, rule, regulation, permit, easement or agreement, the provisions of this bylaw shall control.

### **§603 Effective Date**

This bylaw shall take effect in accordance with the procedures contained in 24 V.S.A. §4442.

### **§604 Separability**

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

### **§605 Repeal**

Upon the adoption of this bylaw, the former Town of Brighton Zoning Bylaw, adopted August 31, 1996, is hereby declared repealed and shall have no further force or effect.

## **ARTICLE 7: DEFINITIONS**

### **§701 Word Definitions**

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

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

The word shall is mandatory, the word may is permissive.

### **§702 Term Definitions**

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

**Acre:** 43,560 square feet.

**Alteration:** Structural change that increases the exterior height, width, or length of the building, including relocation of, or addition to, an existing building.

**Agriculture:** The business of cultivating the soil, producing crops and/or raising livestock useful to man, and all other practices outlined in the statutory definition of farming, according to Title 10 §6001(22):

- A. The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
- B. the raising, feeding, or management of livestock, poultry, fish, or bees; or
- C. the operation of greenhouses; or
- D. the production of maple syrup; or
- E. the onsite storage, preparation, and sale of agricultural products principally produced on the farm; or
- F. the on-site production of fuel or power from agricultural products or wastes produced on the farm; or
- G. the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing, instruction and lessons in riding, training, and the management of equines.

**Auto repair:** Any area of land, including structures thereof, which is used or designed to be used for the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers.

**Bakery:** An establishment that sells baked goods that are prepared on the premises, and may include a seating area for dining, either within or immediately outside of the establishment.

**Bed & Breakfast:** A building serving as a dwelling unit which has the capacity to provide overnight accommodations and a morning meal to transient guests for compensation.

**Buildable area:** The area of a lot which remains after the minimum setback requirements have been met.

**Building:** Any structure for the shelter, support, or enclosure of persons, animals, chattels or property of any kind.

**Building front line:** The line parallel to the front lot line, transecting that point in the building face which is closest to the front lot line. This face includes porches, whether enclosed or unenclosed, but does not include steps.

**Burned, abandoned or dilapidated structure:** Any building or structure that is unstable, collapsing, dangerous, or, if residential in nature, uninhabitable, including the debris associated with such structures.

**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.

**Campground:** A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, educational, or vacation purposes.

**Campsite:** Any plot of ground within a campground intended for exclusive occupancy by a camping unit or camper.

**Car wash:** A structure containing facilities for washing cars and trucks.

**Cemetery:** Property used for the interment of the dead.

**Church:** A building where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

**Commercial service:** Any activity involving the lawful sale or provision of services carried out for profit. This does not involve the sale of goods that are not incidental to the provision of service.

**Commercial storage facility:** A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

**Communication facility:** A facility designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various communications devices and equipment.

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

**Daycare center, adult:** A facility providing care for the elderly and/or functionally impaired adults in a protective setting for part of a 24-hour day.

**Daycare center, child:** Any place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care and supervision of children under sixteen years of age outside their homes for periods of less than twenty-four hours a day by a person other than a child's own parent, guardian, or relative, but not including a kindergarten approved by the state board of education.

**Dwelling:** A building or structure thereof which is used exclusively for human habitation.

**Dwelling, Accessory:** 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 Unit:** One room, or rooms connected together, constituting a separate and single independent housekeeping establishment for owner occupancy, rental or lease, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**Dwelling, Multiunit:** A residential building designed for or occupied by three or more families, living independently of each other in individual dwelling units, where the number of families in residence does not exceed the number of dwelling units provided.

**Dwelling, Two-Unit:** A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

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

**Extraction of earth resources:** Excavation and removal of rock, stone, ore, sand, gravel, soil, minerals, and similar materials from the surface or subsurface.

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

**Family day care home:** A day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. ~~In this bylaw, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:~~

~~C. these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and~~

~~D. during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902(3).~~

**Farm Structure:** A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

**Fishing Shanty:** A portable shed which is placed on a frozen body of water to provide shelter during ice fishing.

**Forestry:** The raising and cultivation of trees intended for commercial use.

**Frontage or Front lot line:** The side of a lot that is abutting a public or private right-of-way and from which the driveway is accessed. *[How to measure setback]*

**Funeral home:** A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

**Gas station:** Any building, land area or other premises, or portion thereof used for the sale of vehicular fuels; including as an accessory use the sale and/or installation of lubricant, tires, batteries, and similar vehicle accessories; or as an accessory use, the sale of snack food, tobacco, drinks, newspapers, and similar convenience goods.

