

(5) business days of such determination, the Administrative Officer will hold a meeting to discuss preservation and protection of the remains. The Administrative Officer shall invite the property owner, the State Historic Preservation Officer, and a Native American representative to this meeting. The participants will discuss options for leaving the remains in place and arranging for permanent protection of the area in which they are located by acquisition of the land or rights in the land.

- C. If the anthropologist reports that the remains are not Native American, or if the anthropologist fails to make a determination within the requested time, the Administrative Officer shall authorize resumption of excavation work. Thereafter, the property owner shall make disposition of the remains in accordance with 18 V.S.A. §5212 and any other applicable law. The notification and examination process set forth in **Section 6** shall be followed if further human remains are discovered upon resumption of excavation work.
- D. If the remains are determined to be Native American, the Administrative Officer will notify the property owner, the Governor's Advisory Commission on Native American Affairs, the State Historic Preservation Officer and a Native American representative. Determination that the remains are Native American will provide authorization for the Town to conduct a site examination pursuant to **Section 5.B** above.
- E. If it is determined following the site examination that the area to be excavated contains a minimal concentration of human remains, the Administrative Officer shall within five (5) business days of such determination, hold a meeting to discuss disposition of the remains. The Administrative Officer shall invite the property owner, the State Historic Preservation Officer and a Native American representative to this meeting.
- (1) At this meeting, the participants will discuss options for disposition of the remains which shall include, without limitation:
    - (a) Leave the remains in place and move the project to avoid the remains or continue the project in a manner that will not further disturb the remains; or
    - (b) Leave the remains in place and discontinue the project; or
    - (c) Leave the remains in place and arrange for permanent protection of the area in which they are located; or
    - (d) Allow the remains to be removed from the property by the Native American representative within seven (7) days of this meeting.
  - (2) If the property owner and the Native American representative agree on disposition of the remains, the Administrative Officer shall modify the existing permit or void any existing permit and issue a new permit which shall incorporate as conditions the agreed-upon disposition.
  - (3) If the property owner and the Native American representative do not agree on disposition of the remains, the Native American representative shall have seven (7) days from the date the meeting concludes to remove the remains. If the remains have not been removed, the property owner shall make disposition of the remains in accordance with 18 V.S.A. §5212 and any other applicable law. The Administrative Officer shall promptly authorize resumption of excavation work upon expiration of such time periods.
- F. If it is determined following the site examination and any excavation that the area to be excavated is within ten feet (10') of an area on the site containing a significant concentration of Native American remains, the Administrative Officer shall void any existing permit. Within five

The Administrative Officer shall not authorize resumption of excavation work until completion of the actions and/or expiration of the time periods set forth in **Section 6** below.

- C. Any permit issued pursuant to this by-law shall require compliance with the requirements of **Section 6**, below.

**5. Examination of Property:**

- A. Determination that a proposed excavation site contains or does not contain human remains subject to the provisions of this by-law shall be based on information prepared by a qualified professional following examination of the proposed site using the best non-intrusive technology available. At the property owner's request, the services of a qualified professional may be obtained by:

- (1) any property owner, at no expense to the Town; or
- (2) the Town, at its expense; or
- (3) the State Historic Preservation Officer, at the State's expense; or
- (4) a Native American Representative, at no expense to the property owner.

- B. Any site examination conducted by the Town, State Historic Preservation Officer, or Native American representative shall comply with the following requirements:

- (1) be subject to a property owner's consent, except as provided in **Section 6.D** below;
- (2) be performed in a professional manner that minimizes disturbance of the owner's property and minimizes inconveniences to the owner;
- (3) provides for restoration of any disturbed property to a condition adequate to return the property to its pre-disturbance state within a reasonable time following completion of the examination;
- (4) be performed at no expense to the property owner.

**6. Procedure Upon Discovery of Human Remains:**

- A. The Administrative Officer and/or property owner shall contact the Vermont State Police for determination of whether human remains are part of a criminal incident. During this period, the property owner shall take such actions as the State Police direct and are necessary to protect the remains from the elements.
- B. Upon notification from the State Police that the human remains are unrelated to a criminal incident, the Administrative Officer shall promptly contact a qualified anthropologist selected by the Town Selectboard for determination of the cultural origin of the remains. The anthropologist will be asked to report such determination to the Administrative Officer within six (6) business days.

**Native American Representation** – A member of the Abenaki Tribal Council.

**Governor’s Advisory Commission on Native American Affairs** – That commission established pursuant to Executive Order No. 97-90 on November 22, 1990, which executive order is codified in the chapter 18 of the appendix to Title 3 of the Vermont Statutes annotated.

**3. Designation of District:** There is hereby established a Native American Sites District which is shown and depicted on a map entitled, “Town of Swanton, Native American Sites District,” dated November 7, 2001.

**4. Permit Requirement:** No land development shall commence within the Native American Sites District prior to issuance of a permit under this by-law by the Administrative Officer as provided below:

- A. Upon determination that the proposed land development does not involve excavation to a depth more than eighteen inches (18”) below existing grade, the Administrative Officer shall issue a permit.
- B. Upon determination that the proposed land development does involve excavation to a depth more than eighteen inches (18”) below existing grade, the Administrative Officer shall attempt to determine based on information obtained pursuant to **Section 5** below, whether any portion of the area to be excavated is within ten feet (10’) of an area on the site containing a significant concentration of human remains. An applicant may provide such information but is not required to do so.
  - (1) Upon determination that the area to be excavated is not within ten feet (10’) of an area on the site containing concentration of human remains, the Administrative Officer shall issue a permit allowing excavation to proceed with due caution.
  - (2) Upon determination that the area to be excavated is within ten feet (10’) of an area on the site containing a significant concentration of human remains, no permit may be issued. The Town will work with the property owner, Native American representatives, and other interested federal, state, local and private interests to preserve and protect the affected parcel or area.
  - (3) If the information described in **Section 5** is not provided or is unavailable, the Administrative Officer shall issue a permit subject to express requirements that:
    - (a) The applicant provide the Town six (6) business days advance notice before initiating any excavation.
    - (b) The Town shall, at its expense, have a qualified professional on the property to monitor activity during the period that excavation occurs. This monitor must be on site when excavation first begins and shall have authority to order an immediate cessation of excavation work upon discovery of any human remains.
    - (c) Applicant shall immediately cease excavation work when so ordered by the Town’s monitor. Once ordered to cease excavation work, Applicant shall not resume excavation work until authorized to do so by the Administrative Officer.
    - (d) Upon discovery of human remains, the Town may, at its expense, conduct further examination of the area to be excavated in the manner set forth in **Section 5.B** below.

system will be free of malfunction. Required percolation soil tests may not reveal all characteristics affecting system operation. Further, inadequate system maintenance, the improper disposal of household and other chemicals, and unusual storm events which may affect system function are beyond the control and responsibility of the municipality. The provisions of this Section shall not create liability on the part of the municipality or any municipal official or employee for any wastewater disposal system malfunction.

