

## **SECTION I – TITLE**

This Bylaw shall be known as the Pownal Land Use Bylaw.

## **SECTION II – PURPOSE**

The purpose of this Bylaw is to encourage the appropriate use of land and development in the Town of Pownal in a manner that will promote economic prosperity, protect important resources, and contribute to a high quality of life for residents.

## **SECTION III – GENERAL PROVISIONS**

### **3.1 Applicability**

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

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

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

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

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

### **3.3 Access**

**3.3.1** No land development except buildings which are accessory to existing buildings may be permitted on lots which do not either have frontage on a public road or, with the approval of the DRB, access to such a road by a permanent easement or right-of-way at least 50 feet in width, except that the DRB may allow an extension to an easement or right-of-way not less than 20 feet which existed prior to the adoption of this Bylaw. Said frontage, easement, or right-of-way must provide safe and unimpeded year-round access by motor vehicle, including fire and emergency vehicles. Any approval under this section shall not obligate the town to accept or improve access to land developments.

3.3.2 Access to private camps, defined as land or structure intended for private recreational use and not intended to be used for primary residence in any calendar year, may be provided through a right-of-way or easement approved by the Zoning Administrator.

### **3.4 Existing Small Lots**

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

If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

- (a) The lots are conveyed in their preexisting, nonconforming configuration.
- (b) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
- (c) At the time of transfer, each water supply and wastewater system is functioning in a manner adequately serving its intended purpose.
- (d) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

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

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

#### **3.5.1 General Requirements**

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

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

No non-conforming use shall be altered, enlarged, extended or expanded without approval by the DRB after public hearing. Nor shall a non-conforming use be changed, except to a conforming

use, without the approval by the DRB after public hearing. Any change, expansion, extension or enlargement of a non-conforming use shall be subject to the following requirements:

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

### **3.5.3 Reconstruction after Damage**

Buildings, the use or location of which is non-conforming, which are destroyed by fire or other disaster, may be reconstructed for such use provided the construction begins within a period of three years from the date of the destruction, and that said construction is completed within three years of its commencement. If either of these timelines are not met, a zoning permit, subject to all of the provisions of this Bylaw, shall be required. This in no way prevents the required cleanup and removal of debris off such site that has been destroyed by fire or other disaster.

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

Resumptions of non-conforming uses shall be prohibited if such use is deemed to have been abandoned (see Definitions - Appendix B).

## **3.6 Non-complying Structures**

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

### **3.6.1 General Requirements**

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

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

For structures which fall under permitted uses or any other structure within the ZA's jurisdiction, the ZA may issue permits, without DRB approval, for structural alterations, moving, reconstruction, or enlargement of a non-complying structure provided that such action does not increase the degree of or create any new non-compliance with regards to the regulations pertaining to such buildings. Any increase in non-compliance will require approval by the DRB after public hearing, pursuant to the requirements for a variance or waiver, as appropriate.

**3.7 District Requirements**

**3.7.1 Establishment of Zoning Districts**

The purpose and intent of these regulations is to ensure compatibility of land uses, promote an efficient land use pattern, and to encourage appropriate economic development. The regulations also are intended to protect the Town’s natural resources and scenic beauty.

For the purpose of this bylaw, the Town is divided into a series of districts specifying land uses that are permitted, conditionally permitted, and permitted as accessory uses. These bylaws also may regulate such items as the location, height, and size of buildings, lot size, lot coverage, setbacks from property lines, access, vehicle and pedestrian circulation, amount of open space, parking, lighting, landscaping, and other site features.

The zoning districts established by this bylaw are named and described in Sections 5 and 6 and include basic districts and overlay districts. The zoning districts are designated by the abbreviations set forth below:

DISTRICT	ABBREVIATION
RURAL RESIDENTIAL 1	RR1
RURAL RESIDENTIAL 2	RR2
VILLAGE	V
INDUSTRIAL	I
FOREST	F
FLOOD HAZARD OVERLAY	FHO

**3.7.2 Zoning Map**

The boundaries of these districts are hereby established, as shown on the Town of Pownal Zoning District Map (Appendix C).

**3.7.3 Zoning of Streets**

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

**3.7.4 Land Under Water**

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

### **3.7.5 Interpretation of Map**

Any uncertainty as to the location of a district boundary line on the zoning map shall be resolved by the Zoning Administrator with appeals of any such decision made to the Development Review Board. The following factors shall guide resolution of any such questions:

- a) Boundaries indicated as approximately following the center lines of roads, streams, or transportation and utility rights-of-way shall be construed to follow such center lines.
- b) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
- c) Boundaries indicated as following shorelines shall be construed as lying at the normal mean water level.
- d) Boundaries indicated as parallel to or extensions of any feature noted in a-c, above, shall be so construed.
- e) Boundaries along topographic contour lines shall follow the listed elevation contour for that district.
- f) Where circumstances are not covered by a-e, above, the Development Review Board shall interpret the district boundaries giving consideration to the Purposes of the respective districts and the intent of the Town Plan.

### **3.8 Land Use Regulations**

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

#### **3.8.1 Accessory Uses**

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

#### **3.8.2 Conditional Uses**

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

### 3.8.3 Permitted Uses

Permitted uses are land uses that are considered compatible within the subject district provided that specific lot, building, and site standards are satisfied. Single-family and two-family dwellings, uses accessory to those residential uses, and other uses specifically designated in this Bylaw are permitted uses that are reviewed and acted upon directly by the Zoning Administrator, while all other permitted uses are subject to the site plan review procedures set forth in Section 4.2.3.

### 3.8.4 Uses Not Allowed; Uses Not Listed

Uses not allowed are land uses which cannot be established in a given zoning district because they are considered incompatible with the intent of the district.

### 3.9 Land Use Matrix

A Land Use Matrix illustrating uses by zoning district is included as Appendix A of this Bylaw.

### 3.10 Planned Unit Development (Formerly Cluster Subdivision)

#### 3.10.1 Definition

A Planned Unit Development (PUD) is a form of development in which the overall density allowed by a property's zoning remains unchanged, but modifications can be made to lot sizes, setbacks, and other dimensional requirements to achieve any of the objectives outlined in Section 3.10.2, consistent with the Pownal Town Plan.

#### 3.10.2 Purpose

The Purpose of Planned Unit Development regulation is to:

- (a) To implement the policies of the Pownal Town Plan.
- (b) To encourage compact, pedestrian-oriented development and redevelopment either in residential subdivisions, or, in districts where commercial uses are allowed, in planned commercial or mixed use developments.
- (c) To ensure that development in rural parts of the Town is compatible with the use and character of surrounding open spaces.
- (d) To provide for flexibility in site and lot layout, building design, placement of buildings, use of open areas, vehicle and pedestrian facilities and parking, and related site and design considerations to best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.
- (e) To provide for the conservation of important open space features, including the preservation of agricultural land, forest land, trails and other recreational resources, critical and sensitive natural areas, and scenic resources, and to provide protection from natural hazards.

- (f) To provide for efficient use of public facilities and infrastructure.
- (g) To encourage and preserve opportunities for energy-efficient development and redevelopment.

### **3.10.3 Allowance for Planned Unit Development**

Planned Unit Developments are allowed in the Village, Rural Residential 1, and Rural Residential 2 districts, subject to the use and overall density restrictions applicable to each district.

### **3.10.4 Planned Unit Development Review**

The Development Review Board shall review a proposal for a residential PUD pursuant to the requirements of the Subdivision Regulations, and shall review a proposal for a mixed use PUD pursuant to the site plan requirements of this Bylaw and, if land subdivision is proposed, shall conduct a simultaneous review pursuant to the Subdivision Regulations.

Applications for PUD approval shall be submitted simultaneously with applications for site plan and major subdivision review, as appropriate, in accordance with the requirements set forth in this Bylaw and the Subdivision Regulations. In addition to the information required for subdivision review, applications for PUDs must include the following:

- (a) A statement setting forth the nature of all proposed modifications or changes of existing land use and development regulations and the standards and criteria which the applicant proposes for the development, including standards for the design, bulk and spacing of buildings and sizes of lots and open spaces; and
- (b) A brief summary of the project and how it meets the standards in this section.
- (c) Additional information required by the Development Review Board to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth below.

### **3.10.5 Planned Unit Development Standards**

In addition to applicable standards set forth in the Subdivision Regulations, PUDs shall meet the following:

- (a) The overall density shall not exceed the number of units, bedrooms or uses permitted in the Development Review Board's judgment if the land were subdivided in accordance with the standards for the district(s) in which such land is situated.
- (b) The PUD is an effective and unified treatment of the development possibilities of the project site, and the development plan shall make appropriate provision for preservation of fragile features.
- (c) Uses shall be limited to those which are allowed in the zoning district in which the proposed PUD is located.

- (d) A greater concentration or intensity of development may be located within some portion(s) of the site provided there is an offset by a lesser concentration in another portion(s) or an appropriate reservation of open space on the remaining land.
- (e) A PUD may involve the creation of separate building lots, or may include a development in which multiple buildings and uses are constructed on a single parcel in common ownership.
- (f) The PUD shall be consistent with the goals and policies of the Pownal Town Plan, all applicable subdivision standards, and any specific supplemental requirement for the district within which the PUD is located.
- (g) The PUD shall be designed to maximize vehicular and pedestrian integration with adjacent uses and parcels. Driveway and road connections to adjacent parcels should, to the extent practical, be incorporated into the project design. Pedestrian facilities shall be laid out to serve as an interconnected network of sidewalks, pathways and trails, as appropriate to site conditions. Provision for safe and efficient transit access may also be required.
- (h) Site design and landscaping shall be compatible with neighboring properties. In instance in which a PUD abuts a residential property, greater setback requirements for structures and parking areas and appropriate screening may be required.
- (i) All proposals shall demonstrate the extent to which they protect and utilize renewable energy resources through such means as developing south-facing slopes in lot layout and enabling solar access to all future buildings.
- (j) In instances in which an applicant proposes development of a portion of a larger parcel, or development of a parcel contiguous to another parcel(s) in common or affiliated ownership, a general indication of the intended use of the remaining (undeveloped) portion of the land shall be submitted for Development Review Board review.
- (k) With the application, the landowner/PUD proponent shall submit to the DRB for review and approval a form of declaration of easements and restrictions governing the relationship among lot/building owners and the maintenance of the PUD, including the creation, if applicable, of a home/lot owners' association to manage the PUD and to establish and collect home/lot owners' dues in an amount necessary to meet the common expenses of the PUD (such as snow removal, maintenance of streets and drainage facilities, and real estate taxes on common elements). Upon approval of the PUD/subdivision plat, the declaration shall be recorded with the Pownal Land Records so as to be enforceable against each lot.

### **3.11 More Than One Principal Residential Building on a Parcel**

If more than one principal residential building is to be placed on any one lot, such building shall be located so that each such building, and any building accessory to it, could be set off on a separate lot conforming to all of the applicable provisions of this Bylaw, and no building shall be sold into separate ownership except in compliance with the above. Exceptions may be granted pursuant to Section 3.10, if Planned Unit Development standards have been met.



### **3.12 Referral to State Departments**

Pursuant to 24 VSA Section 4424, No permit for new construction or substantial improvement shall be granted for a flood or other hazard area until:

- (a) A copy of the application is mailed or delivered by the Zoning Administrator or by the appropriate municipal panel to the Agency of Natural Resources or its designee, which may be done electronically, provided the sender has proof of receipt, and
- (b) Either 30 days have elapsed following the mailing or the Agency or its designee delivers comments on the application.

## **SECTION IV - ADMINISTRATION**

### **4.1 Administrator and Municipal Panels**

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

A Zoning Administrator shall be appointed by the Planning Commission with the approval of the Select Board for a term of three years and shall be charged with the responsibility of administering literally this Bylaw. The ZA shall not permit any land development which is not in conformance with this Bylaw. An acting administrative officer may be appointed in the same manner to act in the absence of the permanent ZA.

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

There shall be a Development Review Board whose members, as well as their number and term of office, shall be determined by the Select Board pursuant to 24 VSA Section 4460. The DRB shall elect its own officers and shall adopt rules of procedure. Meetings of the DRB shall be held at the call of the Chairman and at such times as the DRB may determine. The officers of the DRB may administer oaths and compel the attendance of witnesses and the production of material germane to any issue under appeal. The DRB shall keep Minutes of its proceedings and shall file such Minutes with the Town Clerk. The DRB shall have the following functions:

- a. Consider decisions or actions of the Zoning Administrative Officer upon appeal.
- b. Consider and grant or deny requests for variances upon appeal.
- c. Consider and grant or deny applications for a conditional use or expansions or changes of a conditional use.
- d. Consider and grant or deny applications for expansions of non-conforming uses and non-complying structures (except as permitted 3.6.2 of this Bylaw).
- e. To review site development plans.
- f. Consider and grant or deny requests for waivers pursuant to section 4.2.5 of this Bylaw.
- g. Consider and grant or deny requests for Planned Unit Development approvals pursuant to Section 3.10 of this Bylaw.

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

There shall be a Planning Commission, the number of members of which shall be appointed by the Select Board pursuant to 24 VSA Section 4322. Each member shall serve a term of four years. The PC shall elect a chair, vice-chair, and a clerk and shall adopt other rules as it deems necessary. A record of its resolutions and transactions shall be maintained as a public record of the municipality and filed with the Town Clerk. The PC shall have the following functions:

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

## **4.2 Categories of Approval**

### **4.2.1 Zoning Permit**

#### **4.2.1.1 Purpose**

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

#### **4.2.1.2 Applicability**

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

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

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

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

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

In the event that a notice of appeal is properly filed in accordance with 24 V.S.A. CH. 117 section 4465, such permit shall not take effect until the final adjudication of said appeal. Each zoning permit shall contain a statement of the period of time within which an appeal may be taken.

#### **4.2.1.4 Required Application Materials**

- a. Completed application
- b. Description of proposed use(s) of land and/or structure
- c. A plan showing the dimensions of the lot, existing and proposed structures, frontages and setbacks, driveways and parking spaces
- d. A list of the name and mailing address of each abutting property owner
- e. Information required for the specific review under which the application will be considered: site plan review for permitted uses other than one or two family dwellings (Section 4.2.3) or conditional use review for uses so designated in any district (Section 4.2.2).