**Group home:** Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

**Hangar:** An enclosed structure used for housing airplanes or airships.

**Health club:** An establishment which is open to members and their guests for various forms of exercise, including aerobic exercises, running and jogging, exercise equipment and machines, and game courts.

**Heavy equipment yard:** A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily used by a contractor in the building or excavation trade.

**Hedge:** A vegetative barrier which is designed to enclose, screen, or separate areas.

**Height:** The vertical distance of a structure measured from the average elevation of the proposed finished grade surrounding the structure to the highest point of the structure.

**Home occupation:** An occupation, carried on within a principal or accessory residential structure, which is customarily incidental and secondary to the use of the premises for dwelling purposes, and which does not substantially alter the character thereof.

**Hotel:** A building containing rooms which are rented as a series of sleeping units, with each sleeping unit consisting of a least a bedroom and a bathroom.

**Kennel:** Any structure or premises in which animals or pets are kept, boarded, bred, or trained for commercial gain.



**Laundromat:** An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public.

**Library:** A place, open to the general public, which contains books and other resources for reading, research, and study.

**Light industry:** Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods, or products, provided these activities are conducted in such a manner so as not to generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot.

**Lot:** A designated area of land established by subdivision or otherwise permitted by law, that exists as depicted or described on a plat or deed in the Town of Brighton's land records.

**Lumber transfer yard:** An area and structures used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products.

**Major industry:** Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods, or products, where these activities are carried out in such a manner that they may require the use of public water and sewer and may generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot.

**Medical clinic:** An establishment where patients are admitted for examination and treatment on an outpatient basis by physicians, dentists, other medical personnel, psychologists, or social workers.

**Minimum lot depth:** The smallest dimension of the lot measured perpendicular to the frontage.

**Minimum lot width:** The smallest dimension of the lot measured, running parallel to the back of the lot's required frontage.

**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 eight feet wide or 40 feet 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 feet 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.

**Mobile home park:** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes.

**Modular (or Prefabricated) home:** A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**Motel:** See Hotel.

**Motor vehicle sales:** An establishment for the display and sale of new and used motor vehicles, trailers, mobile homes, and boats. May include sales of gas, oil, and other items essential to the operation of such motor vehicles.

**Municipal office:** A building or portion thereof dedicated to the administrative function of town officials, including record keeping; processing and storage of permits, registrations, certificates, licenses, and deeds; and collection of fees or fines.

**Museum:** A building or portion thereof which is open to the general public and is devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historic, cultural, or artistic value.

**Nonconforming lot or parcel:** A lot or parcel that does not conform to the present bylaws covering dimensional requirements, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

**Nonconforming structure:** A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws; or a structure improperly authorized as a result of error by the Zoning Administrator.

**Nonconforming use:** Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws; or a use improperly authorized as a result of error by the Zoning Administrator.

**Nonconformity:** A nonconforming lot or parcel, structure, or use.

**Outdoor furnace:** Any equipment, device or apparatus, or any part thereof, which is installed, affixed, or situated outdoors for the purpose of burning untreated wood to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.

“Vermont Phase I outdoor hydronic heater” (a.k.a. Phase I Outdoor Wood-fired Boiler or Phase I OWB) means an outdoor hydronic heater that has been previously certified by the Air Pollution Control Officer as meeting the particulate matter emissions limit of 0.44 pounds per million BTUs of heat input.

“Vermont Phase II outdoor hydronic heater” (a.k.a. Phase II Outdoor Wood-fired Boiler or Phase II OWB) means an outdoor hydronic heater that has been previously certified by the Air Pollution Control Officer as meeting the particulate matter emission limit of 0.32 pounds per million BTUs of heat output.

“Vermont uncertified outdoor hydronic heater” means an outdoor hydronic heater that has not been certified by the Air Pollution Control Officer as a Vermont Phase I or Phase II outdoor hydronic heater or by the EPA as meeting the standards and requirements of 40 C.F.R. §60.5474.