**Section 3.16 Dwellings Per Lot**

(A) There shall only be one residential building per lot except as provided in Sections 8.4 and 8.5.

**Section 3.17 Native American Sites District**

1. **Purpose:** Create trust, confidence and harmony between property owners and Native Americans; to insure property owners' rights, privacy and property values; to preserve and protect Native American ancestral burial grounds, establish standards and procedures to identify sites that contain such remains and provide for their protection without undue burden on property owners. The Town, working together with the State of Vermont, Native American representatives and private property owners, will initiate efforts to develop long-term methods to ensure that the remains of Native Americans are dealt with in a respectful manner without placing unreasonable restrictions on lands which contain such remains.

2. **Definitions:**

**Division of Historic Preservation** – That division within the Vermont Department of Housing and Community Affairs created pursuant to 22VSA § 721 to coordinate historic preservation activities on behalf of the State of Vermont.

**State Historic Preservation Officer** – That individual appointed pursuant to 22 VSA § 761(a) to conduct and maintain a survey of sites of archeological and anthropological specimens within the state.

**State Archeologist** – That individual employed by the state historic preservation officer pursuant to 22 VSA § (a) to conduct and maintain a survey of sites of archeological and anthropological specimens within the state.

**Qualified Anthropologist** – An individual who, by education and professional experience, has the expertise to identify human remains and determine their cultural origin.

**Qualified Professional** – An individual who, by education and professional experience, has the expertise to identify human skeletal remains.

**Significant concentration of human remains** – An area having four (4) or more sets of human remains per one thousand (1,000) square foot area.

**Minimal concentration of human remains** - An area having three (3) or fewer sets of human remains per one thousand (1,000) square foot area.

**Site Examination** - The study of human remains at any site by means of surveying, digging, sampling, excavating or removing surface or subsurface materials.

- (2) Existing disposal systems subject to the provisions of this section shall be inspected by a qualified professional to determine whether the system is functioning properly and has the capacity to adequately treat the amount of increased wastewater to be generated. If the system does not have sufficient capacity for the intended use, any addition, replacement or alteration of the system shall equal or exceed treatment provided by the existing system, or it must be upgraded or replaced to comply with the Vermont Environmental Protection Rules as most recently amended.
- (3) Wastewater disposal systems located within the flood hazard area overlay district shall also meet requirements specific to such systems under Section 5.5.

(C) **Application Requirements.** In addition to zoning permit application requirements under Section 9.1, the following information shall be submitted to the Administrative Officer for any structure or building that requires a new or upgraded wastewater disposal system:

- (1) the results of soil tests, including test pit locations, soil conditions, depths to seasonal high water table, and percolation rates, as performed by a qualified professional; or for existing systems, written and signed certification from a qualified professional that the system is functioning properly and has the capacity to treat additional wastewater to be generated by the intended use;
- (2) a description and plans for the proposed system or system upgrade, including the location of existing, proposed or replacement system components and leach field areas, as prepared by a qualified professional;
- (3) for on-site systems regulated by the state, a copy of the state subdivision permit application;
- (4) for systems to be located on another parcel, a copy of the easement to be conveyed to the permittee; and
- (5) any additional information as required by the Administrative Officer to determine compliance with these regulations.

(D) **Issuance of Zoning Permit.** In addition to the requirements of Section 9.1, the Administrative Officer shall not issue a zoning permit for any structure or use that requires a new or upgraded wastewater disposal system until it is determined that the system design complies with the requirements of this section.

(E) **Issuance of a Certificate of Occupancy.** In addition to the requirements of Section 9.2, no certificate of occupancy shall be issued by the Administrative Officer until he/she determines that the wastewater disposal system, as installed, complies with system design as approved with the issuance of the zoning permit. The applicant shall notify the Administrative Officer of system installation prior to covering it. The Administrative Officer, or his or her designated representative, has the option of inspecting the uncovered system as installed within two working days of notification.. A determination of compliance shall be based on either:

- (1) submission by the applicant of written and signed certification from a qualified professional that the system as been installed as approved by the municipality, as confirmed through inspection; or
- (2) the submission of a state subdivision permit.

(F) **Warning & Disclaimer of Liability.** Approval of any sewage disposal system design and installation by the issuance of a zoning permit or certificate of occupancy shall not imply that the approved

with the exception of limited clearing and site development associated with the following allowed encroachments:

- (1) road, rail, driveway and utility crossings,
- (2) bank stabilization or restoration projects, designed and constructed in accordance with applicable state and federal regulations,
- (3) unpaved pedestrian and recreation paths,
- (4) landscaping to maintain physical and visual access,
- (5) lake or river access improvements (e.g., piers, docks, and boat ramps).

Such encroachments shall be sited and designed to minimize surface runoff, channeling, and soil erosion.

(E) For development subject to subdivision, site plan, or conditional use review, the Planning Commission or Board of Adjustment may require increased setback distances, limit access, and/or a buffer area management plan, if it is determined that such measures are needed based on site, slope and soil conditions and the nature of the proposed use.

(F) The expansion or enlargement within setback areas of any structure lawfully in existence prior to the effective date of these regulations shall be subject to review as a Nonconforming structure under Section 3.8.

### **Section 3.15 Wastewater Systems [On-Site]**

(A) **Applicability.** No building or structure shall be erected, altered or converted to another use unless an adequate wastewater disposal system is provided in compliance with all applicable municipal and state regulations. This includes:

- (1) all new seasonal, accessory or single family dwellings, multi-family dwellings, commercial, industrial and mixed use buildings;
- (2) alterations to existing structures which could result in the increased generation of wastewater, including but not limited to the addition of bedrooms, accessory apartments, and/or a water system;
- (3) changes in use that could result in the increased generation of wastewater, including but not limited to the conversion of a seasonal dwelling to year-round use, or the conversion of a single family dwelling to two-family or multi-family dwelling.

These provisions shall not apply to the normal maintenance of an existing sewage disposal system, including periodic pumping and cleaning; to failed systems regulated under Swanton's municipal health ordinance; nor to structures that are to be connected to a municipal or approved community wastewater treatment system.

(B) **Standards.** Subsurface sewage disposal systems shall be designed and constructed by a qualified professional licensed or certified by the state (i.e., a professional engineer or site technician) in accordance with the following:

- (1) All new subsurface wastewater disposal systems shall meet specifications in the Vermont Department of Environmental Conservation's *Environmental Protection Rules* as most recently amended.

- (1) Business signs in addition to those allowed under Table 3.5, whether inside or outside of the Village limits, which do not exceed an area of 50 square feet per face, or 100 square feet in total, and which do not exceed 15 feet in height .
- (2) Signs which may otherwise not meet the requirements of these regulations, but, because of their artistic or cultural merit, contribute significantly to the character of the area and the community.