#### **4.2.2 Conditional Use**

##### **4.2.2.1 Purpose**

A conditional use permit allows for review of certain land uses or types of development to ensure that they are appropriate where they are proposed and compatible with adjacent uses.

##### **4.2.2.2 Procedure and Criteria for Review**

Action on conditional use permits is taken by the DRB following a public hearing. The DRB may include conditions in any approval of a conditional use permit to mitigate undue adverse impacts of the use or may deny a permit if those impacts cannot be mitigated, based on findings relative to:

- a. The capacity of existing or planned community facilities;
- b. The character of the area affected;
- c. Traffic on the roads and highways in the vicinity;
- d. Utilization of renewable energy resources.

Any conditional use also must demonstrate conformance with all relevant Performance Standards (Section 8.8 of this Bylaw).

#### 4.2.2.3 Administration and Enforcement

An applicant shall submit a request for review of a conditional use permit to the Zoning Administrator who will schedule a public hearing before the DRB at the next available meeting of the DRB. The DRB shall act to approve or disapprove a conditional use within 45 days after the date of the close of the public hearing. Failure to act within such period shall be deemed approval.

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

#### 4.2.2.4 Submittal Requirements

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

- a. Application form with site plan, including:
  - Vicinity map
  - Drainage and grading plan or stormwater management plan
  - Landscaping plan
  - Building footprints, floor plans, and elevations
  - Water supply plan
  - Wastewater disposal plan
  - Parking areas and access drives
  - Vehicle and pedestrian circulation
  - Surrounding zoning designations and land uses
  - Topography and natural features
  - Significant wildlife habitat, waterbodies, wetlands, and floodplains
  
- b. Additional written material may be requested as follows:
  - Statement of interest in property; if not property owner, a written statement from owner allowing the filing of application
  - Legal description and acreage (by registered land surveyor or tax map data)
  - Description of proposed use including:
    - Amount of building square footage
    - Types of activities
    - Method of operation
    - Hours of operation
  - Statement how compatibility with adjacent properties will be achieved

- Information to support demonstration of conformance with Performance Standards (Section 8.8)

The DRB may waive one or more the requirements which it deems not germane to the proposal being considered, or based on good cause as shown by the applicant.

- c. Fee as determined by the Select Board.

### **4.2.3 Site Plan Approval**

#### **4.2.3.1 Purpose**

The purpose of the site plan review is to assure that a development project is compatible with the zoning requirements of its location, adheres to the goals and policies of the Pownal Town Plan, promotes the highest quality design for such development.

#### **4.2.3.2 Applicability**

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

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

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

- a. Traffic access
- b. Circulation and parking
- c. Landscaping and screening
- d. Bicycle and pedestrian access and safety
- e. Exterior lighting
- f. Size, design, and location of signs
- g. Water supply and wastewater disposal
- h. Erosion control and stormwater management
- i. Building siting and design (see Section 8.8.12, Performance Standard)
- j. Protection and utilization of renewable energy resources

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

An applicant shall submit two sets of site plan maps at an appropriate scale and supporting information, including:

- a. Description: name and address of the owner of record and adjoining lands, title block with name and address of person or firm preparing the map, scale of map, north arrow and date.
- b. Survey of the property showing existing features including at least 20' contours, boundaries and area of the lot, structures, large trees, roads, utility easements, rights of way, land use and deed restrictions, rivers, streams, ponds, wetlands, and designated flood hazard areas.
- c. Site plan showing proposed structure locations and land use areas; roads, driveways, vehicular circulation, parking and loading spaces, bicycle and pedestrian circulation water supply and wastewater disposal facilities, site grading, erosion control and stormwater management plans, exterior lighting, signs, landscape design and screening; open space and parks.
- d. Building and site design details for any commercial use (see Section 8.8.12 – Performance Standards).

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

Site plan review is administered and approved by the DRB. The DRB shall review the site plan and supporting data before approval, approval with conditions, or disapproval of a site development plan. Upon formal completion of the hearing process, a decision will be rendered by the DRB within 45 days.

The DRB shall prepare findings of fact upon each decision under this section setting forth its determination upon each of the criteria. Copies of the decision shall be sent, certified mail, to the appellant within 45 days. Copies shall also be mailed to every land abutter and person or body having been heard at the hearing, and a copy shall be filed with the Zoning Administrative Officer and the Town Clerk as part of the public record. If a decision is not rendered within 45 days of the close of the public hearing, the DRB shall be deemed to have rendered a decision in favor of the appellant and granted approval as requested on the 46th day.

#### **4.2.4 Appeals**

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

An interested person, as defined in 24 V.S.A., Section 4465, may appeal any decision or act taken by the ZA by filing a notice of appeal. If the appeal is taken with respect to a decision or act of the ZA, such notice of appeal must be filed within 15 days of the date of such decision or act, and a copy of the notice of appeal shall be filed with the ZA. The DRB shall conduct a hearing on the appeal as provided in 24 V.S.A. Section 4468 or 4469 (for Variances), and such hearing shall be held within sixty days of the filing of the notice of appeal. The DRB shall render its decision within forty-five days after completing the hearing, which decision shall include findings of fact setting forth its basis. A copy of the decision and findings of fact shall be distributed as provided in sub-section (2) of this section.

#### 4.2.4.2 Variances

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

- a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulations in the neighborhood or district in which the property is located.
- b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- c. That the unnecessary hardship has not been created by the appellant.
- d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.
- e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan

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

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

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

#### **4.2.5 Waivers**

Requests for waivers of dimensional requirements are considered by the Development Review Board. The purpose of waivers is to allow for minor additions to a principal or accessory

structure that would not be counter to the purpose of this Bylaw or the Town Plan, but which might not meet the standards for the granting of a variance. A waiver may be granted only to reduce dimensional requirements as provided below, and compliance with all other requirements of this Bylaw is required. The Development Review Board may grant a waiver provided all of the following conditions are satisfied:

- a. The proposal is for an addition to an existing principal or accessory structure, and said addition does not increase the footprint of the structure by more than 10 percent, provided that the addition shall not increase the building footprint by more than 500 square feet.
- b. The addition is the minimum size that is necessary for it to serve its intended function.
- c. The addition is specifically intended to improve access or safety, or for a minor addition to an existing building.

The Development Review Board may impose conditions regarding the design and screening of the addition to mitigate any impacts on neighboring properties. Development in a Flood Hazard Area must meet all requirements of Section 6.1 of this Bylaw.

## **SECTION V – ZONING DISTRICT REGULATIONS**

Zoning districts delineate areas within the town that have distinct geographic and land use characteristics, as well as different levels of public and private infrastructure. Each of the districts has regulations governing the use of land and requirements for the development of sites and buildings. The zoning district boundaries are as set forth on the official Zoning Map for the Town of Pownal, and include the Rural Residential 1 and Rural Residential 2, Village, Commercial, Industrial, Forest, and Flood Hazard Overlay districts.

### **5.1 Uses Not Requiring a Permit**

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

1. The erection, repair or replacement of one small accessory building not exceeding 300 square feet in area and 10 feet in height which meets the required setbacks.
- 2.. Outdoor fireplaces meeting required setbacks.
3. Antennas and towers under 50' in height used for private, HAM radio, residential radio and/or television which meet the required setbacks and are not used for commercial purposes.
4. Telecommunication facilities subject to jurisdiction of the Public Utility Commission pursuant to 30 VSA Section 248(a). See also Section 8.12.
5. Public utility power generating plants and transmission facilities regulated under 30 VSA Section 248. See also Section 8.11.
6. Children's pools that are not in ground, are taken down each year for winter storage, and meet required setbacks.



7. Repair and maintenance of an owner's property or driveways.
8. Lampposts or other minor yard decorations.
9. Walkways or handrails to assist the handicapped.
10. Swing sets, jungle gyms, treehouses, and other similar children's play equipment not connected with commercial property.
11. Garbage dumpsters that meet the required setbacks.
12. Required Agricultural Practices, including the construction of farm structures, as defined by the Secretary of Agriculture, Food, and Markets.
13. Forestry operations and Accepted Silvicultural Practices, as defined by the Commissioner of Forests, Parks, and Recreation.
14. Solar energy devices on a roof having a slope of less than or equal to five degrees.

## **5.2 Rural Residential District 2 (RR2)**

### **5.2.1 Purpose**

The purpose of the Rural Residential 2 District is to maintain and preserve the agricultural character and scenic qualities of outlying areas while providing the opportunity for low-density residential and limited non-residential development. The type and density of development also is intended to limit the need for costly expansion of public infrastructure into this rural area.

### **5.2.2 Permitted Uses - No Site Plan Review Required**

1. One and Two Family Dwellings.
2. A Family Child Care Facility serving six or fewer children.
3. A Community Care or Group Home serving not more than eight persons with a disability.
4. Structures customarily accessory to a permitted residential use of property such as buildings for housing automobiles, equipment, or supplies, swimming pools, and fences.
5. One Accessory Dwelling Unit on a lot containing a one or two family dwelling unit. The floor area of the Accessory Dwelling Unit shall be no larger than 30 percent of the size of the primary dwelling unit on the lot. No additional lot area is required for a permitted Accessory Dwelling Unit. The Accessory Dwelling Unit may be located within the primary residential building or in a new or existing Accessory Structure, provided all applicable dimensional requirements are satisfied. The Accessory Dwelling Unit is subject to all applicable water supply and wastewater disposal permitting requirements.
6. A structure not exceeding 200 square feet in area and used for the sale of agricultural produce or other locally produced natural products.
7. Home occupations that are clearly an incidental, non-residential use of a dwelling provided such use does not alter the essential residential character of the building, lot, or neighborhood, and provided that all of the following conditions are met:
  - a. The use is conducted entirely within the dwelling;
  - b. There is no more than one employee who does not live on the subject property;
  - c. There are no changes in the external appearance of the building;
  - d. The maximum size of a sign is four square feet;

- e. Display of merchandise is limited to the interior of the building and/or 200 contiguous square feet of the property or one item if said item occupies more than 200 square feet;
- f. The use does not generate noise that is audible beyond the property line of the subject lot.

### 5.2.3 Permitted Uses - Site Plan Review Required

The following uses are permitted pursuant to all requirements of Section 4.2.3, Site Plan Approval.

1. A Family Child Care Facility serving more than six children.
2. A Community Care or Group Home serving more than eight persons with a disability.
3. Home Occupations meeting the following conditions:
  - a. The use is conducted entirely within the primary residential building or in not more than 1500 square feet of an accessory building;
  - b. There is no more than two employees who do not live on the subject property;
  - c. The maximum size of a sign is four square feet;
  - d. Equipment and materials may be stored on the premises if they are screened from the adjoining properties and public streets by natural or artificial materials or kept in an accessory building;
  - e. Display of finished merchandise is limited to the interior of a building and/or 400 contiguous square feet of the property;
  - f. The use and any noise, dust, smoke, odor, heat, light, glare, or traffic generated must not be inconsistent with the area or change the residential character of the area.
4. An Inn or Bed and Breakfast establishment with no more than 4 bedrooms rented to guests.
5. A Garden Center or Plant Nursery provided any retail sales of items other than plants is clearly secondary and accessory to the primary retail use.
6. A Sawmill and associated log and lumber storage.
7. Auto Service and Repair business.
8. Cemeteries.

### 5.2.4 Conditional Uses

The following uses may be permitted by the DRB as a conditional use in conformance with the provisions of subsection 4.2.2 of this Bylaw, conditions specifically provided herein, and other reasonable conditions as the DRB may determine consistent with applicable Performance Standards of Section 8.8 of this Bylaw.

1. An Inn or Bed and Breakfast establishment with more than 4 bedrooms rented to guests.
2. State or Municipally owned and operated buildings and facilities.

3. Veterinary Hospitals or Animal Boarding Kennels and accessory uses customarily incidental to such uses, subject to the following conditions:
  - a. Minimum lot area shall be 5 acres.
  - b. No building, structure, or developed area other than the access drive, shall be less than 100 feet from any front, side, or rear lot line.
  - c. No more than 5 percent of the lot may be covered by buildings, parking, and driveways.
4. Public and Commercial Recreational Uses, including:
  - Golf Courses and Driving Ranges
  - Cross-country Skiing/Snowshoeing Centers
  - Ice Skating Rinks
  - Swimming Pools
  - Tennis Centers
  - Equestrian Clubs
  - Nature Centers
  - Athletic Fields for Team Sports

Subject to the following additional conditions:

  - a. Minimum lot area shall be 5 acres and all buildings shall be set back a minimum of 100 feet from front, side, and rear lot lines.
  - b. No more than 20 percent of the lot may be covered by buildings, parking, and driveways.
  - c. Serving and consumption of food, beverages, and other refreshments shall be clearly incidental to the recreational use.
5. A Multifamily Dwelling containing no more than 3 dwelling units.
6. A Landscaping Business provided that all equipment, vehicle, and material storage associated with the business is set back at least 50 feet from any lot line and is screened from adjacent residential properties.
7. Removal of soil, sand, gravel, stone, or other earth materials for commercial purposes, subject to the provisions of Section 8.1 of this Bylaw.

#### **5.2.5 Accessory Uses**

Accessory uses customarily incidental to a permitted or conditional use on the same lot are permitted. An accessory building or use that will accommodate an expansion of a permitted or conditional commercial use requires site plan review by the DRB.

**5.2.6 Dimensional Standards for the Rural Residential 2 District**

<b>Dimensional Standards for the Rural Residential 2 (RR 2) District</b>			
Minimum Lot Area per Principal Building or Use *	2 Acres - with public water and public sewer service	2 Acres – with either public water OR public sewer service	2 Acres – with no public water AND no public sewer service
Minimum Lot Width	150 feet		
Minimum Front Yard	25 feet from the edge of the traveled way of the road		
Minimum Side Yard	30 feet		
Minimum Rear Yard	30 feet		
Maximum Building Height	45 feet		
Maximum Building Coverage	10 percent, unless a lower coverage is specified for a particular use		
Minimum Frontage on Public or Private Street	150 feet		
* See use-specific density standards for public and commercial recreational uses, and veterinary hospitals and boarding kennels. A two-family or multifamily building must satisfy the two acre minimum lot area requirement for the principal residential building; additional lot area is <b>not</b> required when two or more units are co-located in a permitted two-family or multifamily building, provided all state water supply and wastewater disposal requirements are satisfied.			