**Planned residential development:** An area of at least five contiguous acres in size to be planned, developed, operated, and maintained as a single entity and containing one or more residential clusters, which may include appropriate public or quasi-public uses primarily for the benefit of the residential development.

**Plat:** A sketch or map of a proposed subdivision which is of sufficient detail for discussion and review.

**Public agency office:** A room or group of rooms used for conducting the affairs of any department, commission, independent agency or instrumentality of the United States, the State of Vermont, Essex County, or any authority, district, or other governmental or quasi-governmental unit, other than the Town of Brighton Municipal Offices.

**Public facility:** Any structure or equipment that is necessary for conducting a service by a government or public utility. Includes, but is not limited to: telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, sewer pipes, valves or structures; pumping stations; airports; municipal garages; and recycling centers.

**Post office:** A building or portion thereof that houses a local branch of the United States Post Office in which mail is received, sorted, and delivered, and where stamps and other postal materials are sold.

**Privacy Fence:** An artificial barrier of any material or combination of materials, which is closed and is designed to enclose, screen, or separate areas.

**Professional office:** See BUSINESS OFFICE.

**Recreation and education camp:** A lot or a group of contiguous lots that contain one or more permanent structures, which are maintained for occupancy by groups or organizations as temporary living quarters for recreational, educational, or vacation purposes.

**Recreation, Indoor:** A facility that is used for sports, leisure time activities, and other customary and usual recreational activities that can be performed indoors by members of the general public.

**Recreation, Outdoor:** Any sports, leisure time activities, and other customary and usual recreational activities that can be performed outdoors by members of the general public.

**Recreation shelter:** 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.

**Residential care home:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator in accordance with 33 V.S.A. §7102(1).

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

**Retail store:** An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**Right of way:** The right of one to pass over the property of another.

**Road frontage:** Lot lines which abut a road.

**Road line:** Right-of-way line of a road as dedicated by a deed of record. Where the width of the road is not established, the road line shall be considered to be thirty feet from the center line of the road pavement.

**School:** Any building or part thereof that is designed, constructed, or used for any education or instruction in any branch of knowledge.

**Shipping facility:** See TRANSPORTATION FACILITY.

**Spa:** See HEALTH CLUB.

**Solid waste facility:** A place where solid waste materials are taken from a collection vehicle to be stored, disposed, or transferred to another facility.

**Stable:** Any structure that is used for the shelter or care of horses.

**Subdivision, Major:** The division of a lot, parcel, or tract of land into more than two lots, parcels, or tracts for development, sale, or lease.

**Subdivision, Minor:** The division of a lot, parcel, or tract of land into two lots, parcels, or tracts for development, sale, or lease.

**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.

**Structure:** A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

**Transportation/shipping facility:** An establishment providing services incidental to shipping or transportation, such as loading and unloading truck or rail cargo and freight, forwarding and packing services, and arranging passenger or freight transportation.

**Travel trailer:** Any vehicle used or so constructed as to permit its being used as a conveyance on public roads, and whether licensed or not, constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping space for one or more persons, and cannot readily be connected to a community sewer and water service. A trailer under this local law shall also mean tent trailers, truck campers, and vehicles converted to sleeping facilities.

**Veterinary clinic:** Any structure or premises in which animals or pets are given medical or surgical treatment, or are boarded indoors for commercial gain.

**Violation:** The commencement or continuation of any land development or use that does not meet the requirements of this bylaw.

**Visitor facility:** A building or portion thereof designed to accommodate travelers by providing personal orientation, maps, brochures, and other tourist amenities.

**Warehousing:** Terminal facilities for handling freight with or without maintenance facilities.

**Water and sewer, Off-lot:** The provision of water from a source and the disposal of the sewage by a system not located on the lot on which is located the building for which these utilities are provided.

**Water and sewer, On-lot:** The provision of water from a source and the disposal of the sewage by a system not located on the lot on which is located the building for which these utilities are provided.

**Water and sewer, Public:** Water supply and sewage disposal systems approved by the Town of Brighton.

**Wellhead protection area:** The area within the 3,000 ft. radius from a well serving a public water source.

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

**Yard, Rear:** The space between the rear lot line and the rear line of a building, extending 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 building.

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

[Appendix A. Area served by water and sewer](#)