### **Section 3.13 Steep Slopes**

(A) Development on slopes equal to or in excess of 15%, or which results in such slopes, shall be subject to conditional use review under Section 5.4 and the following provisions:

- (1) The site development plan submitted under Section 5.4 shall include contour lines at 2 foot intervals, slope profiles showing existing gradients and proposed cut and fill sections, and a stormwater management and erosion control plan covering all phases of development (site preparation, construction, post construction) prepared by a professional engineer licensed by the state.
- (2) Development shall be sited and constructed, and slopes stabilized in accordance with accepted engineering and best management practices for stormwater management and erosion control to:
  - a. prevent runoff, erosion, slumps, and other down slope movements of material, and
  - b. minimize associated risks to surface and ground waters, public facilities and roads, and neighboring properties.
- (3) Development, including road and utility corridors, shall be sited and designed to minimize visual impacts from public vantage points. The use of landscaping and natural materials is encouraged, and may be required to screen or lessen the visual impact of such development.

(B) Development is specifically prohibited on slopes in excess of 25%.

### **Section 3.14 Surface Waters & Wetlands**

(A) An application for development which includes the alteration of the natural course of any stream or river, or an encroachment into a wetland area is subject to state agency referral requirements under Section 9.1 (see Table 9.1).

(B) To prevent surface runoff and soil erosion, and protect water quality and wildlife habitat, all structures and other impervious surfaces, except for allowed encroachments under Subsection (D) below, shall be set back at least 50 feet, as measured horizontally, from all stream and river banks (as measured from the top of the bank or mean waterline, whichever is greater), shorelines (as measured from the mean water line), and wetlands (as measured from a delineated boundary).

(C) The setback distance for wetland areas may be reduced in accordance with a conditional use determination (CUD) issued by the state under the Vermont Wetland Rules. In the event that a CUD has been issued, the setback requirements specified in the determination shall apply.

(D) Setback areas shall be maintained as naturally vegetated buffers. No development, excavation, landfill, or grading shall occur within the buffer area, and vegetation shall be left in an undisturbed state,

**(E) Maintenance & Removal.**

- (1) All signs shall be maintained in a safe and secure condition. Nothing in these regulations shall prevent normal sign maintenance and repair, including the replacement of broken parts. If the Administrative Officer is of the opinion that a sign is not safe, secure, or in a good state of repair, a written warning and/or notice of violation under Section 9.5 may be issued with a request that any defect in the sign be immediately corrected. Any costs incurred by the municipality for the repair or removal of such signs shall be assessed against the owner of the land or building on which the sign was located.
- (2) Pre-existing nonconforming signs may remain in use until such time as they are damaged beyond 50% of their appraised value. No nonconforming sign may be expanded, or the message altered in any way, unless the altered sign is brought into conformance with these standards.
- (3) Any sign which advertises a business or product which is no longer conducted or available on the premises shall be removed immediately by the owner. If the sign is not removed within one month of the date of discontinuance, the Administrative Officer may take enforcement action under Section 9.5. Any costs incurred by the municipality for the removal of such signs shall be assessed against the owner of the land or building on which the sign was located.

**(F) Application Requirements.** An application for a sign permit shall include, in addition to applicable requirements of Section 9.1, the following information:

- (1) the location of the building, structure, or land on which the sign is to be located;
- (2) a description of all existing signs located on the property;
- (3) a detailed drawing or blueprint which shows:
  - construction details, including all structural and supporting elements,
  - lettering and/or pictorial composition,
  - lighting, including type and positioning, and
  - any other extraneous devices;
- (4) a location or siting plan which shows:
  - the sign position in relation to adjacent buildings, structures, public and private rights-of-way,
  - the sign position in relation building or structural elements (elevations, roof eaves, facades, etc.),
- (5) written consent of the owner of the property on which the sign is to be located;
- (6) a copy of any required or necessary electrical permit or permit application;
- (7) such other pertinent information that the Administrative Officer may require to ensure compliance with the provisions of these regulations.

**(G)** The Board of Adjustment may allow the following signs as a conditional use subject to review under Section 5.4:

<b>Table 3.5 Sign Requirements [Maximum]</b>					
	Type	No.	Area <sup>a</sup>	Height <sup>b</sup>	Other
(1) Business/All [Except within an approved industrial park]	Wall	2	1 sq.ft./ foot of building length	Shall not extend above the roof eave	Mount facing street from which access is provided; attach to wall parallel to the building face; cannot project more than 1 foot beyond building face
(2) Business/Village	Free standing	1	25 sq.ft.	10 feet	Allowed for businesses in the Village, in addition to wall signs under (1)
	Easel/Sandwich Board	1	12 sq.ft.	6 feet	Allowed in addition to others; may be displayed only during hours of operation
(3) Business/Town	Free standing	1	50 sq.ft.	15 feet	Allowed for businesses outside the village, in addition to wall signs under (1)
	Easel/Sandwich Board	1	32 sq.ft.	8 feet	Allowed in addition to others; may be displayed only during hours of operation
(4) Home-Based Businesses	Wall or Free standing	1	8 sq.ft.	6 feet	Intended for all types of home-based businesses including B&Bs, child care, etc.
(5) Public Assembly	Wall or Freestanding Bulletin Board	1	25 sq.ft.	10 feet	Intended for schools, churches and similar public meeting facilities
(6) Farm/Roadside Stand	Wall or Free standing	1	20 sq.ft.	10 feet	On premise sign; may remain in place off-season when stand is not in operation
(7) Residential Development	Free standing	1	12 sq.ft.	10 feet	Multi-family developments, residential subdivisions
(8) Temporary/Construction	Free Standing	1	20 sq.ft.	10 feet	Shall be removed upon completion of the construction project
(9) Temporary/Real Estate	Free Standing	1	6 sq.ft.	10 feet	Allowed on any lot for sale or lease; shall be removed upon sale or lease

a. Area is given for a single side or sign face [including any supporting frame or structure]; freestanding signs shall have no more than 2 faces (front and back).

b. Height is as measured from ground level to the top of the sign or supporting structure, whichever is higher.

driver of any motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching, entering, or merging traffic; free standing signs shall not be placed within 25 feet of the traveled portion of a road or property line, or within 25 feet from any road intersection;

- (2) is illuminated, unless such lighting is effectively focused and shielded such that it does not cause undue glare, impair the vision of drivers or motor vehicles, or illuminate neighboring properties;
- (3) contains any moving or animated parts, or is illuminated by flashing lights, except for barber poles and traffic control devices;
- (4) is located or painted on any tree, rock or other natural feature;
- (5) presents a safety hazard to pedestrians (e.g., by reason of hanging over public sidewalks or of not being securely fixed to a substantial structure or support);
- (6) is located on the roof of any building, or which extends above the eave or edge or the roof on that part or side of the building on which it is located; or
- (7) is located within or projects over a public or private right-of-way.

temperature, or in the temperature of any structure adjoining the property.