**5.3 Rural Residential District 1 (RR1)**

**5.3.1 Purpose**

The purpose of the Rural Residential 1 District is to provide an opportunity for a mix of residential, commercial, and public uses at a moderate density while preserving the character and scenic qualities of the area. The RR 1 District also is intended to provide a transition area between the Village District and the Rural Residential 2 District, and may include limited extensions of the municipal sewer system.

**5.3.2 Permitted Uses - No Site Plan Review Required**

1. One and Two Family Dwellings.
2. A Family Child Care Facility serving six or fewer children.
3. A Community Care or Group Home serving not more than eight persons with a disability.
4. Structures customarily accessory to a permitted residential use of property such as buildings for housing automobiles, equipment, or supplies, swimming pools, and fences.
5. One Accessory Dwelling Unit on a lot containing a one or two family dwelling unit. The floor area of the Accessory Dwelling Unit shall be no larger than 30 percent of the size of the primary dwelling unit on the lot. No additional lot area is required for a permitted Accessory Dwelling Unit. The Accessory Dwelling Unit may be located within the

primary residential building or in a new or existing Accessory Structure, provided all applicable dimensional requirements are satisfied. The Accessory Dwelling Unit is subject to all applicable water supply and wastewater disposal permitting requirements.

6. A structure not exceeding 200 square feet in area and used for the sale of agricultural produce or other locally produced natural products.
7. Home occupations that are clearly an incidental, non-residential use of a dwelling provided such use does not alter the essential residential character of the building, lot, or neighborhood, and provided that all of the following conditions are met:
  - a. The use is conducted entirely within the dwelling;
  - b. There is no more than one employee who does not live on the subject property;
  - c. There are no changes in the external appearance of the building;
  - d. The maximum size of a sign is four square feet;
  - e. Display of merchandise is limited to the interior of the building and/or 200 contiguous square feet of the property or one item if said item occupies more than 200 square feet;
  - f. The use does not generate noise that is audible beyond the property line of the subject lot.

### 5.3.3 Permitted Uses - Site Plan Review Required

The following uses are permitted pursuant to all requirements of Section 4.2.3, Site Plan Approval:

1. State or municipally owned and operated buildings and facilities.
2. A Family Child Care Facility serving more than six children.
3. A Community Care or Group Home serving more than eight persons with a disability.
4. Home Occupations meeting the following conditions:
  - a. The use is conducted entirely within the primary residential building or in not more than 1500 square feet of an accessory building;
  - b. There is no more than two employees who do not live on the subject property;
  - c. The maximum size of a sign is four square feet;
  - d. Equipment and materials may be stored on the premises if they are screened from the adjoining properties and public streets by natural or artificial materials or kept in an accessory building;
  - e. Display of finished merchandise is limited to the interior of a building and/or 400 contiguous square feet of the property;
  - f. The use and any noise, dust, smoke, odor, heat, light, glare, or traffic generated must not be inconsistent with the area or change the residential character of the area.
5. An Inn or Bed and Breakfast establishment with no more than 6 bedrooms rented to guests.
6. A Garden Center or Plant Nursery provided any retail sales of items other than plants is clearly secondary and accessory to the primary retail use.

7. A Multifamily Dwelling containing no more than 3 dwelling units.
8. Auto Service and Repair business.
9. Cemeteries.

#### 5.3.4 Conditional Uses

The following uses may be permitted by the DRB as a conditional use in conformance with the provisions of subsection 4.2.2 of this Bylaw, conditions specifically provided herein, and other reasonable conditions as the DRB may determine consistent with applicable Performance Standards of Section 8.8 of this Bylaw.

1. Public and private schools and other educational institutions certified by the Agency of Education.
2. Churches and other places of worship, convents, and parish houses.
3. Public and private hospitals and medical office buildings.
4. An Inn or Bed and Breakfast establishment with more than 6 bedrooms rented to guests.
5. Veterinary Hospitals or Animal Boarding Kennels and accessory uses customarily incidental to such uses, subject to the following conditions:
  - a. Minimum lot area shall be 5 acres.
  - b. No building, structure, or developed area other than the access drive, shall be less than 100 feet from any front, side, or rear lot line.
  - c. No more than 5 percent of the lot may be covered by buildings, parking, and driveways.
6. Public and Commercial Recreational Uses, including:
  - Ice Skating Rinks
  - Swimming Pools
  - Tennis Centers
  - Nature Centers
  - Athletic Fields for Team SportsSubject to the following additional conditions:
  - a. Minimum lot area shall be 5 acres and all buildings shall be set back a minimum of 100 feet from front, side, and rear lot lines.
  - b. No more than 20 percent of the lot may be covered by buildings, parking, and driveways.
  - c. Serving and consumption of food, beverages, and other refreshments shall be clearly incidental to the recreational use.
7. A Landscaping Business provided that all equipment, vehicle, and material storage associated with the business is set back at least 50 feet from any lot line and is screened from adjacent residential properties
8. Removal of soil, sand, gravel, stone, or other earth materials for commercial purposes, subject to the provisions of Section 8.1 of this Bylaw.
9. A Multifamily Dwelling containing from 4 to 8 dwelling units.

**5.3.5 Accessory Uses**

Accessory uses customarily incidental to a permitted or conditional use on the same lot are permitted. An accessory building or use that will accommodate an expansion of a permitted or conditional commercial use requires site plan review by the DRB.

**5.3.6 Dimensional Standards for the Rural Residential 1 District**

<b>Dimensional Standards for the Rural Residential 1 (RR 1) District</b>			
Minimum Lot Area per Principal Building or Use *	0.5 Acres - with public water and public sewer service	0.5 Acres – with either public water OR public sewer service	1 Acre – with no public water AND no public sewer service
Minimum Lot Width	100 feet		
Minimum Front Yard	25 feet from the edge of the traveled way of the road		
Minimum Side Yard	25 feet		
Minimum Rear Yard	25 feet		
Maximum Building Height	45 feet		
Maximum Building Coverage	15 percent, unless a lower coverage is specified for a particular use		
Minimum Frontage on Public or Private Street	100 feet		
* See use-specific density standards for public and commercial recreational uses, and veterinary hospitals and boarding kennels. A two-family or multifamily building must satisfy the minimum lot area requirement for the principal residential building; additional lot area is <b>not</b> required when two or more units are co-located in a permitted two-family or multifamily building, provided all state water supply and wastewater disposal requirements are satisfied.			

**5.4 Village District (V)** (Note: now combined with the former Commercial District)

**5.4.1 Purpose**

The Village District includes areas in and around the Pownal, Pownal Center, and North Pownal designated village centers that are served by public infrastructure and are appropriate for relatively high density mixed use development. Residential, commercial, public, and other compatible development may be located in these areas in a manner that supports a traditional town center pattern of appropriately scaled buildings facing well-defined and active streets and other public spaces that support safe and convenient pedestrian activity. Effective site planning in these Village areas will promote expanded opportunities for housing and economic development, while enhancing aesthetically pleasing and socially active community centers.

**5.4.2 Permitted Uses – No Site Plan Review Required**

1. One and Two Family Dwellings

2. A Family Child Care Facility serving six or fewer children.
3. A Community Care or Group Home serving not more than eight persons with a disability.
4. Structures customarily accessory to a permitted residential use of property such as buildings for housing automobiles, equipment, or supplies, swimming pools, and fences.
5. One Accessory Dwelling Unit on a lot containing a one or two family dwelling unit. The floor area of the Accessory Dwelling Unit shall be no larger than 30 percent of the size of the primary dwelling unit on the lot. No additional lot area is required for a permitted Accessory Dwelling Unit. The Accessory Dwelling Unit may be located within the primary residential building or in a new or existing Accessory Structure, provided all applicable dimensional requirements are satisfied. The Accessory Dwelling Unit is subject to all applicable water supply and wastewater disposal permitting requirements.
6. A structure not exceeding 200 square feet in area and used for the sale of agricultural produce or other locally produced natural products.
7. Home occupations that are clearly an incidental, non-residential use of a dwelling provided such use does not alter the essential residential character of the building, lot, or neighborhood, and provided that all of the following conditions are met:
  - a. The use is conducted entirely within the dwelling;
  - b. There is no more than one employee who does not live on the subject property;
  - c. There are no changes in the external appearance of the building;
  - d. The maximum size of a sign is four square feet;
  - e. Display of merchandise is limited to the interior of the building and/or 200 contiguous square feet of the property or one item if said item occupies more than 200 square feet;
  - f. The use does not generate noise that is audible beyond the property line of the subject lot.

#### **5.4.3 Permitted Uses – Site Plan Review Required**

The following uses are permitted pursuant to all requirements of Section 4.2.3, Site Plan Approval:

1. A Multifamily Dwelling containing no more than 8 dwelling units.
2. Retail stores, stands, and showrooms. Display, storage, and sales of merchandise must be conducted within a building, except for trailers, campers, automobiles, or similar equipment/vehicles that may be kept outside provided that they are located not less than 25 feet from any street or lot line.
3. Restaurants.
4. Art Galleries.
5. Places of worship, convents, parish houses, and other religious sites.
6. A Family Child Care Facility serving more than six children.
7. Community centers, halls, libraries, museums, lodges, clubs, and similar facilities operated by a governmental unit or a nonprofit organization.



8. State or municipally owned and operated buildings or facilities.
9. An Inn or Bed and Breakfast establishment.
10. Service establishments such as auto filling stations and repair garages, barber shops, beauty parlors, caterers, decorators, tailors, appliance repair businesses, laundries/dry cleaners, food warehousing, or similar establishments.
11. Professional offices and financial institutions.
12. Home Occupations meeting the following conditions:
  - a. The use is conducted entirely within the primary residential building or in not more than 1500 square feet of an accessory building;
  - b. There is no more than two employees who do not live on the subject property;
  - c. The maximum size of a sign is four square feet;
  - d. Equipment and materials may be stored on the premises if they are screened from the adjoining properties and public streets by natural or artificial materials or kept in an accessory building;
  - e. Display of finished merchandise is limited to the interior of a building and/or 400 contiguous square feet of the property;
  - f. The use and any noise, dust, smoke, odor, heat, light, glare, or traffic generated must not be inconsistent with the area or change the residential character of the area.
13. Garden Center of Plant Nursery.
14. Parks, Playgrounds, and similar outdoor recreational uses.

#### 5.4.4 Conditional Uses

The following uses may be permitted by the DRB as a conditional use in conformance with the provisions of subsection 4.2.2 of this Bylaw, conditions specifically provided herein, and other reasonable conditions as the DRB may determine consistent with applicable Performance Standards of Section 8.8 of this Bylaw.

1. Light manufacturing uses and warehousing.
2. Mortuary and funeral establishments.
3. Public and private hospitals and nursing homes.
4. Public and private schools and other educational institutions certified by the Vermont Department of Education.
5. Cemeteries.
6. Mobile Home Parks subject to review under the Subdivision Regulations (Section VII) and Section 8.4 of this Bylaw.

#### 5.4.5 Accessory Uses

Accessory uses customarily incidental to a permitted or conditional use on the same lot are permitted. An accessory building or use that will accommodate an expansion of a permitted or conditional commercial use requires site plan review by the DRB.

**5.4.6 Dimensional Standards for the Village District**

<b>Dimensional Standards for the Village (V) District</b>			
Minimum Lot Area per Principal Building or Use *	0.25 Acres - with public water and public sewer service	0.5 Acres – with either public water OR public sewer service	0.75 Acres – with no public water AND no public sewer service
Minimum Lot Width	80 feet		
Minimum Front Yard	25 feet from the edge of the traveled way of the road		
Minimum Side Yard	10 feet		
Minimum Rear Yard	10 feet		
Maximum Building Height	45 feet		
Maximum Building Coverage	65 percent, unless a lower coverage is specified for a particular use		
Minimum Frontage on Public or Private Street	80 feet		
* <u>A mixed use, two-family, or multifamily building must satisfy the minimum lot area requirement for the principal building; additional lot area is <b>not</b> required when two more uses or units are co-located in a principal building, provided all state water supply and wastewater disposal requirements are satisfied. See specific standards for Mobile Home Parks-Section 8.4.</u>			

**5.5. Industrial Districts (I)**

**5.5.1. Purpose**

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

**5.5.2 Conditional Uses**

The following uses may be permitted by the DRB as a conditional use in conformance with the provisions of subsection 4.2.2 of this Bylaw, conditions specifically provided herein, and other reasonable conditions as the DRB may determine consistent with applicable Performance Standards of Section 8.8 of this Bylaw.

1. Manufacturing.
2. Light Manufacturing and Warehousing.
3. Auto Service and Repair business.
4. Retail stores or salesrooms clearly incidental and secondary to the principal use of a manufacturing facility and occupying no more than 20% of the total building floor area.
5. State or municipally owned and operated buildings or facilities.
6. Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
7. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.
8. An industrial park that may contain one or more buildings/uses on individual lots, with shared roads and other infrastructure, provided the overall minimum dimensional and density standards Section 5.5.4 are met for each principal use/building.

**5.5.3 Accessory Uses**

Accessory uses customarily incidental to a conditional use on the same lot are permitted. An accessory building or use that will accommodate an expansion of a conditional commercial use requires site plan review by the DRB.

**5.5.4 Dimensional Standards for the Industrial District**

<b>Dimensional Standards for the Industrial (I) District</b>			
Minimum Lot Area per Principal Building or Use *	1 Acre - with public water and public sewer service	1 Acre – with either public water OR public sewer service	5 Acres – with no public water AND no public sewer service
Minimum Lot Width	100 feet		
Minimum Front Yard	25 feet from the edge of the traveled way of the road		
Minimum Side Yard	30 feet		
Minimum Rear Yard	30 feet		
Maximum Building Height	45 feet		
Maximum Building Coverage	65 percent		
Minimum Frontage on Public or Private Street	100 feet		
* A mixed use building must satisfy the minimum lot area requirement for the principal building; additional lot area is <b>not</b> required when two more uses or units are co-located in a principal building, provided all state water supply and wastewater disposal requirements are satisfied.			