- (8) **Direct Glare.** Direct glare is defined for purposes of these regulations as illumination beyond property boundaries caused by direct or arc lighting, or other source of light. No such direct glare shall be permitted with the exception that parking areas and walkways may be illuminated by luminaries with cutoff, hooded or otherwise shielded fixtures such that the maximum angle of the cone of direct illumination shall be 70 degrees, or for fixtures less than 4 feet in height, 90 degrees, as drawn perpendicular to the ground. Such luminaries shall be placed no more than 25 feet above ground level and the maximum illumination at ground level shall not exceed 3 foot-candles. For development subject to site plan or conditional use review, a lighting plan may be required.
- (9) **Indirect Glare.** Indirect glare for the purposes of these regulations is defined as illumination beyond property lines caused by diffuse reflection from a surface such as water, a wall, a window or the roof or a structure. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface not to exceed a maximum of 0.3 foot-candles, and an average of 0.1 foot candles. Deliberately induced sky-reflected glare (e.g., casting a beam upward for advertising purposes) is specifically prohibited.
- (10) **Liquid & Solid Wastes.** No discharge of liquid or solid wastes or other materials of such nature or temperature as can contaminate surface or groundwater, or otherwise cause the release of dangerous or offensive elements, shall be permitted at any point into any sewage disposal system, watercourse or lake, or into the ground, except in accordance with all applicable municipal, district, state, and federal regulations. There shall be no accumulation of solid wastes conducive to the breeding of rodents and insects.
- (11) **Farming & Forestry Operations.** Farming (agricultural) and forestry (silviculture) operations, as defined by the state in accordance with the Act [§4413(d)], are exempt from the provisions of these regulations (see Section 9.1), but at minimum shall follow accepted agricultural practices (AAPs), and accepted management practices (AMPs) for silviculture, as required by the state.

### Section 3.12 Sign Regulations

(A) **Purpose.** The purpose of this section is to minimize undue advertising distractions and the proliferation of sign obstructions by regulating existing and proposed outdoor signs. Such distractions or obstructions can contribute to visual confusion and traffic accidents, as well as physical hazards. It is further intended to promote efficient, effective and attractive signs, to maintain and improve the visual attractiveness of shopping areas, and to conserve the scenic beauty of open spaces which may visually deteriorate in the absence of sign regulations.

(B) **Applicability.** A zoning permit issued in accordance with Section 9.1 shall be required prior to the construction, erection, placement, display, or substantial alteration of any sign. Existing signs shall be maintained, and new signs improved, only in accordance with the provisions of this section. Signs not provided for in this section, including all off-premise signs, are specifically prohibited.

(C) **Specific Requirements.** Signs shall meet all requirements as listed in Table 3.5

(D) **General Requirements.** In addition to the requirements of Subsection (C), no sign shall be maintained or improved which:

- (1) interferes with or resembles any official traffic control sign, signal or device, or which prevents the

- (2) **Vibration.** No vibration shall be produced through the ground which is discernable without the aid of instruments at or beyond the property boundary.
- (3) **Noise.** No noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted. The maximum sound pressure (decibel) level generated by any use, operation, or facility shall not exceed the values prescribed in Tables 3.3 for a continuous noise emitted from a facility or operation between the hours of 9 p.m. and 7 a.m., as measured from the lot line. If the noise is not smooth and continuous, and/or is not emitted between the hours of 9 p.m. and 7 a.m., one or more of the corrections in Table 3.4 shall be applied to decibel levels in Table 3.3.

Table 3.3 Maximum Decibel Levels	
Frequency Band (Cycles per Second)	Decibel Level
20 - 75	69
75 - 150	60
150 - 300	56
300 - 600	51
600 - 1,200	42
1,200 - 2,400	40
2,400 - 4,800	38
4,800 - 10,000	35

Table 3.4 Decibel Corrections by Type of Noise and Operation	
Daytime operation only	+5
Noise source operates less than (consider only one):	
(a) 25% of any 1 hour period	+5
(b) 5% of any 1 hour period	+10
(c) 1% of any 1 hour period	+15
Noise is of an impulsive nature (e.g., hammering)	-5
Noise is of a periodic nature (e.g., hum, screech)	-5

- (4) **Smoke.** No emission shall be permitted at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on a standard Ringelmann Chart issued by the U.S. Bureau of Mines (or direct facsimile thereof), except that visible grey smoke equaling No.2 may be emitted for not more than 4 minutes in any 30 minute period. These provisions also shall apply to visible smoke of any color having an apparently equivalent opacity.
- (5) **Odor.** No noticeable odors shall be discharged which are offensive and uncharacteristic of the area, or which may limit or damage the use of any public or private property or facility.
- (6) **Fly Ash, Dust, Fumes, Vapors, Gases & Other Forms of Air Pollution.** No emissions shall be permitted which can cause any damage to health, to animals, to vegetation, or other forms of property, or which can cause any excessive soiling at any point on or beyond the property.
- (7) **Heat.** For the purposes of these regulations, heat is defined as any thermal energy of a radioactive, conductive or convective nature. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property whether such change be in air, ground or water

any dangerous, injurious, obnoxious or otherwise objectionable fire, explosive or other hazard; noise or vibration; smoke, dust, odor, or other form of air or water pollution; heat, cold, or dampness, electromagnetic interference, or other substance, condition, or element in such a manner or amount that it would adversely affect public health and safety, public facilities and infrastructure, or the reasonable use of neighboring properties or the surrounding area.

(B) **Applicability.** Performance standards contained herein shall apply to all new development, including the alteration, conversion, expansion or relocation of existing uses, structures and/or associated operations on a parcel. Pre-existing uses and operations in lawful existence as of the effective date of these regulations which exceed these standards shall be considered exempt until such time as they are discontinued or altered. Standards shall be invoked by the Administrative Officer against any use if there are reasonable grounds to believe that the performance standards are being violated by such use. In determining compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.

(C) **Application Requirements.** For development subject to site plan or conditional use review the application shall include a proposed construction plan, a description and specifications for all proposed machinery, operations, and products to be located and/or stored on-site, and a description of the methods or techniques to be used to ensure siting, use and operation in conformance with performance standards as listed under Subsection (D). The applicant also shall file with such plans and specifications a signed affidavit acknowledging their understanding of applicable performance standards, and stating their agreement to conform with such standards at all times. No applicant will be required to disclose any secret process.

(D) **Performance Standards.** In accordance with the Act [§4414(5)], the following performance standards must be met and maintained for all uses in all districts, except for agriculture and temporary forestry operations:

- (1) **Fire & Explosion.** All activities involving the use and/or storage of flammable and explosive materials shall be equipped with adequate safety devices against the hazard of fire and explosion, and adequate fire fighting and fire suppression equipment and devices which are standard for such industry or activity. Burning of waste materials in open fires is prohibited. Relevant provisions of state and federal law also shall apply.

<b>Table 3.2 Off-Street Loading Requirements</b>	
<b>Types of Use</b>	<b>Minimum Berth Requirements</b>
Public institutions, schools, assembly facilities, residential care facilities with a minimum gross floor area of 10,000 square feet	1 berth for 10,000 sq.ft. of floor area, and 1 additional berth for each additional 25,000 sq.ft. of floor area or fraction thereof
Government, professional or business offices and laboratory facilities having a minimum gross floor area of 10,000 square feet	1 berth up for up to 25,000 sq.ft. of floor area, and 1 additional berth for each additional 50,000 sq.ft. of floor area or fraction thereof
Retail stores and service establishments having a minimum gross floor area of 8,000 sq.ft.	1 berth for up to 25,000 sq.ft. of floor area, and 1 additional berth for each additional 25,000 sq.ft. of floor area or fraction thereof
Funeral Homes	1 berth for each chapel or visiting room (such berths shall be at least 10 ft. wide , 20 ft. long, and 14 ft. high)
Lodging Facilities (hotels, motels, inns)	1 berth for each 25,000 sq.ft. of floor area, or fraction thereof
Manufacturing, wholesale, warehousing and storage uses, and dry cleaning and laundry facilities with a minimum gross floor area of 5,000 sq.ft.	1 berth for up to 10,000 sq.ft. of floor area, and 1 additional berth for each additional 20,000 sq.ft. of floor area or fraction thereof
Unspecified	As required by the Planning Commission under site plan review.

(D) **Waivers.** The Planning Commission may waive on-site parking, loading and service area requirements for development subject to site plan review, upon determination under one or more of the following provisions that, due to circumstances unique to the development, the strict application of these standards is either unnecessary or inappropriate:

- (1) green space areas are to be set aside and maintained as open space for future conversion to parking, loading or service areas in the event that the areas initially permitted are subsequently deemed inadequate by the body having initial jurisdiction;
- (2) adequate shared parking, loading and/or service areas for use by two or more businesses exists on contiguous lots under common ownership or long-term lease;
- (3) adequate off-site public parking exists within reasonable walking distance of the establishment;
- (4) an employer reduces the need for on-site parking by offering a “transit pass” program or other acceptable evidence that employees will use carpool, vanpool, or other rideshare programs, walk or bicycle to work; or
- (5) the development is for affordable or elderly housing as defined herein.

**Section 3.11 Performance Standards**

(A) **Purpose.** No land or building in any district shall be used or occupied in any manner so as to create

- g. Parking areas shall be landscaped and screened by a wall, fence or thick hedge subject to approval by the Planning Commission. Generally, such screening shall not be less than 3 nor more than 8 feet in height.
- h. Whenever a parking area of over 5 spaces is located across the street from other land in any residential district, it shall be screened from the view of such land by a thick hedge, wall, or fence approved by the Planning Commission, located along a line drawn parallel to and setback from the street a distance 20 feet. Such screening may be interrupted only at approved accesses for ingress and egress. Generally such screening shall be no less than 3 nor more than 8 feet in height. The 20 foot open setback area shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting the same street. Two identification and directional signs located on the street side as such screening shall be permitted; however they shall not exceed an area of 3 square feet each.

(8) For development subject to site plan review, one or more of the following may be required by the Planning Commission as a condition of approval:

- a. a parking area management plan,
- b. shared parking,
- c. parking area landscaping, screening, lighting, and/or snow removal,
- d. setbacks and buffers from surface waters of sufficient width to protect water quality,
- e. associated pedestrian and transit facilities (e.g. paths, sidewalks, bus stops).

(B) **Loading Areas.** Off-street loading areas (open or enclosed berths) may be provided as an accessory use or structure, in accordance with the requirements set forth below. Any land which is developed as a unit under single ownership shall be considered a single lot for the purposes of these provisions:

- (1) Accessory off-street loading berths shall be provided for all uses as specified in Table 3.2.
- (2) Each loading berth shall be at least 12 feet wide, 33 feet long, and 14 feet high, unless otherwise required by the Planning Commission under site plan review.
- (3) No loading berth shall be located in the front yard area.
- (4) Unobstructed access, at least 10 feet wide, to and from the road shall be provided. Such access may be combined with access to a parking lot.
- (5) All permitted or required loading berths shall be on the same lot as the use to which they are accessory; however joint facilities may be provided in spaces designed to serve two or more adjacent establishments as long as the total number of berths equals the total number required for each facility or use as set forth in Table 3.2.

(C) **Service Areas.** For development subject to site plan review under Section 5.3, the Planning Commission may require on-site service areas for emergency vehicles, waste disposal and collection, bus, taxi or van service, or other purposes as may be necessitated by the intended use. Required service areas shall be clearly marked, and located in such a manner that they are not blocked or obstructed by other structures or parked vehicles. Landscaping and/or screening may be required as appropriate to minimize adverse impacts to public areas and adjoining properties.

- (5) Parking of one commercial vehicle over 16,000 G.V.W.R. on a residential lot shall be a conditional use subject to conditional use review under Section 5.4. In addition to conditional use requirements, the Board of Adjustment shall also consider the following:
- a. cargo hazards, and
  - b. vehicle ownership.
- (6) No entrance or exit from any off-street parking area shall be located within 50 feet of any road intersection.
- (7) In addition to the above, parking areas subject to site plan review under Section 5.3 shall meet the following requirements:
- a. In addition to the requirements listed in Table 3.1, all multi-family, public, commercial and industrial developments must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal (e.g., ADA) requirements, and at least one bicycle rack for use by residents, employees and/or the general public.
  - b. All open parking areas shall be properly drained in accordance with accepted best management practices for stormwater drainage, and all such areas shall be provided with a dustless surface. The use of pervious materials to reduce stormwater runoff is encouraged, and may be required.
  - c. Shared parking is encouraged and may be required. Required parking spaces, open or enclosed, may be provided in parking areas designed to jointly serve two or more establishments, whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall not be less than the total required for all such establishments.
  - d. When a lot contains two or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more uses will be generating a demand for parking spaces primarily during periods when other uses are not in operation, the Planning Commission may reduce the total number of parking spaces required for that use to the lesser required.
  - e. Required parking spaces, open or enclosed, shall be located either on the same lot as the use for which they are accessory, or off-site, provided that all required spaces are located within 200 feet walking distance of such lot. Such spaces shall be in the same ownership or under long-term lease agreement as the use to which they are accessory, and shall be subject to deed restriction, approved by the Planning Commission, binding the owner and heirs and assigns to maintain the required number of spaces either:
    - (i) throughout the existence of such use to which they are accessory; or
    - (ii) until such spaces are provided at another location approved by the Planning Commission.
  - f. Open or enclosed parking areas for 5 or more vehicles shall include parking spaces that are individually identified (e.g., by means of pavement markings). Such parking areas shall not be located in any front yard, within 10 feet of any property line, or within 15 feet of any wall of a dwelling that contains windows (other than bathroom or kitchen windows) with a sill height of less than 8 feet above the level of the parking space. Such parking areas shall not be used for automobile service, repair or fueling, or for the storage of gasoline, oil, grease or other materials.