**5.6. Forest District (F)**

**5.6.1 Purpose**

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

**5.6.2 Permitted Uses - No Site Plan Review Required**

1. Commercial forestry and related uses.
2. Forestry carried on for research, demonstration, education, and related uses.
3. Temporary accommodations for personnel employed on the premises of a forestry operation.
4. Recreational area operated by a governmental unit, hiking or touring trails, or trail shelters operated by a nonprofit organization, state or municipality.
5. **A camp**, consisting of a building or a tent not suitable for use as a full-time dwelling, but used occasionally or seasonally for temporary shelter in connection with a recreational

activity, provided that such camp is located on a separate parcel and that only chemical incinerator or privy type toilet facilities are used.

**5.6.3 Accessory Uses**

Accessory uses customarily incidental to a permitted use on the same lot are permitted.

**5.6.4 Dimensional Standards for the Forest District**

<b>Dimensional Standards for the Forest (F) District</b>	
Minimum Lot Area per Principal Building or Use *	25 Acres
Minimum Lot Width	100 feet
Minimum Front Yard	50 feet from the edge of the traveled way of the road
Minimum Side Yard	50 feet
Minimum Rear Yard	50 feet
Maximum Building Height	20 feet
Maximum Building Coverage	0.08 percent
Minimum Frontage on Public or Private Street	100 feet
* A mixed use building must satisfy the minimum lot area requirement for the principal building; additional lot area is <b>not</b> required when two more uses or units are co-located in a principal building.	

**SECTION VI – FLOOD HAZARD OVERLAY DISTRICTS**

**6.1 Purpose**

In addition to the purposes of the zoning district(s) underlying the Flood Hazard Overlay district, this section is established in accordance with 24 V.S.A. Chapter 117, Sections 4424 and 4414, to:

- a. Implement the goals, policies, and recommendations in the Town Plan;
- b. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding-related inundation and erosion hazards.
- c. Ensure that the selection, design, creation, and use of development in flood hazard areas is reasonably safe, accomplished in a manner that minimizes or eliminates the potential for loss and damage to life and property due to flooding-related inundation and erosion hazards, and does not impair stream equilibrium or floodplain services.
- d. Manage all flood hazard areas designated pursuant to 10 V.S.A. §§ 751 and 753.

- e. Assure that the Town of Pownal, the town's residents, property owners, and businesses are eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available.

## **6.2 Special Flood Hazard Areas**

This section of the ordinance applies to the Special Flood Hazard Areas (SFHAs as described Below). Special Flood Hazard Areas are identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this Bylaw.

Within the SFHA, the risk of inundation and damages differ according to the type of flooding that occurs. Therefore, the Flood Hazard District has two subdistricts delineated on the most recent National Flood Insurance Program (NFIP) maps::

- a. The floodway portion of the floodplain which is effective in carrying flow, within which this carrying capacity must be preserved and where the flood hazard is generally highest (i.e., where water depths and velocities are the greatest). The floodway should be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
- b. The flood fringe labeled Zone A, AE, A1-30, AH, and AO outside of the floodway within which are lands that are at or below the base flood elevation. These lands will be inundated during a 1% chance of a flood event.

## **6.3 Development Classifications and Permit Requirements**

### **6.3.1 Exempted Activities**

The following activities do not require a permit under this section:

- a. The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged. Please be aware that for damaged structures where FEMA mitigation funds may be used, the damaged structure may be required to remain in place until funds are granted.
- b. Routine maintenance of existing buildings in the usual course of business required or undertaken to conserve the original condition, while compensating for normal wear and tear. Routine maintenance includes actions necessary for retaining or restoring a piece of equipment, machine, or system to the specified operable condition to achieve its maximum useful life and does not include expansions or improvements to development.
- c. Interior improvements to existing buildings that cost less than 500 dollars.
- d. Maintenance of existing sidewalks, roads, parking areas, or stormwater drainage, but not including expansions.
- e. Maintenance of existing bridges, culverts, and channel stabilization activities; but not including expansions.

- f. Streambank armoring and stabilization, retaining walls, and abutment work that does not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder.
- g. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c).
- h. Subdivision of land that does not involve or authorize development.
- i. In addition, the following activities are exempt from municipal regulation, but may require a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29):
  - i. State-owned and -operated institutions and facilities.
  - ii. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation.
  - iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market's Required Agricultural Practices (RAPs). Prior to the construction of farm structures, the farmer shall notify the Zoning Administrator in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks.
  - iv. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.
  - v. Telecommunications facilities regulated under 30 V.S.A. § 248a;

### 6.3.2 Permits

Except as provided in 6.3.1, a permit is required from the Zoning Administrator for all development that is located within the Special Flood Hazard Area. Development that requires conditional use approval or a variance from the Development Review Board (DRB) under this Bylaw must have such approvals prior to the issuance of a permit by the Zoning Administrator. All permits shall require that a permittee have all other necessary permits from state and federal agencies before work may begin.

### 6.3.3 Administrative Review - Permitted Development

The following development activities in the Special Flood Hazard Area, that meet the Development Standards in Section 6.4, require an administrative review from the Zoning Administrator and may receive a permit from the Zoning Administrator without review by the DRB:

- a. Within the entire Special Flood Hazard Area:
  - i. Above grade development located on ground, which has not been elevated by the placement of fill, that is one foot above base flood elevation and documented with field-surveyed topographic information certified by a registered professional engineer or licensed land surveyor.

- ii. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater.
  - iii. At-grade parking or other at-grade/below grade development that will not create an obstruction to flood flows.
  - iv. Municipal transportation infrastructure improvements designed and constructed by the Vermont Agency of Transportation that have written confirmation from the Agency of Natural Resources Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.
  - v. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.
- b. Within the Flood Fringe Zone:
- i. Improvements or repairs from damage to structures that do not expand the existing footprint and do not meet the definition of “substantial improvement” or “substantial damage.”
  - ii. Accessory structures not greater than 500 square feet.
  - iii. Development related to on-site septic or water supply systems.
  - iv. Building utilities.
  - v. Recreational vehicles or travel trailers.
  - vi. New fill for existing associated transportation and utility networks or to accommodate a replacement on-site septic system, if it can be demonstrated that no other practicable alternative is available.

#### **6.3.4 Prohibited Development**

Except as provided in Section 6.3.1 the following is prohibited:

- a. Within the entire Special Flood Hazard Area:
  - i. Fully enclosed areas below grade on all sides, including below grade crawlspaces and basements.
  - ii. New critical facilities.
- b. Within the Floodway:
  - i. New accessory structures.
  - ii. New encroachments, except for minor improvements to existing structures or relating to bridges, culverts, roads, stabilization projects, public utilities, river and/or floodplain restoration projects that would not affect base flood elevations, or health and safety measures.
  - iii. Changes to existing structures where the footprint of the structure is proposed to expand laterally into the floodway greater than 500 square feet.
  - iv. Storage of materials or junk yards.

### 6.3.5 Conditional Use Review

In accordance with Section 4.2.2, conditional use review and approval by the DRB is required prior to the issuance of a permit by the Zoning Administrator for any activity in the Special Flood Hazard Area that is not exempt or eligible for administrative review.

### 6.3.6 Non-Conforming Structures and Uses

Comment [JS1]:

- a. A nonconforming structure in the Special Flood Hazard Area that has been substantially damaged or destroyed may be reconstructed in its original location only if it is rebuilt to comply with all requirements of the National Flood Insurance Program and this Bylaw.
- b. Nonconforming structures and uses shall be considered abandoned where the structures or uses are discontinued for more than 12 months. An abandoned structure shall not be permitted for re-occupancy unless brought into compliance with this Bylaw. An abandoned use shall not be permitted unless brought into compliance with this Bylaw.

## 6.4 Development Standards - Special Flood Hazard Areas

The criteria below are the minimum standards for development in the Special Flood Hazard Area. If the floodway or flood fringe is not specified, the standard applies to the entire Special Flood Hazard Area. Where more than one district is involved, the most restrictive standard shall take precedence.

### 6.4.1 Floodway

Within the floodway, the following standards apply:

- a. New encroachments are prohibited within the floodway, except for the following, which also shall comply with all provisions of this Section:
  - i. Changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet;
  - ii. New encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects;
  - iii. New encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available;
- b. For all proposed new encroachments and above-grade development, a hydraulic analysis must be provided for review. The analysis should be performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
  - i. Not result in any increase in flood levels during the occurrence of the base flood;
  - ii. Not increase base flood velocities; and



- iii. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

For development that is either below grade or will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre- and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.

For any new encroachment that is proposed within the floodway where a hydraulic analysis is required, the applicant may provide a FEMA Conditional Letter of Map Revision, in lieu of a hydraulic analysis, to demonstrate that the proposed activity will not have an adverse impact.

#### **6.4.2 Flood Fringe – Compensatory Flood Storage**

Within the flood fringe, the following standards apply:

- a. **Compensatory Flood Storage:** New development or redevelopment shall not decrease flood storage capacity. Therefore, except as noted below [Compensatory Flood Storage Requirement Exceptions] below, development that displaces floodwater storage in the flood fringe shall provide compensatory storage to offset the impacts of the proposal. This is required when the development will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge. Compensatory flood storage designs shall not materially impact adjacent landowners or structures.
  - i. Volumetric analyses and supporting data, demonstrating compensatory storage to offset the impacts of the proposal, shall be provided by the applicant and certified by a registered professional engineer. An applicant may submit a hydraulic analysis that demonstrates that a project will not increase flood elevations and velocities on floodwaters in lieu of a NAI volumetric analysis.
- b. **Compensatory Flood Storage Requirement Exceptions:**
  - i. The NAI compensatory storage requirement may be waived for proposed designs that have no more than a minimal effect on floodwater storage and will not result in diverting floodwaters onto an adjacent property or structure. Examples of designs that have a minimal effect on floodwater storage include an open foundation design; utility work that is largely or completely located below grade; minor aboveground improvements such as fences or poles that minimally displace or divert floodwaters; and development that will not result in any change to the pre-development ground elevations. A determination to waive the NAI compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager stating that the project will have only a

minimal effect on floodwater storage.

- ii. For remediation of properties with contaminated soils, such as Brownfields sites, the NAI compensatory storage requirement may be waived, if hydraulic analysis demonstrates that the remediation will not increase flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
- iii. The NAI compensatory storage requirement may be waived for a replacement structure if:
  - a) There is no increase in the structure's footprint, or
  - b) An open foundation design is used. Examples include using compliant flood vents or openings, or elevating the structure on post, piers, or pilings with no structural foundation walls below the design flood elevation.
- iv. The NAI compensatory storage requirement may be waived for associated transportation and utility networks and replacement on-site septic system proposals if the applicant demonstrates that the placement of fill cannot be mitigated.

### 6.4.3 Special Flood Hazard Area

Within the Special Flood Hazard Area (Zones A1-30, AE, AH, AO) the following standards apply:

- a. All development, except development that is exempt under Section 6.3.1, shall be:
  - i. Reasonably safe from flooding.
  - ii. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure.
  - iii. Constructed with materials resistant to flood damage.
  - iv. Constructed by methods and practices that minimize flood damage.
  - v. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - vi. Adequately drained to reduce exposure to flood hazards.
  - vii. Required to elevate or floodproof any fuel storage tanks to at least two feet above the base flood elevation. This can be achieved by:
    - a) Elevating the fuel storage tank a minimum of two feet above the BFE and securely anchoring the tank to prevent flotation. The tank shall be located on the land-ward or downstream side of the building and all inlets, fill openings, line connections, and vents shall be elevated to two feet above the BFE. Any structure or platform used to elevate the tank shall be designed to withstand anticipated flood loads and forces;

- b) In places where elevation of the fuel storage tank is not possible due to the location of existing fuel hookup/fuel lines into an existing building:
- The tank shall be securely anchored to prevent floatation while protecting it from flood forces and debris. Any structure or platform used to anchor and protect the tank shall be designed to withstand anticipated flood forces and debris. The tank vent pipe/valve shall be located at a minimum two feet above the BFE; or
  - Storage tanks may be placed underground, if securely anchored and certified by a qualified professional and are protected from flood forces such as scour, erosion, velocity flow, and buoyancy (uplift) force.
- b. Any new structure, replacement structure, substantially improved structure, or structure that has experienced substantial damage, outdoor utilities (electrical, heating, ventilation, plumbing, and air conditioning equipment) and other service facilities (such as sewer, gas, and water systems), shall be located on the landward or downstream side of the building and/or behind structural elements, and located and constructed to minimize or eliminate flood damage.
- c. In Zones AE and A1 – A30 where floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one foot at any point within the community. The demonstration shall be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
- d. For new, replacement or substantially improved structures, or for structures that have incurred substantial damage, fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- e. Recreational vehicles, equipment and boat trailers, portable toilets, construction trailers, and other travel trailers shall:
- i. Be currently registered, licensed and ready for highway use; or
  - ii. Be on site for fewer than 180 consecutive days; or
  - iii. Meet the requirements for structures in contained in this Section.
- f. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- g. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- h. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- i. The flood carrying capacity within any altered or relocated portion of any watercourse shall be maintained, any alteration or relocation shall not result in any decrease of stream stability.
- j. Bridges, culverts and channel management activities, which by their nature shall be placed in or over the watercourse, shall have a Stream Alteration permit from the Agency of Natural Resources, if required.
- k. Subdivisions and Planned Unit Developments shall be accessible by dry land access outside of any Special Flood Hazard Area.
- l. Structural Standards:
  - i. New structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage shall be located such that the lowest floor is at least two feet above base flood elevation. This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate.
  - ii. New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:
    - a) Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that two feet above the base flood elevation the structure is dry floodproofed, meaning watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
    - b) A permit for dry floodproofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications, and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection;
    - c) Dry floodproofing measures used to meet the above floodproofing standard shall work without the use of human intervention at the time of flooding. Exceptions to this standard are when the facility is adequately staffed at all hours with people trained and able to deploy the facility's floodproofing measures, or if the structure is located in a floodplain that has a National Weather Service flood forecast stream gauge that provides adequate advanced warning of potential flooding for the deployment of the floodproofing system.
- m. New structures, or existing structures to be substantially improved or replaced, or that have incurred substantial damage in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet above the depth number specified on the community's FIRM, or at least three feet if no depth number is specified.