<b>Table 3.1 Off-Street Parking Requirements</b>	
<b>Use Type</b>	<b>Minimum Spaces Required</b>
Bed & Breakfast	2 per dwelling unit, 1 per lodging room and 1 per non-resident employee
Bowling Alley	5 per alley or lane
Community Care Facility (nursing home, group home)	1 per 3 beds
Dwelling	2 per unit; or 1 per unit for an accessory dwelling
Educational Facility	1 per 5 auditorium seats and 2 per elementary classroom or 4 per secondary classroom
Funeral Home	1 per 2 employees and 5 per chapel or visiting room
Golf Course/Country Club	1 per 2 members or 1 per every 2 accommodations (e.g., lockers), whichever is greater
Health Clinic	5 per physician, dentist or other primary care giver
Home Business (Home Occupation, Cottage Industry)	2 per dwelling and 1 per nonresident employee
Lodging Facility (hotel, motel, inn)	1 per room or rental unit and one per employee for largest shift
Manufacturing	1 per 2 employees for the largest shift, or 1 per 300 sq.ft. of gross floor area, whichever is greater
Neighborhood Store	5 per store
Office	1 per 300 sq.ft. of gross floor area
Personal Service	5 per establishment
Private Club	1 per 4 members
Public Assembly (place of worship, auditorium, meeting hall, theater, etc.)	1 per 200 sq.ft. of gross floor area, or 1 per 5 seats in assembly room(s), whichever is greater
Public Facility with no or limited public access (stations, garages, etc., not open to the general public)	1 per 1000 sq. ft. of gross floor area and 1 per on-site employee at largest shift
Restaurant	1 per 5 seats
Retail Sales & Service	1 per 300 sq.ft. of gross floor area
Roadside Stand	3 per stand
Service Establishment	5 per establishment
Warehouse	1 per 1,000 sq.ft. of gross floor area, and 1 per employee at largest shift
Unspecified	As determined by the Planning Commission under site plan review

or reduce the district setback requirement by up to 30%, whichever is less, within the boundary lines of a pre-existing parcel or lot; provided that such alteration, extension or enlargement does not violate the purpose of any lot, dimensional, parking or other applicable requirement of these regulations, and shall not cause a substantial increase in an existing violation of any such requirement. Any increase in the degree of noncompliance in excess of 30% shall be subject to variance requirements under Section 9.4 .

- (4) may be increased in height only in accordance with Section 3.6 of these regulations.

**Section 3.9 Open Storage of Junk & Vehicles**

(A) In any district two or more junk or motor vehicles, not inspected and not registered with the state, excluding vehicles and equipment used in farming operations, or associated with permitted auto service stations, auto repair businesses or salvage yards, shall be stored in an enclosed area concealed year-round from view of public roads through the use of fencing, landscaping or other screening.

(B) New salvage yards and solid waste transfer stations shall be located only within in designated zoning districts, and shall comply with all applicable municipal and state regulations.

**Section 3.10 Parking, Loading & Service Area Requirements**

(A) **Purpose.** To ensure that all new or expanded uses will provide adequate parking, loading and service areas so that normal traffic to and from the premises will not interfere with public rights-of-way or adversely affect traffic circulation, public safety, or neighboring properties.

(B) **Parking Requirements.** Whenever any new use is established, or when an existing use is expanded or changed, off-street parking areas shall be provided as set forth below:

- (1) The number of spaces existing and to be provided shall meet at minimum the standards set forth in Table 3.1.
- (2) Parking facilities or areas considered in the calculation for open or enclosed off-street parking may include private parking lots or garages, carports, or any other area available for parking other than a street or driveway; however a driveway within a required front yard setback for a single or two-family dwelling may count as one parking space, except on a corner lot.
- (3) The minimum parking space (stall width and length) per passenger vehicle shall be 9 feet by 20 feet. Two hundred seventy (270) square feet shall be considered the minimum parking area per passenger vehicle, to include the parking space, standing area, and aisles for maneuvering. Additional parking area may be required to accommodate larger commercial vehicles, as required under site plan or conditional use review. Exit and entrance lanes shall not be included in the calculation of parking areas except for driveways serving single or two-family dwellings, as set forth in Subsection (B)(2) above.
- (4) All parking accesses must meet Vermont Agency of Transportation (B-71) standards (also see Section 3.2).

review under Section 5.4. This provision specifically does not apply to setbacks from surface waters as set forth in Section 3.14. Any reduction of setbacks in excess of 30% may be granted only in accordance with variance requirements under Section 9.4.

### **Section 3.8 Nonconforming Uses & Nonconforming Structures**

(A) **Applicability.** In accordance with the Act [§4412(7)], the following provisions shall apply to all structures and uses in lawful existence as of the effective date of these regulations, or subsequent amendments thereof, which do not conform to the requirements of these regulations.

(B) **Nonconforming Uses.** A pre-existing use which does not conform with uses allowed in the district in which it is located shall be deemed a nonconforming use. The nonconforming use of a structure(s) or land may be continued indefinitely, however, such a use:

- (1) shall not be moved, enlarged, altered, re-established or restored, except as specifically provided below, nor shall any external evidence of such use be increased by any means whatsoever;
- (2) may be changed to another nonconforming use with conditional use approval of the Board of Adjustment under Section 5.4, but only to a use which, in the opinion of the Board of Adjustment, is more in conformance with district purposes and allowable uses than the previous use;
- (3) shall not be re-established if such use has been discontinued for any reason for a period of one year, regardless of any intent to resume such use, or has been changed to or replaced by a conforming use; and
- (4) shall not be restored to other than a conforming use after damage from any cause, unless the nonconforming use is reinstated within one year of such damage (e.g., within a restored structure), or the nonconforming use is carried on without interruption on the lot and/or within the undamaged portion of such structure;
- (5) shall be deemed to have been discontinued within one year after damage or discontinuance, except in accordance with subsections (3) and (4) above.

(C) **Nonconforming Structures.** A pre-existing structure, or part thereof, which is not in compliance with the provisions of these regulations concerning setbacks, height, lot size or other dimensional requirements, or which does not meet parking area or other applicable requirements of these regulations, shall be deemed a Nonconforming structure. A Nonconforming structure may be continued indefinitely. Nothing in this section shall be deemed to prevent normal maintenance and repair of a Nonconforming structure, however, such a structure:

- (1) shall not be reconstructed after damage from any cause unless reconstruction is completed within one year of such damage, and does not increase the degree of noncompliance which existed prior to the damage (see Section 3.1);
- (2) may be moved, altered, extended, or enlarged in a manner which does not increase the degree of noncompliance (e.g., the footprint or height of the structure located within setback or yard areas); or
- (3) may, subject to conditional use review under Sections 5.4 and 3.7(K), undergo alteration, extension or enlargement in a manner which would either increase the degree of noncompliance by up to 30%,

- (6) access to the structure, particularly for climbing, is restricted;
- (7) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation; and
- (8) all other applicable conditional use and performance standards (Section 3.11) are met.

**Section 3.7 Lot, Setback & Yard Requirements**

- (A) Only one principal use or structure shall be located on a single lot or parcel, unless specifically allowed within a district as a mixed use, as otherwise approved by the Planning Commission as part of a Planned Unit Development (see Article 8), or as allowed under adaptive reuse provisions of these regulations (see Section 4.3).
- (B) An accessory use or structure must conform to all lot, setback and other applicable requirements for the district in which it is located, unless otherwise specified [see Table 2.15, Section 9.1(A)].
- (C) No lot shall be so reduced in area that it cannot conform to area, setback, yard, frontage and other dimensional requirements as prescribed in these regulations, except as approved by the Planning Commission as part of a Planned Residential or Planned Unit Development under Article 8.
- (D) In calculating required lot area, lot width, lot depth, and yards, the area of existing or proposed road rights-of-way shall not be included.
- (E) A minimum of 70% of the lot frontage distance shall be maintained through the depth of the lot (i.e., lot width, as measured parallel to the street line, shall not be reduced anywhere by more than 30% of the frontage distance).
- (F) Space required under these regulations to satisfy area, yard or other open space requirements in relation to one principal structure or building shall not be counted as part of the required open space for any other principal structure or building.
- (G) Setback distances defining front yard areas shall be measured from the edge of the road right-of-way (street line), or from a distance of 25 feet from the road centerline, whichever is greater.
- (H) Corner lots with frontage on two roads shall meet minimum district frontage and front yard setback requirements on both roads.
- (I) For lots having both road and lakeshore or river frontage, the front yard shall be the yard defined by the front yard setback distance as measured from the road.
- (J) For an interior lot which does not have frontage on a public or private road or public waters, the minimum lot width shall be the frontage distance, and the minimum setback distance defining all yards (front, side, rear) shall be the minimum side yard setback distance for the district in which the lot is located; an interior lot shall meet all other applicable requirements for the district in which it is located.
- (K) Notwithstanding minimum district setback requirements under Article 2, the Board of Adjustment may reduce district front, side and rear setback requirements up to 30% as a conditional use subject to

- (1) the lots are conveyed in their pre-existing, non-conforming configuration; and
- (2) on the effective date of these regulations, each lot had been developed with a water supply and wastewater disposal system; and
- (3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
- (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, pursuant to the Act [§4412(1)(B)(iv)].

**Section 3.6 Height Requirements**

(A) The maximum height limit for each zoning district shall apply to all principal and accessory structures and buildings, unless specifically excluded under Subsection (B), or as conditional uses subject to conditional use review under Subsection (C) below.

(B) The following types of structures are specifically exempted from district height requirements:

- (1) farm structures, including barns and silos, in accordance with the Act [§4413(d)];
- (2) steeples, spires, cupolas and belfries on churches and public buildings;
- (3) telecommunications facilities (see Section 4.20);
- (4) transmission towers;
- (5) the following structures associated with a public or residential use, which do not exceed 40 feet in height from the finished grade at ground level to the top of the structure:
  - a. wind generators with blades less than 20 feet in diameter,
  - b. rooftop solar collectors,
  - c. satellite dishes less than 3 feet in diameter (also see Section 4.20),
  - d. chimneys, ornamental cupolas, weather vanes and flag poles.

**Height:** The vertical distance of a structure or building as measured from the average of the highest and lowest elevations of the finished grade at the foundation or base to the highest point on the top of the building or structure; or for a gable-type roof, to the average height between the eave and the ridge.

(C) Notwithstanding maximum district height requirements under Article 2, the Board of Adjustment may permit structures in excess of district height requirements as conditional uses subject to review under Section 5.4, and upon finding that:

- (1) the structure does not constitute a hazard to public safety or adjoining properties;
- (2) fire protection is adequately provided for;
- (3) the portion of the structure that exceeds the district height requirement shall remain unoccupied except for normal maintenance;
- (4) structural design and/or front, side and rear yard setbacks are sufficient to protect adjoining properties and rights-of-way in the event of structural collapse;
- (5) the structure shall not be used for advertising purposes;

- (4) Adequate water and wastewater systems shall be provided in accordance with Section 3.15.
- (D) The conversion of a seasonal to a year-round single family dwelling shall be subject to conditional use review under Section 5.4, and the following additional requirements:
  - (1) The seasonal structure shall contain at minimum 850 square feet of livable floor space which is suited for year-round occupancy (e.g., insulation, heating and indoor plumbing facilities).
  - (2) The lot area for a pre-existing seasonal dwelling, legally in existence as of the effective date of these regulations, to be converted to year-round use shall be a minimum of 0.25 acres.
  - (3) There shall be provided on the lot two parking spaces in accordance with applicable parking standards under Section 3.10.
  - (4) An adequate water and wastewater system shall be provided in accordance with Section 3.15.

**Section 3.4 Equal Treatment of Housing**

- (A) In accordance with the Act [§4412(1)], no provision of these regulations shall have the effect of:
  - (1) excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded;
  - (2) excluding from the municipality housing to meet local housing needs as identified in the *Swanton Town & Village Municipal Plan*;
  - (3) preventing the establishment of a mobile home park within designated zoning districts, in accordance with state and municipal regulations (see Section 4.14);
  - (4) An accessory dwelling that is located within or appurtenant to an owner occupied single family dwelling shall be a permitted use (see Section 4.2).

**Section 3.5 Existing Small Lots**

(A) In accordance with the Act [§4412(2)], any lot in individual, separate, and nonaffiliated ownership from surrounding properties in existence as of the effective date of these regulations, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot dimensional requirements, if such lot is not less than 1/8 of an acre in area within a minimum depth dimension of 40 feet. Development of a pre-existing small lot shall be subject to all other applicable requirements of these regulations, including but not limited to access, parking and wastewater requirements.