- n. Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage shall be constructed so that the lowest floor, including basement, shall be elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above base flood elevation, whichever is higher. A critical facility shall have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services vehicles. The top of the access road shall be no lower than six inches below the elevation of the 0.2% annual chance flood event.
- o. For historic structures that would meet the definition of substantial improvement or substantial damage if not for their historic structure designation, the improved or repaired building shall meet the following mitigation performance standards for areas below the base flood elevation:
  - i. Any future damage to enclosures below the lowest floor shall not result in damage to the foundation, utility connections, or elevated portions of the building or nearby structures;
  - ii. Utility connections (e.g., electricity, water, sewer, natural gas) shall be protected from inundation and scour or be easily repaired;
  - iii. The building foundation shall be structurally sound and reinforced to withstand a base flood event;
  - iv. The structure's historic designation shall not be precluded;
  - v. The likelihood of flood waters entering the structure during the base flood is reduced; and
  - vi. There shall be no expansion of uses below base flood elevation except for parking, storage, building access, or, in the case of non-residential buildings, where the space is dry floodproofed.
- p. Fully enclosed areas that are above grade, below the lowest floor, below BFE, and subject to flooding, shall:
  - i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and
  - ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above adjacent grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and
  - iii. Include a signed non-conversion agreement from the owner of the structure with the permit application stating that the enclosed area below the BFE will not be converted to another use not listed above and that the community would have the

ability to inspect the exterior and interior of the enclosed area in compliance with the standards laid out in the non-conversion agreement.

- q. A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria of this Section.

## **6.5 Application Requirements**

All applications for development shall include:

- a. **Site Plan**. A site plan that depicts the proposed development, all water bodies, all flood hazard area (SFHA, floodway, flood fringe) boundaries, the shortest horizontal distance from the proposed development to the top of bank of any river, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
- b. **Project Review Sheet**. A Vermont Agency of Natural Resources Project Review Sheet.
- c. **Supplemental Application Requirements**. Some applications may require additional information based on the location and type of the development. The following information shall be developed and provided with an application, as required below:
  - i. **Base Flood Elevation (BFE)**. BFE information is required for:
    - a) Replacement, substantially improved, or substantially damaged structures located within any Flood Hazard Overlay District, including Zone A, where no BFEs have been provided;
    - b) Projects requiring elevation or dry-floodproofing above BFE;
    - c) Additions to existing historic structures; and
    - d) Any accessory structure with building utility systems that will need to be protected from flood waters through elevation above the BFE.
  - ii. **Floodway Data**. The following information is required for development located in the floodway. All floodway data shall be certified by a registered professional engineer. All submitted proposals shall include electronic input/output files and mapping showing cross-section locations.
    - a) Hydraulic calculations demonstrating no rise in BFE or velocity for proposed new or expanded encroachments within the floodway.
    - b) In accordance with 44 C.F.R. § 60.3(c)(10), where BFE data has been provided by FEMA, but no floodway areas have been designated, the applicant shall provide a floodway delineation that demonstrates that the proposed development, when combined with all existing and anticipated future development, will not increase the water surface elevation of the base flood by more than one foot at any point within

the community.

- iii. **Compensatory Flood Storage.** The following information is required for applications that require compensatory flood storage:
- a) Designs shall provide equivalent storage volumes during peak flows up to and including the base flood discharge. This No Adverse Impact (NAI) volumetric analysis and supporting data shall be certified by a registered professional engineer.
  - b) If it appears that the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis may be required to verify that a proposed development will not increase flood elevations or velocities of floodwaters. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
- d. **Waivers.** Upon written request from the applicant, the DRB may waive specific application requirements when the data or information is not needed to comply with provisions of this Bylaw. A determination to waive the compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager, that project will have only a minimal effect on floodwater storage.

## **6.6 Referrals**

- a. Upon receipt of a complete application for new construction or a substantial improvement, the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Zoning Administrator and DRB shall consider all comments from ANR.
- b. Any application for a proposed conditional use or a request for a variance from these regulations shall be referred to the DRB in accordance with 24 V.S.A. § 4460.
- c. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the River Management Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

## **6.7 Variances**

Variations may be granted in writing by the DRB only in accordance with all the criteria in Section 4.2.4.2 after a public hearing. If the proposed development is located within any Flood Hazard Overlay District, the proposal shall comply with 44 C.F.R. § 60.6.

Any variance issued in the Flood Hazard Area shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the BFE increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

## **6.8 Compliance and Records**

The Zoning Administrator shall properly file and maintain a record of:

- a. All permits issued for development in flood hazard areas;
- b. A FEMA Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, replacement, substantially improved, substantially damaged or flood-proofed buildings (not including accessory buildings) in the Flood Hazard Area; dry floodproofing certificate; as-built volumetric analysis, or as-built floodway encroachment analysis;
- c. All floodproofing and other certifications required under this regulation.

## **6.9 Enforcement**

- a. This bylaw shall be enforced in accordance with 24 V.S.A. §§ 1974a, 4451, and 4452. All notices of violation shall be provided to the State NFIP Coordinator.
- b. No new flood insurance shall be provided for any property which the Federal Insurance Administrator finds has been declared to be in violation of local flood hazard area regulations. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended. New and renewal flood insurance shall be denied to a structure upon a finding by the Federal Insurance Administrator of a valid declaration of a violation.



## **SECTION VII - SUBDIVISION REGULATIONS**

### **7.1 Purpose**

These Regulations shall serve to ensure that future subdivision plans reflect the goals and policies contained in the Pownal Town Plan including the following:

- a. To provide for the wise use and conservation of the natural, visual, and historical assets of the town.
- b. To provide for the preservation of the town's rural character.
- c. To ensure the wise use of public resources, and
- d. To ensure that existing or planned community facilities and services have sufficient capacity to serve proposed subdivisions.

### **7.2 Applicability**

The subdivision of land shall be subject to this section in accordance with the authority given by the Vermont Planning and Development Act, 24 VSA Chapter 117.

These Regulations shall apply to the division of a parcel of land whether by sale, gift, lease, the recording of any instrument, or by filing a plat in the Town Land Records. No plat shall be presented for recording, no construction shall be commenced and no title shall be transferred in connection with any Major or Minor Subdivision, unless a permit has been issued by the Pownal Development Review Board or the Zoning Administrator.

### **7.3 Major and Minor Subdivisions**

#### **7.3.1 General**

Major Subdivisions include subdivisions of four (4) lots or more and any subdivision involving the construction of a new road providing access to one or more lots. Major subdivisions shall be reviewed by the Development Review Board.

Minor Subdivisions include subdivisions of up to three (3) lots, with no new road construction. Minor subdivisions shall be reviewed by the Development Review Board.

#### **7.3.2 Major Subdivision – Informational Meeting**

The Applicant shall initiate the process by requesting an Informational Meeting with the Development Review Board to discuss the general aspects of the proposed Major Subdivision. At least twelve (12) days prior to the Informational Meeting, the applicant shall submit the following information to the Zoning Administrator:

- a. The name and address of the owner, the name and address of the applicant, the names and addresses of all abutters, the book and page number from the town land records of the parcel proposed to be subdivided, and the Parcel ID Number;

- b. A map showing the location of the proposed subdivision within the Town of Pownal relative to the town highway system and including general topographic features;
- c. A Sketch Plan which shall include: existing and proposed property lines; type,
- d. location, and size of existing and proposed streets, utilities, and existing structures; name and address of owner of record and applicant; and name of owners of record of adjacent properties. The sketch plan shall be presented at a scale which adequately depicts natural features, proposed improvements, and general site conditions.
- e. A written description of: the proposed subdivision; proposed uses and development; proposed water supply and septic/sewage systems; and the anticipated timing of any construction including initiation and completion of the development.

At the Informational Meeting, in addition to providing the foregoing information, the applicant shall provide information in support of the application relative to compliance with the Town Plan and Section 7.4 of these regulations. No comments made by the applicant or members of the Development Review Board at the meeting are binding.

### **7.3.3 Major Subdivision – Formal Application and Required Information**

An applicant for Major Subdivision shall submit a Major Subdivision Application, with all required fees and the supporting documents listed below, to the Zoning Administrator within six (6) months after the Informational Meeting. Failure to submit a completed Subdivision Application with all supporting documents within this period will terminate the process.

#### Supporting Documents:

- a. The name and address of the owner, the name and address of the applicant, the names and addresses of all abutters, the book and page number from the town land records of the parcel proposed to be subdivided, and the parcel ID number;
- b. A map showing the proposed subdivision relative to the abutting properties, streams and other water bodies, and existing roads;
- c. A surveyed plat drawn to scale adequate for showing the subdivision boundary with lot lines and lot size, and abutters' names, flood hazard areas, permanent streams, mapped wetlands, agricultural soils, any known critical wildlife habitats, natural heritage areas, deer wintering areas, stone walls, and existing roads. The plat shall also show the locations of existing/proposed leach fields, existing/proposed wells, and existing buildings/proposed building envelopes, and proposed roads and driveways. Subdivisions with lots to be accessed by and have frontage on new proposed roads shall have the road locations shown as well as a longitudinal profile showing road grades;
- d. Approved water supply and wastewater disposal plans;
- e. Highway access permits;
- f. Any other information requested in writing by the Development Review Board following the Informational Meeting.

The Development Review Board may require that other existing and proposed facilities also be located on the plat, and that the land surface contours be shown.

#### **7.3.4 Minor Subdivision – Formal Application and Required Information**

An Applicant for a Minor Subdivision shall initiate the process by submitting a completed Minor Subdivision Application with all required fees and the following supporting documents to the Zoning Administrator.

Supporting Documents:

- a. The name and address of the owner, the name and address of the applicant, the names and addresses of all abutters, the book and page number from the town land records of the parcel proposed to be subdivided, and the parcel ID number;
- b. A map showing the proposed subdivision relative to abutting properties, streams and other water bodies, and existing roads;
- c. A surveyed plat drawn to scale adequate for showing the subdivision boundary with lot lines and lot size, and abutters' names, flood hazard areas, permanent streams, mapped wetlands, agricultural soils, any known critical wildlife habitats, natural heritage areas, deer wintering areas, stone walls and existing roads. The plat shall also show the locations of existing/proposed leach fields, existing/proposed wells, and existing buildings/proposed building envelopes, and driveways.
- d. Approved water supply and wastewater disposal plans;
- e. Highway Access permits;
- f. The Zoning Administrator may require that other existing and proposed facilities also be located on the plat.

#### **7.3.5 Initial Review by the Zoning Administrator – Major and Minor Subdivisions**

The Zoning Administrator shall notify the applicant of the acceptance of a complete Subdivision Application for review within 30 days. The Zoning Administrator shall notify the applicant if an application is not complete, and identify missing information. The applicant then has 90 days to provide the missing information. Failure to complete the application within 90 days of the notice from the Zoning Administrator will lead to denial of the application and forfeiture of all fees.

The Development Review Board and/or Zoning Administrator may conduct site visits after receipt of an application.

#### **7.3.6 Major and Minor Subdivisions – Hearing and Decision**

The Development Review Board shall conduct a public hearing on Major Subdivisions and Minor Subdivisions to consider the proposed subdivision application. Notification of the public hearing shall be made as required in Title 24 VSA Chapter 117 4464 and sent to the applicant, abutters, and other interested parties, posted as required, and printed in the newspaper no less

than fifteen (15) days prior to the hearing date. For applications within five hundred (500) feet of adjacent towns, notice must also be provided to that town's Planning Commission.

The Development Review Board shall continue the hearing as needed to develop sufficient evidence to make all required findings. Within forty-five (45) days following the conclusion of the public hearing, the Development Review Board shall issue a written decision approving, disapproving, or approving with conditions, the subdivision application. All decisions shall include findings of facts and conclusions, and be forwarded to the applicant, the abutters, the Zoning Administrator, and other interested parties. Failure of the Development Review Board to act within the allotted forty-five (45) days shall constitute approval of the application.

### **7.3.7 Permits**

Permits approved by the Development Review Board for Major Subdivisions or Minor Subdivisions shall include a provision stating that they are void unless an appropriate plat is recorded in the Town Clerk's Office within one hundred eighty (180) days of final approval.

### **7.3.8 Waivers**

The Development Review Board may waive or vary specific provisions for application or review procedures and requirements when, in its judgement, it is found that unique or special circumstances exist, and that the public interest would be served by approving the waiver.

The request for a waiver shall be made by the applicant to the Development Review Board and shall include sufficient information to justify the waiver and to enable the Development Review Board to reach a decision. Such request shall be made in writing.

The Development Review Board shall provide a written response to the applicant within 30 days of having received a request for waiver. Upon approval, the waiver becomes part of the full application and shall be recorded with the permit.

## **7.4 - Subdivision Design Criteria**

### **7.4.1 Criteria**

The Development Review Board shall approve a subdivision on finding that its proposed development meets the goals of the Pownal Town Plan including, but not limited to, the following design criteria:

### **7.4.2 Preservation of Resources**

Design of the subdivision, including placement of lot lines, utilities, roads, septic areas and building sites shall attempt to minimize impacts on streams, forest blocks greater than twenty five (25) acres, agricultural soils, cemeteries, stone walls, critical wildlife habitats, deer wintering areas, natural heritage areas, wetlands, and flood hazard areas in order to conserve and protect these existing resources.

#### **7.4.3 Energy Conservation**

Design of subdivisions shall attempt to promote solar access through the locations of lot lines that would enable buildings to take advantage of natural light and solar heating/electrical generation.

#### **7.4.4 Roads and Driveways**

Design of the subdivision shall:

- a. Ensure safe and efficient movement of vehicles and pedestrians, including road maintenance, firefighting, and emergencies; and
- b. Meet the design criteria set forth in any Town of Pownal Highway Ordinance.

#### **7.4.5 Parking**

Design of the subdivision shall provide off-road parking adequate to accommodate proposed uses, consistent with Section 8.2 of this Bylaw.

#### **7.4.6 Utilities**

Design of the subdivision shall attempt to ensure that proposed electric, telecommunication, outdoor lighting, and other utilities do not have an undue adverse impact on the visual character of the site as seen from public roads by locating utilities along road corridors, or using underground cables if cutting directly across open land, and using shielded lighting.

#### **7.4.7 Stormwater Management**

Design and construction of the subdivision shall minimize soil erosion and not reduce the capacity of the land to hold water. All subdivisions that disturb the soil on more than one acre of land require a separate state storm water construction permit, and those that will at full buildout create more than one acre of impervious surface, including gravel roads, require a separate state operational storm water permit. All land clearing and grubbing will follow at least the standards for sites with low risk in the Vermont Erosion Control Handbook. All drainage systems shall be designed to limit erosion and protect water quality.

#### **7.4.8 Fire Protection and Other Emergency Services**

Design of the subdivision shall not cause an unreasonable burden on the ability of the town to provide fire protection and other emergency services by ensuring safe access and water supply.

#### **7.4.9 Water Supply and Wastewater Disposal**

Design of the subdivision shall provide for adequate potable water supply and for wastewater disposal in accordance with all State laws.

#### **7.4.10 Viable Lots**

All lots created by any subdivision shall be at least the minimum required for the zoning district in which they are located, and have at least fifty (50) feet of frontage on a state, town, or private road.

### **7.5 - Boundary Line Adjustment**

#### **7.5.1 Application and Required Information**

Any person desiring approval of a Boundary Line Adjustment shall submit an application to the Zoning Administrator. The application shall include the following information:

- a. A survey and legal description of properties subject to the boundary line adjustment application;
- b. A location map including an identified north arrow, and the scale of the map;
- c. The total area of each lot before and after the proposed boundary line adjustment;
- d. The location and dimensions of all structures, driveways, wastewater disposal systems, wells, utilities and other improvements on each lot subject to the proposed boundary line adjustment;
- e. The names, addresses and telephone numbers of all property owners involved in the proposed boundary line adjustment;
- f. A signed and notarized authorization from all property owners.

#### **7.5.2 Criteria for Approval**

All Boundary Line Adjustments shall be consistent with the following standards:

- a. The Boundary Line Adjustment shall not create additional lots.
- b. The Boundary Line Adjustment shall not create a parcel that fails to meet all dimension and area requirements of all applicable land use regulations found in the Pownal Zoning Bylaws.
- c. The Boundary Line Adjustment shall not increase the nonconformity of any lot or structure which does not currently meet the requirements of any applicable land use regulation, including but not limited to, setbacks to structures from property lines, the minimum area of parcel, and required separation distances and other regulations pertinent to water supply and wastewater systems.
- d. The Boundary Line Adjustment does not realign lot lines that create directional changes in the orientation of lot(s), such as changing front yards into side yards or rear yards which then result in nonconforming setbacks.

#### **7.5.3 Zoning Administrator Review and Action**

Based on review of the proposed Boundary Line Adjustment, the Zoning Administrator shall determine if the proposed boundary line adjustment is consistent with the criteria for approval of a boundary line adjustment. If the Zoning Administrator finds that the proposed Boundary Line

Adjustment complies with all the above requirements, a permit shall be issued. If the Zoning Administrator finds that the proposed Boundary Line Adjustment does not comply with the above requirements, a permit shall be denied. The decision by the Zoning Administrator may be appealed to the Development Review Board.

#### **7.5.4 Final Approval and Authorization for Property Owners**

Approval of the Boundary Line Adjustment shall constitute authorization for the applicant to prepare appropriate documents to transfer the property being adjusted. A Boundary Line Adjustment shall be completed according to the following:

The owner(s) shall have prepared the appropriate quit claim deeds for the transfer of ownership and an accurate map of the lots, along with the new property lines, prepared by a licensed surveyor and done in full compliance. The deed and map shall contain the following language: "This conveyance (or survey) is for the purpose of accomplishing a boundary line adjustment. It shall not create any additional lots, tracts, parcels, or divisions." The map shall contain a signed statement of approval by the Zoning Administrator. The map shall contain a note which references the recording information for the quit claim deeds for the actual property transfer.

Upon securing signed approval by the Zoning Administrator, the applicant shall submit a Boundary Line Adjustment map to the Pownal Town Clerk for recording in the Pownal Land Records in accordance with current Vermont within 180 days. Boundary Line Adjustments granted under this provision shall expire if approved surveys are not filed and recorded within this 180 day period.

### **7.6 Recording**

#### **7.6.1 Recording of Subdivision Plat**

No subdivision plat may be presented for recording to the Town Clerk without the endorsement thereon of either the Development Review Board or the Zoning Administrator. An appropriately endorsed subdivision plat shall be delivered by the applicant to the Town Clerk for recording in the land records of the Town within one hundred (180) days of the issuance of the permit.

Any plat not delivered within one hundred eighty (180) days of the issuance of the permit by the Development Review Board/Zoning Administrator, or within one hundred eighty (180) days of the date upon which such plan of subdivision is taken as approved by reason of the failure of the Development Review Board/Zoning Administrator to act, shall be void.

### **7.7 Administration**

#### **7.7.1 Fees**

No Application shall be considered without payment of all required fees. A Schedule of Fees shall be set by the Select Board and shall be available at the Town Offices.

### **7.7.2 Revision to an Approved Subdivision**

Revisions or modifications to an approved subdivision permit requires reapplication through the relevant process. A revised plat recorded without Development Review Board/Zoning Administrator signature shall be considered null and void.

### **7.7.3 Public Acceptance of Roads and Open Spaces**

Nothing in these regulations shall be construed to constitute the acceptance by the Town of Pownal of a road, easement, utility, or recreation area shown on a subdivision application or approved plat as publicly owned or maintained.

### **7.7.4 Performance Security**

The Development Review Board may require from any applicant, for the benefit of the Town and sufficient to cover the full costs of constructing any public or private improvements that the Development Review Board may require in approving the subdivision, security that the improvements shall be completed and maintained as approved. The required security shall be submitted prior to final approval of the subdivision, and may be required in the form including, but not limited to, a surety bond, a letter of credit, a performance bond, or any other form, on terms and conditions acceptable to the Development Review Board and the Select Board. A separate bond or other security shall also cover maintenance for three years. The construction bond shall only be released by the Select Board upon their inspection, along with a certification by the Zoning Administrator that conditions have been met. Bonds may be partially released as applicable.

### **7.7.5 Completion Date**

Approvals of subdivisions shall contain a time limit within which all public components shall be completed. The time limit shall not exceed three (3) years unless extended for unusual circumstances upon request of the applicant and approval of the Development Review Board.

## **SECTION VIII – SPECIAL REGULATIONS**

### **8.1. Earth Products Removal**

#### **8.1.1 Removal Restricted**

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

#### **8.1.2 Permit Not Required**

No permit shall be required for any of the following:



- a. Moving earth products within the limits of any individual property or series of contiguous properties.
- b. Removal of earth products from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of the same.
- c. The removal is temporary and is not intended as an ongoing operation in which excavation material is sold for profit.

### 8.1.3 Permit for Removal of Earth Products

Unless exempt per Section 8.1.2, the removal of earth products is a conditional use subject to review by the Development Review Board pursuant to Section 4.2.2, applicable Performance Standards (Section 8.8), and the following specific requirements:

- a. The operator shall provide for the proper drainage of the area of the operation during and after completion.
- b. No removal shall take place within twenty-five (25) feet of the property line, except that where the grade from a property line rises towards the lot where removal is to take place, material lying above the grade at the property line may be removed. No bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance at completion, except in ledge rock.
- c. At the conclusion of the operation, or of any substantial portion thereof, the whole area where removal takes place shall be graded to ensure that erosion does not occur, covered with topsoil, and seeded with a suitable cover crop, except where ledge rock is exposed.
- d. The extraction operation shall not: endanger the general health or safety, constitute a nuisance, result in detriment to the normal use of adjacent property by reason of noise, dust, or vibration, or result in traffic hazards in residential areas or excessive congestion or physical damage on public ways. The DRB may also consider the location and use of structures, equipment, routes to transport material, and hours of operation.
- e. If extraction is proposed to occur wholly or partially from a stream bed, the applicant must present evidence that the proposal has been reviewed by the Vermont Department of Environmental Conservation and that a stream alteration permit, or any other required state approval, has been obtained.
- f. A permit for the removal of earth products may be issued for a period up to but not exceeding five (5) years. Permits may be renewed upon reapplication under the same procedure.

### 8.1.4 Existing Earth Products Extraction Operations

Existing operations and any expansions thereto within the same lot of record on the effective date of this amendment may continue. Any subsequent addition to the lot of record on the effective date of this amendment intended for earth product removal shall be subject to the provisions of 8.1.3

### **8.1.5 Surety Bond**

In accordance with the provisions of Section 4407(8) of Title 24 V.S.A., the DRB may require the applicant for an earth products removal operation to post a surety bond with the Town Treasurer in an amount and in form approved by the DRB as sufficient to guarantee conformity with the provisions of the permit issued hereunder.

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

### **8.2.1 Parking Facilities**

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

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

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

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

Unless otherwise specifically approved by the DRB, required parking facilities shall contain not less than the minimum area set forth below, exclusive of access drives:

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

adequate parking spaces to accommodate under all normal conditions, the vehicles for handicapped, occupants, employees, members, customers, clients and visitors to the premises.

### 8.2.3 Parking Area Standards

- a. Parking spaces for all public, multifamily residential, commercial, and industrial uses shall be clearly marked and delineated to allow adequate space for parking vehicles, entering and backing out of parking spaces, other maneuvering movements, and for snow storage, as deemed necessary by the DRB.
- b. Location on Lot: With the exception of access drives, parking facilities for public, multifamily residential, commercial, and industrial uses shall be located in the rear and side yards. The DRB may approve limited parking in the front yard (between the street line and the principal building): on corner lots, for handicap spaces, and based on unique site characteristics.
- c. Landscaping: For public, multifamily residential, commercial, and industrial uses, a perimeter landscaped strip at least 10 feet wide between and adjacent to a line defining the exterior boundary of the parking area and adjoining property lines shall be provided. The perimeter landscaped strip may include any landscaped yard or area otherwise required, and shall be continuous except at points of access. Interior landscaped areas, at minimum equal to at least 10% percent of the parking area (excluding perimeter landscaped areas), shall be integrated into parking lot design.
- d. Lighting: Lights used to illuminate parking areas and drives shall be the minimum necessary for safety and security, and shall be arranged and designed to deflect light downward and away from adjacent properties and public highways. Shielded and/or cut-off fixtures shall be used.
- e. Access Management: Access to and egress from parking areas shall be from a single drive, unless approved otherwise by the DRB. Access drives shall be located at least 150 feet from the intersection of public road rights-of-way, for all uses except for single and two family dwellings, which shall be located at least 50 feet from such intersections, unless otherwise approved by the DRB. In appropriate instances, including the presence of compatible adjacent uses, areas characterized by congestion and frequent and/or unsafe turning movements, or parcels having direct access to more than one public road, the Development Review Board may require provision for shared access between adjoining properties or may limit access to the property to a side street or secondary road.

## 8.3 Mobile Home, Travel Trailer and Tiny Home Occupancy

### 8.3.1 General Regulations

- a. Nothing herein shall prevent the temporary seasonal use of a mobile home or travel trailer at a campground.

- b. A trailer, trailer coach, mobile home, or travel trailer may be used temporarily for not over six months as a field office, accessory to a construction operation being operated on the premises. Use over six months requires application and approval by the DRB.

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

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

### **8.3.3 Tiny Home**

a. A Tiny Home, a structure intended for year-round use that has not more than 400 square feet of floor area, excluding any lofts, shall be regulated by their use.

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

A mobile home park may be permitted by the DRB as a conditional use in the Village District, provided that the DRB finds that the mobile home park proposal meets all of conditional use standards (Section 4.2.2), applicable performance standards (Section 8.8), and conforms to all requirements for mobile home parks established through 10 V.S.A. Chapter 153. The mobile home park and continuing management of the facility also must conform to the following regulations:

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

Any lawful mobile home park existing at the time of the adoption of this section may be continued although it does not conform to the standards and provisions contained herein. All such mobile home parks, however, must comply with and maintain the minimum standards set forth by the Vermont State Department of Health. Any nonconforming mobile home park that is no longer operated as a business enterprise shall not be issued a license for re-establishment

except in conformity with this section. Expansion of existing mobile home parks will be permitted only in strict conformity with this section.

#### 8.4.2 Location, Size, and Sites

- a. The minimum lot size for a mobile home park shall be 25 acres or the minimum lot size required for a Planned Unit Development (Section 3.10) based on the density of the zoning district and the number of dwelling units in the PUD, if developed in conformance with this section and Section 3.10.
- b. The park shall be located on a well-drained site properly graded to insure proper drainage, prevent erosion, and avoid any areas of standing water. The site shall not be exposed to objectionable smoke, noise, odors or any other adverse instances, and no portion subject to unpredictable sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- c. A mobile home site shall be complete before occupancy is permitted. At least 8,000 square feet of lot area shall be provided for each mobile home in each park, including at least 5,000 square feet for each mobile home site, plus at least 3,000 square feet for each mobile home in common space, exclusive of roads. A mobile home shall be so harbored on its site that there shall be a minimum of side and end clearance of 40 feet between adjacent mobile homes. Any enclosed accessory structure that is attached to the mobile home unit shall, for purposes of clearance requirements, be considered to be part of the mobile home. No accessory building shall be erected within 20 feet of any adjacent mobile home. No mobile home shall be located closer than 25 feet to a gravel or paved road or service buildings within the park or within 25 feet of the mobile home park boundaries. In all cases state fire code setback requirements must be met.

#### 8.4.3 Streets and Parking

- a. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public roads. All park roads shall be well drained, graveled, hard surfaced, or paved and maintained in good condition, and may not exceed a grade of 8 percent. All mobile home sites where off-street parking areas are provided shall abut upon a graveled, hard surfaced, or paved road at least ~~30~~ 20 feet in width. If on street parking is permitted, the minimum width of the graveled, hard surfaced, or paved area of road shall be ~~40~~ 32 feet.
- b. Street lights of not less than 2000 lumens each shall be installed in intervals of not more than 300 feet apart along all park roads.

#### 8.4.4 Solid Waste, Water Supply, and Wastewater Disposal

- a. The storage, collection, and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, insect breeding areas, fire hazards, or air

pollution. Garbage and rubbish cans must be provided by the park owner with tight fitting or other safe and sanitary means of disposal. Adequate garbage and rubbish collection must be provided.

- b. Each mobile home park shall provide or have available a water system which will meet and conform to the requirements of the State Department of Health and each mobile home space or site in said park shall be provided with facilities necessary to connect to said systems. All mobile home parks within a water district are required to connect to that system's water supply.
- c. All mobile home parks located within the Pownal Sewer district area are required to connect to the public waste treatment system.
- d. All pre-existing parks located where public water and sewer is available must be connected to such facilities before expansion or replacement of an existing mobile home unit or structures.
- e. No open fire shall be permitted except in specified areas approved by the local fire chief.
- f. In any mobile home park to be served by subsurface sewage disposal systems, all required Vermont water supply and wastewater disposal permits must be obtained.

#### **8.4.5 Park Management**

- a. The person to whom a license for a mobile home park is issued shall operate the park in compliance with this section, and shall provide adequate supervision to maintain the park, its facilities, and equipment in good repair and in clean and sanitary condition.
- b. Park management shall notify park occupants of all applicable provisions of this section and inform them of their duties and responsibilities thereunder.
- c. Park management shall be responsible for the proper placement of each mobile home on its mobile home stand and installing of all utility connections.
- d. The park management shall be responsible for notifying the chairman of the Board of Listers and Town Clerk of the arrival or pending departure of any occupied mobile home or change of ownership that occurs in the park.
- e. Park management shall maintain the entire park area free of dry brush, leaves, weeds, and debris.

#### **8.4.6 Responsibilities of Park Occupants**

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

#### **8.4.7 Enforcement and Penalties**

a. If any of the provisions of this section are being violated, the Zoning Administrator shall notify in writing the person responsible for such a violation indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall take any other action authorized or required by this section to insure compliance with, or prevent violation of, its provisions.

b. Any person who shall violate any provision of the ordinance shall upon conviction by court of competent jurisdiction be punished by a fine of not more than \$200.00 for each day such violation exists (24 VSA Section 4451).

#### **8.5 Protection of Streams and Waterbodies**

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

The Zoning Administrator shall refer all applications and accompanying surveys, maps, and data to the DRB for site plan review. Prior to granting approval, the DRB shall have found that the proposed construction, earth excavation, filling, or grading, shall not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on water quality, or on fish or wildlife habitat.

#### **8.6 Prohibition of the Disposal of Hazardous Wastes**

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

#### **8.7 Clean Fill**

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

#### **8.8 Performance Standards**

Adherence to the following performance standards shall be required, as deemed applicable by the DRB, when reviewing applications for conditional use approval and for all other new development where conformance with this section is specifically referenced.

#### **8.8.1 Lighting**

Exterior lighting shall be designed to illuminate exterior walls of buildings, walks, parking areas, and drives, and shall be the minimum required for safety and to support intended activities. Lighting shall be designed to avoid uplighting, side lighting, glare, and excessive brightness through the use of down lighting, and cut off and low glare luminaires. All lighting shall be done in a manner to direct light away from adjacent lots and public ways. No light standard shall exceed 25 feet in height. Excessive interior (window) or outdoor lighting principally for advertising purposes is prohibited.

#### **8.8.2 Noise**

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

#### **8.8.3 Vibration**

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

#### **8.8.4 Air Quality**

The proposed use will not have an undue adverse affect on ambient air quality. Consideration shall be given to types and quantities of air emissions, including odors, fumes, gasses, dust, smoke, and other particulate emissions, and measures shall be taken to ensure that construction activities do not degrade off-site air quality.

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

#### **8.8.5 Water Quality**

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

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



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

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

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

#### **8.8.8 Storm Water Run-Off and Erosion Control**

Increases in storm water discharges shall be minimized and detained on-site whenever possible or practicable. Improvements to downstream drainage ways may be required to prevent flooding, erosion, and discharges of sediment and other contaminants into surface waters. At no time shall storm water be discharged to the public wastewater system. The DRB shall require conformance with Vermont storm water discharge requirements.

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

Any stripping of vegetation, soil removal, and regrading or other development shall be accomplished to minimize erosion. Exposed or disturbed areas shall be permanently stabilized within six months of occupancy of a structure. During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods as determined by the DRB. All slopes exceeding 15% resulting from site grading shall be either covered with four inches of topsoil and planted with a vegetative cover sufficient to prevent erosion, or be stabilized with retaining walls.

Permanent erosion control and vegetative plantings shall be in accordance with practices recommended by the Stormwater Management Program of the Vermont Department of Environmental Conservation.

#### **8.8.9 Screening and Landscaping**

A landscaped buffer at least 15 feet wide, continuous except for approved driveways, may be required adjacent to any public or private road. The buffer strip shall be planted with grass, medium height shrubs, and trees. Non-native invasive species shall not be used for screening or landscaping. At street and driveway intersections, trees and shrubs shall be set back a sufficient distance so that they do not present a traffic visibility hazard. Additional landscaping may be required when the premises are viewed from a public way or where the project abuts an existing residential or business use. Open storage areas, exposed machinery, and loading areas shall be

visually screened from roads and surrounding land uses. Suitable types of screening include opaque wooden fences and dense evergreen hedges of five feet or more in height. Where evergreen hedges are proposed, a temporary fence may be required to provide screening until the evergreens are of a sufficient height. Where new fencing would create a continuous surface greater than ten feet in length, it shall be visually softened with tree and shrub plantings.

#### **8.8.10 Building and Site Design**

- a. The project shall be designed to take advantage of the natural terrain and protect natural vegetation and important views to the greatest extent possible.
- b. To the extent practicable and feasible, the project shall utilize an architectural design that compliments the rural environment and is compatible with surrounding land uses. Consideration shall be given to building height and size, roof shape, pitch, and direction, exterior materials and textures, color and architectural features, and accessory structures.
- c. Commercial developments in the Village District are encouraged to include a mix of uses, including residential uses, and buildings with two or more stories.
- d. For non-residential uses in the Village and Rural Residential 1 districts, principal buildings shall be located as close to the front lot line as permitted by front yard setback requirements and physical conditions, unless an alternative location is approved by the DRB.
- e. Front yards shall be attractively landscaped and provide a visual connection between the public street and buildings on the site.
- f. The location and design of parking areas shall be as specified in Section 8.2. The DRB may require specific plantings, including trees, in landscaped areas bordering and within parking lots.
- g. Safe and convenient walkways shall be provided between all parking areas and buildings, and between pedestrian ways on or along public streets and buildings.

#### **8.9 Inoperable Motor Vehicles and Scrap Yards**

No more than three vehicles without valid registration and/or inspection may be stored on a lot, in a location visible from a public road, except by a licensed and permitted dealership or repair business, for a period in excess of 30 days. Such vehicle may not be stored except within a building or concealed by fencing, except that one utility vehicle in running condition may be kept that does not meet the above requirements.

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

Decommissioned motor vehicles, box trailers and mobile homes shall not be permitted for any use, including storage.

## **8.10 Signs**

A sign is an object with lettering or other representations intended for advertising by a business or individual that can be viewed from any public highway or traveled way.

### **8.10.1 Permit not required**

No permit shall be required for signs that are less than 4 sq ft in size and directly associated with the operation of the business. Sign must be located at the business property and meet required setbacks.

### **8.10.2 Permit required**

Permits for signs are approved by the DRB when applied for as part of a site plan or conditional use review. The Zoning Administrator reviews all other applications for signs. Signs may only be used to advertise permitted/allowable uses on the property where they are located, and shall be subject to the following limitations:

- a. The maximum size of a sign is 24 square feet.
- b. A sign may be lighted only during active operating hours of the business or organization.
- c. Indirect lighting is preferred, and in no instance shall lighting cause glare on neighboring properties or create dangerous conditions on highways.
- d. No sign shall exceed 20 feet in height.
- e. No sign shall be permitted which prevents a clear and unobstructed view of official signs and approaching or merging traffic.
- f. Signs related to tag sales and other short-term purposes shall be permitted for limited time periods and must be removed at end of function or sale.
- g. No sign shall be placed within the street or road right of way.
- h. No sign or display shall contain any moving parts, nor contain, include, or be illuminated by flashing, moving or intermittent light.

## **8.11 Wind Energy Facilities**

Wind energy facilities subject to review by the Public Utility Commission (PUC) are exempt from review under this Bylaw pursuant to 24 VSA Section 4413(b); however, the Town of Pownal may participate in Section 248 proceedings before the PUC and the PUC should consider all relevant sections of the Pownal Town Plan when reviewing such projects. Any other wind energy facility shall be a conditional use subject to review by the DRB and must meet the following criteria in addition to the general standards specified in Section 4.2.2.

- (a) Climbing and access to the tower shall be restricted;
- (b) The height of any wind turbine as measured from average grade shall be less than 200 feet and have a minimum blade clearance from the ground immediately below each wind turbine of 20 feet;
- (c) Wind turbines shall be of a non-reflective, unobtrusive color with a non-reflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact;
- (d) Wind energy facilities shall be evaluated based on neighborhood context and sited so as to minimize the diminution of residential property values and visual/aesthetic impact;
- (e) The distance from the base of the tower to the property line shall be a minimum of 10 feet longer than the height of the wind power tower and rotor.
- (f) Any wind facility which has reached the end of its useful life or has been abandoned shall be removed by the owner. Abandoned is defined as the failure to operate the facility on a continuous and ongoing basis for a period of one year. At the time of removal, the wind facility site shall be reclaimed.
- (g) The DRB reserves the right to apply additional conditions as appropriate.

#### **8.12 Telecommunication Towers and Antennas**

The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, is exempt from municipal approval under this Bylaw when and to the extent jurisdiction is assumed by the Public Utility Commission according to the provisions of that section. This exemption from obtaining approval under this Bylaw shall not affect the substantial deference to be given to a plan or recommendation based on a local land use bylaw under 30 V.S.A. §248a(c)(2). Furthermore, except to the extent bylaws protect historic landmarks and structures listed on the State or National Register of Historic Places, no permit shall be required for placement of an antenna used to transmit, receive, or transmit and receive communications signals on a property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

Any other telecommunication towers shall be a conditional use subject to review by the DRB and must meet the following criteria in addition to the general standards specified in Section 4.2.2.

- (a) Climbing access to the tower shall be restricted;
- (b) Towers shall not exceed the height limitation for the district in which they are located or 20 feet above surrounding structures or trees, whichever is greater;
- (c) Towers shall be of a non-reflective, unobtrusive color with a non-reflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact;
- (d) The distance from the base of the tower to the property line shall be a minimum of 10 feet longer than the height of the commercial telecommunication tower;
- (e) Any telecommunication tower which has reached the end of its useful life or has been abandoned shall be removed. Abandoned is defined as the failure to operate

the facility on a continuous and ongoing basis for a period of one year. At the time of removal, the tower site shall be reclaimed.

### **8.13 Wetlands**

Wetlands are areas that are inundated by surface or ground water with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities. See 10 V.S.A. § 902(5). These wetlands, and the buffer zones surrounding them, provide important benefits including: maintenance of surface and groundwater quality, natural flood and stormwater management, critical fish and wildlife habitat, and recreational, educational, and aesthetic benefits. The **Vermont Wetlands Program** of the Department of Environmental Conservation is responsible for identifying and protecting wetlands and the functions and values they provide by the implementation of the Vermont Wetland Rules. Staff at the Vermont Wetlands Program must be contacted and provided information to review prior to approval of a zoning permit for any development that may impact a significant wetland area. The zoning permit may incorporate as conditions any requirements resulting from the Wetlands Program review and may be denied if the development is not approved by the Wetlands Program.

### **8.14 Development on Steep Slopes**

Any development requiring site plan or conditional use review under this Bylaw that involves development on land with a grade of 20 percent or greater must include the following information as part of the site plan and application:

- a. Siting and buildings and structures in a manner that minimizes disturbance of steep slopes. Consideration should be given to construction of smaller structures when needed to limit impacts on steep slopes.
- b. Demonstration that parking lots and other areas requiring extensive flat surfaces are not sited in areas of steep slopes.
- c. Buildings and structures in areas of steep slopes should be clustered and/or developed on terraces to limit modification of the overall topography of the area.
- d. A stormwater management plan that includes provisions for erosion control, treatment of runoff, and revegetation of any disturbed soils.

## **SECTION IX - INTERPRETATION, VALIDITY, AND AMENDMENTS**

### **9.1 Interpretation of Bylaw**

In their interpretation and application, the provisions of this Bylaw shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this Bylaw to abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that where this Bylaw imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger yards, courts, or other open spaces than are imposed or required by existing provisions of law or ordinance, or by rules, regulations or permits, or by easements, covenants or agreement, the provision of this Bylaw shall control.

Except as otherwise provided in this Bylaw, any use not specifically permitted shall be deemed to be prohibited.

Any question in interpretation of the bylaws and district boundaries will be addressed through a written opinion issued by the Zoning Administrator, with appeals to the Development Review Board, whose decision is final.

## **9.2 Validity**

If any section or provision of this Bylaw is adjudged to be unconstitutional or otherwise invalid, such decision shall not affect the validity of this Bylaw as a whole, or of any part thereof other than the part so adjudicated.

## **9.3 Amendments**

This Bylaw and the boundaries of zone districts established herein, may be amended from time to time after public hearings, as provided for in 24 VSA Sections 4441-4442.

## APPENDIX A - LAND USE MATRIX

Use	District				
	RR 2	RR 1	V	I	F
One and Two Family Dwelling	A	A	A	X	X
Family Child Care Facility (≤ 6 children)	A	A	A	X	X
Family Child Care Facility (> 6 children)	SP	SP	SP	X	X
Community Care or Group Home (≤ 8 residents)	A	A	A	X	X
Community Care or Group Home (> 8 residents)	SP	SP	SP	X	X
Accessory Dwelling Unit	A	A	A	X	X
Farm Stand (≤ 200 square feet)	A	A	A	X	X
Home Occupation (a – less intense use)	A	A	A	X	X
Home Occupation (b – more intense use)	SP	SP	SP	X	X
Inn or Bed and Breakfast (smaller)	SP (≤4 bdrms)	SP (≤6 bdrms)	SP	X	X
Inn or Bed and Breakfast (larger)	C (> 4 bdrms)	C (>6 bdrms)	SP	X	X
Garden Center or Plant Nursery	SP	SP	SP	X	X
Sawmill	SP	X	X	C	A
Cemetery	SP	SP	C	X	X
State or Municipally Owned Building or Facility	C	SP	SP	C	X
Veterinary Hospital or Animal Boarding Kennel	C	C	X	X	X
Public or Commercial Recreational Uses	C	C	SP	X	A
Multifamily Dwelling (3 units)	C	SP	SP	X	X
Multifamily Dwelling (4 – 8 units)	X	C	SP	X	X
Landscaping Business	C	C	X	X	X
Mobile Home Park	X	X	C	X	X
Commercial Earth Resource Extraction	C	C	X	X	X
Public and Private Schools	X	C	C	X	X
Churches and Other Places of Worship	X	C	SP	X	X
Retail Stores	X	X	SP	X	X
Auto Service and Repair	SP	SP	SP	SP	X
Restaurants	X	X	SP	X	X
Art Galleries	X	X	SP	X	X
Community Centers, Libraries, .....	X	X	SP	X	X
Retail Service Establishments	X	X	SP	C	X
Professional Offices and Financial Institutions	X	X	SP	X	X
Manufacturing	X	X	X	C	X
Light Manufacturing and Warehousing	X	X	C	C	X
Mortuary and Funeral Establishments	X	X	C	X	X
Hospitals and Nursing Homes	X	X	C	X	X
Regional Solid Waste Management Facility	X	X	X	C	X
Hazardous Waste Management Facility	X	X	X	C	X

Use	RR 2	RR 1	V	I	F
Industrial Park	X	X	X	C	X
Forestry and Agricultural Uses	No permit required				
Temporary Accommodation for Forestry Workers	X	X	X	X	A
Camps	A	A	A	A	A
Accessory Uses (refer to district regulations for specific standards)	A/SP	A/SP	A/SP	A/SP	A/SP

See Section 5.1 for uses allowed with no permit required.

Refer to specific standards in each district for Home Occupation criteria (a – less intense use and b – more intense use).

- |     |  |
|-----|--|
| A:  | Permitted with Administrative Approval |
| SP: | Permitted with Site Plan Approval      |
| C:  | Conditionally Permitted                |
| X:  | Not Permitted                          |



## **APPENDIX B**

### **1.0 DEFINITIONS**

#### **1.1 "A"**

**Abandoned:** Any use shall considered abandoned (1) When the characteristic equipment and the furnishings of the use have been removed and have not been replaced by similar equipment within one year; (2) When the building or premises are left vacant for a period of one year; or (3) When the use, if non-conforming, has been replaced by a conforming use.

**Accepted Agricultural or Forestry Practices:** Practices defined as such by the Commissioner of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under 10 V.S.A. 1021(f) and 1259(f) and 6 V.S.A. 4810 and 24 V.S.A., 4413(d).

**Accessory Dwelling Unit:** An efficiency or one bedroom dwelling unit located within or adjacent to an owner-occupied one-family dwelling that is clearly subordinate to the one family dwelling. The accessory dwelling unit shall have facilities and provisions for independent living, including sleeping, food preparation, and sanitation. The property shall have sufficient wastewater and potable water capacity.

**Accessory Use:** A use customarily incidental and subordinate to a principal use on the same lot.

**Automobile Filling Station:** Building or land which is used for the sale of motor fuel and oil, with or without motor vehicle accessories.

**Automobile Repair Garage:** Any garage other than that of a private residence available to the public which is used for storage, repair, rental, greasing, washing, servicing, painting, adjusting or equipping of automobiles or other motor vehicles.

#### **1.2. "B"**

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

**Basement:** Any area of a building having its floor below the ground level.

**Boundary Line Adjustment:** A subdivision that does not create an additional lot and does not conflict with any other current regulations. Application for boundary adjustments shall be approved as allowed in the Subdivision Bylaws.

**Building:** Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, or materials including enclosure of a gas or liquid storage tank that is principally above ground. Any other structure more than eight feet high, shall be considered as a building, but excluding a utility pole, highway or railroad bridge or flag pole.

**Building, Accessory:** Any building which is subordinate to and whose use is incidental and accessory to the use of the principal building on the same lot, or on an adjoining lot under the same ownership. A detached accessory building shall be one that is not attached to the principal building by any covered porch, breezeway, or any other roofed structure.

**Building Area:** The ground area enclosed by the walls of a building, together with the area of all enclosed porches and other roofed portions.

**Building Coverage:** The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

**Building Height:** The vertical distance from the average finished grade within 10 feet of the walls of the building to the highest point of flat or mansard roofs, including the top of the parapet, or to the mean level between the eaves and the ridges for gable, hip, or gambrel roofs.

### 1.3. "C"

**Camper Trailer:** A vehicle similar to a travel trailer or motor home, and designed and used primarily for recreational travel purposes. To be considered a travel trailer, such vehicle must rest on its own wheels. The provisions hereof applicable to travel trailers shall also be applied to any motor vehicle whose body has been equipped for occupancy for recreational purposes.

**Change of Use:** Any change of use from one category of use to another, (including, but not limited to single family use to two-family or multi-family use), or use that substantially differs from the previous use beyond that currently permitted; or a change of use classification or character of business activity such as, "retail to restaurant" or "retail" to "professional office."

**Child Care Facility:** A day care facility providing care for children on a regular basis in the caregiver's own residence based on the provisions in these Bylaws. These provisions apply to facilities where the owner or operator is required to be licensed or registered by the State for child care.

**Commercial:** The exchange or buying and selling of commodities with the general public for more than four days in any one month.

**Community Care Home:** A residential facility which provides custodial care which includes room and board, plus additional personal services and supervision for the residents' protection.

### 1.4. "D"

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

**Dog Kennel:** The keeping or care of more than four dogs greater than six (6) months old.

**Dwelling, Multiple:** A building containing separate dwelling units for three or more families, having separate or joint entrances, services or facilities.

**Dwelling, One Family:** A building designated for or occupied as a residency by one family.

**Dwelling, Two Family:** A building containing separate dwelling units for two families, having separate or joint entrances, services, or facilities.

**Dwelling Unit:** A dwelling or part of a dwelling occupied or intended to be occupied by one family for residential purposes, containing full housekeeping facilities for the exclusive use of the occupants.

#### 1.5. "E"

**Extraction of Earth Resources:** The use of a lot or portion thereof for the purpose of removing, screening or separating of minerals, stone, sand, gravel, or top soil for resale or reuse, other than removal that is incidental to construction of a permitted building or other structure on the lot.

#### 1.6. "F"

**Family:** Any number of individuals related by blood, marriage, civil union, or adoption, living together as a single housekeeping unit, provided that a group of not more than five persons keeping house together, but not necessarily related by blood or marriage, may be considered a family.

**Fence:** A structure or partition erected for the purpose of enclosing a piece of land, or to divide a piece of land into distinct portions, or to separate two contiguous estates. Fences of 8' or less do not need a zoning permit however those higher than 8' will require a permit and must meet setbacks that allows maintenance on both sides of fence to be performed. As used in Recycle Facility section 8.9 for purposes of this bylaw, a fence is a means to fully conceal junk motor vehicles, scrap or waste materials from view. Fences shall not be used for advertising signs or other displays unless in full compliance with standard sign ordinances and other bylaws of the Town of Pownal.

**Flood Insurance Rate Map:** An official map of a community showing both the special hazard areas and the risk premium zones applicable to the community.

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

**Flood Proofing:** Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Fragile Area:** An area of land or water which has unusual or significant flora, fauna, geological or similar features of scientific, ecological or educational interest. Fragile areas shall include Natural Features as identified by the Pownal Town Plan and the Vermont Natural Area Inventory.

**Fringe Area:** The area of the 100-year Flood Plain that is outside the floodway.

**1.7. "G"**

**Group Home:** A residential care facility, house or other building serving persons who have a physical handicap or disability.

**1.8. "H"**

**Home Occupation:** The use of a minor portion of a dwelling unit by a resident of that dwelling unit, or the use by a resident of an accessory building on the same lot as such dwelling for an occupation which is customary in residential areas, and which does not change the character thereof.

**Hospital:** Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, clinic, rest home, nursing home, convalescent center, or any other place for the diagnosis, treatment or other care of ailments where there are facilities for overnight occupation by patients, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments other than that performed in the professional office of a licensed medical practitioner.

**1.9. "I"**

**Industrial Park:** A planned, coordinated development of a tract of land intended to house two or more separate industrial buildings with separate uses. Such development is planned, designed and engineered on an integrated and coordinated basis with special attention given to on-site vehicular circulation and parking, utility needs, building design and orientation and open space.

**Inn/Bed and Breakfast:** A building or complex of buildings containing rooms with separate or joint entrances which are rented as sleeping units, normally to transients; also, a residential dwelling in which a portion of the house is adapted to use as lodging for travelers and where meals may be served.

**1.10. "J"**

**Junk:** Scrap or waste materials including old or scrap copper, brass, iron, steel and other old scrap nonferrous material, including but not limited to rope, rags, batteries, glass, rubber, debris,

waste, trash, appliances, construction debris or any discarded, dismantled, wrecked, scrapped motor vehicles or parts thereof.

Junk motor vehicle means a discarded, dismantled, wrecked or scrapped motor vehicle or parts thereof, or vehicle that is not capable of being inspected or has remained unregistered for a period of 30 days.

**1.11. "K"**

**1.12. "L"**

**Lot:** A plot or parcel of land occupied or capable of being occupied by one principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Bylaw.

**Lot Line:** The established division line between lots or between a lot and a street.

**Lot Line, Front:** All dividing lines between a street and the lot shall be considered front lines.

**Lot Line, Rear:** The line or lines bounding a lot at the rear and approximately parallel to and at the maximum distance from the front lot line.

**Lot Line, Side:** The line or lines bounding a lot, which extends from the street towards the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered side lot lines.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement)

**1.13. "M"**

**Manufacturing:** The processing, treatment and/or conversion of raw, semi-finished or finished materials into a different form or state, including the physical assembly, from standardized parts, of a distinct or finished product that differs from its individual components. This definition does not include the processing of agricultural goods raised on the premises.

**Manufacturing, Light:** A custom workshop where the manufacturing and/or assembly of small quantities of materials or goods is performed by tradesmen or craftsmen requiring manual, mechanical, and/or artistic skills.

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

**Mixed Use:** A parcel or building that includes two or more uses which are permitted in the district.

**Mobile Home:** A trailer designed for year-round living in one place.

**Mobile Home Park:** A parcel of property as described by state regulations for mobile home parks.

**Mobile Home Park Licensee:** Any person licensed to operate and maintain a mobile home park under this ordinance.

**Mobile Home Site:** That parcel of a mobile home park that provides facilities for long-term occupancy of a mobile home and has the minimum size of 5000 square feet.

**Mobile Home Stand:** That part of an individual mobile home lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

**Motel:** A place of business containing sleeping rooms with outside entrances, which are rented primarily to transients.

#### 1.14. "N"

**Non-Conforming Use:** A use of land or a structure which does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of such regulations.

**Non-Complying Structure:** A structure or part thereof not in conformance with the zoning regulations covering building bulk, dimensions, height, area, density or off street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations.

**Nuisance:** An annoying, unpleasant, or obnoxious noise, odor, thing, or practice as determined by decision of the Pownal DRB.

#### 1.15. "O"

**Open Space:** A space, not occupied by a building or other roofed structure, but on the same lot as the principal building.

#### 1.16. "P"

**Planned Unit Development:** A form of development in which the overall density allowed by a property's zoning remains unchanged, but modifications can be made to lot sizes, setbacks, and other dimensional requirements to achieve any of the objectives outlined in Section 3.10.

**Public Building:** Public buildings shall mean churches, courthouses, jails, municipal rooms, state and county institutions, railroad stations, school buildings, school and society halls, hotels and restaurants and buildings used or rented for tenements, borders or roomers, places of amusement, factories, mills, workshops, or buildings in which persons are employed and shall

include buildings used as nurseries, convalescent homes, homes for the aged, and tents and outdoor structures used for public assembly. The word "building" as used, shall mean barns, sheds, office buildings, shops other than workshops, and space wherein goods are offered for sale at wholesale or retail.

**Public Sewer:** A system that provides a means of disposal for wastewater owned and operated by a municipality or other government unit, or corporation authorized and regulated by the State of Vermont for purposes of public waste treatment.

**Public Water Supply:** A system of water supply owned and operated by a municipality or other government unit, or by a corporation authorized and regulated by the State of Vermont for purposes of public water supply.

1.17. "Q"

**Quarry:** See "Extraction of Earth Resources."

1.18. "R"

1.19. "S"

**School:** Any day care center or any school certified by the Vermont Department of Education, including parochial, private and public schools, colleges and universities.

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

**Special Flood Hazard Area:** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**Street:** A town or state highway, a street of an incorporated village or a street shown on a subdivision plan approved by the DRB. The word "street" shall include the entire right-of-way thereof. If a boundary of the right-of-way has not been surveyed and so recorded and is not marked by fence line or other physical feature, the boundary shall be deemed to be 25 feet from the center line of the traveled way.

**Structure:** An assembly of materials for occupancy or use, including but not limited to, a building, mobile home or trailer, permanent swimming pool, tennis court, billboard, sign, wall, deck or solid fences greater than eight (8) feet in height and not connected with an operating farm.

**Subdivision:** The division of any parcel of land into two or more parcels for the purposes of immediate or future sale, conveyance, or development. The term "subdivision" includes re-subdivision, amended subdivision, lot line (boundary) adjustments, and the division held in common among several owners.

**1.20. "T"**

**Temporary:** Unless otherwise defined, shall mean up to but not exceeding ninety (90) days.

**Trailer:** Any vehicular, portable, and temporary structure or dwelling, designed for travel, recreational, and vacation purposes.

**1.21. "U"**

**1.22. "V"**

**1.23. "W"**

**1.24. "X"**

**1.25. "Y"**

**1.26. "Z"**