(B) An existing small lot which is in affiliated or common ownership with one or more contiguous lots as of the effective date of these regulations, or which subsequently comes under affiliated or common ownership with one or more contiguous lots, shall be deemed merged and may be separately conveyed only if, in accordance with the Act, **all** of the following requirements are met:

(H) No driveway shall provide access to a lot located in another district which is used or is to be used for a use that is prohibited in the district in which the driveway is located.

(I) All commercial and industrial uses shall have direct access (via a curb cut, driveway, or access road) onto a maintained public road, and shall have unobstructed visibility of such road 300 feet in either direction as measured from the intersection (centerlines). Where two public roads may serve a commercial or industrial use (e.g., a corner lot), the secondary road shall be used for access unless otherwise specifically approved under subdivision, site plan and/or conditional use review.

(J) A private right-of way serving three or more lots, for the purposes of these regulations, shall be considered a private development road, and shall have a minimum right-of-way of 50 feet. Frontage requirements for lots served by development roads shall be the same as frontage requirements for parcels served by public rights-of-way.

### **Section 3.3 Conversion or Change of Use**

(A) A conversion or change in the use of land, existing buildings or structures is subject to the following provisions of these regulations:

- (1) The proposed use shall be subject to all requirements of these regulations pertaining to such use, including but not limited to any district, access, parking, and/or sewage disposal requirements, as well as any other applicable municipal regulations currently in effect.
- (2) A conversion or change of use from one permitted use to another permitted use requires a zoning permit issued by the Administrative Officer in accordance with Section 9.1. Site plan approval also may be required under Section 5.3 depending on the type of proposed use.
- (3) A conversion or change of use from a permitted to a conditional use, or from one conditional use to another conditional use shall require conditional use approval under Section 5.4 in addition to a zoning permit. Site plan approval also may be required under Section 5.3, depending on the type of proposed use.

(B) Where a conversion or change of use would result in increased sewage generation, including but not limited to the conversion of a seasonal or accessory dwelling to a single family dwelling, or a single family dwelling to a two-family or multi-family dwelling, or mixed use, a zoning permit shall not be issued by the Administrative Officer until a wastewater system design or upgrade has been approved in accordance with Section 3.15.

(C) Conversions of a single family to a two family or multi-family dwelling shall be considered a conditional use subject to conditional use review under Section 5.4, and the following requirements:

- (1) Such structure shall contain at least 650 square feet of liveable floor area for each dwelling unit.
- (2) There shall be provided on the lot two parking spaces for each dwelling unit, in accordance with applicable parking standards under Section 3.10.
- (3) The minimum lot size per dwelling unit for the district in which the dwelling is located shall apply.

safety and welfare. These may include, but not be limited to agreements that the town shall not be required to provide school bussing beyond the public highway and that the owner shall have the responsibility to maintain said right-of-way for access by emergency vehicles.

- (6) Proposed roads within the Southern Growth District shall be constructed to adequately handle the projected level of use and to Town of Swanton standards. Upon review and certification by the Town of conformance with those standards the roads shall be turned over to the Town.

(B) Access onto public highways is subject to the approval of the Swanton Select Board or Village Trustees, and for state highways, the Vermont Agency of Transportation. As a condition of access approval, compliance with all local regulations and ordinances pertaining to roads and land use is required. Access permits must be issued prior to the issuance of a zoning permit. In the event that subdivision, site plan and/or conditional use approval is required, access approval shall be obtained following the issuance of such approvals.

(C) All access roads and driveways entering onto public roads must meet Select Board and Trustee specifications for culverts, grading, and ditching. In addition:

- (1) No access road or driveway shall exceed an average grade of 10% for any 50 foot section (i.e., a maximum 5 foot rise per 50 foot stretch).
- (2) Driveways 500 feet or more in length shall include, at minimum, one 10 foot by 30 foot pull-off area. Additional pull-offs may be required subject to site plan or conditional use review.

(D) No lot may be served by more than one access (curb cut), except for:

- (1) temporary or permanent accesses used only for forestry or farming purposes, as approved by the Swanton Select Board;
- (2) temporary accesses for construction purposes, as approved by the Swanton Select Board; or
- (3) lots for which it is determined, subject to subdivision, site plan, and/or conditional use review, that:
  - a. additional access is necessary to ensure vehicular and pedestrian safety; or
  - b. strict compliance with this standard, due to the presence of one or more physical constraints (e.g., streams, wetlands, steep slopes) would result in a less desirable site design and layout, than would be otherwise possible; and/or
  - c. additional access is necessary in accordance with an approved traffic management plan.

(E) Shared access is encouraged and may be required for development subject to subdivision, site plan and/or conditional use review.

(F) For proposed development on lots where the number of pre-existing accesses exceeds the number allowed under these regulations, accesses shall be eliminated or combined to meet the requirements of these regulations, unless otherwise specifically approved by the Planning Commission or Board of Adjustment under Subsection (D)(3). The Planning Commission or Board of Adjustment may also require that a pre-existing access be moved.

(G) Access (curb cut) widths shall be limited to the width as approved and shall not extend along the length of road frontage. The installation of curbing or other defining infrastructure may be required for development subject to subdivision, site plan, and/or conditional use review.

## ARTICLE 3. GENERAL REGULATIONS

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### Section 3.1 Abandonment of Structures

- (A) No zoning permit shall be required for the stabilization of damaged structures to prevent hazards to public health and safety or to adjoining properties; nor for the repair, restoration or reconstruction of damaged structures to the extent of their prior condition and use. Reconstruction or rebuilding that results in density, dimensional or use changes under the provisions of these regulations will require a zoning permit.
- (B) Within one year after a permanent or temporary structure or building has been destroyed, demolished or abandoned; or for an unfinished structure or building, within one year of the date that excavation work has begun, the owner shall either:
- (1) apply for a zoning permit to resume construction or reconstruction in accordance with Section 9.1 of these regulations; or
  - (2) remove from the site all structural materials, cover or fill any excavation to the normal grade, and seed to re-establish ground cover and prevent erosion.

### Section 3.2 Access Requirements

- (A) In accordance with and in addition to the Act [§4412(3)], no land development may be permitted, which does not have either frontage on a maintained public road (State, or Town Highway Class I, II, or III); or with the approval of the Planning Commission, access by means of a permanent easement or right-of-way at least 20 feet in width to a public road or waters, in accordance with the following provisions:
- (1) Private right-of-way shall be defined as a “driveway” and is not part of the town highway system. It serves as an access to property for the purposes of development of not more than three (3) lots, for single family dwellings only. Future conversions of single family dwellings to two family dwellings will not be allowed on these lots. When a right-of-way serves more than one dwelling, it shall be built to A-76 standards of a minimum of 16 feet wide and to be designed and certified by a licensed engineer. Only one right-of-way per landowner shall be permitted on a continuous section of public highway for the purposes of land development. Where existing rights-of-way traverse more than one landowner’s property, the right to develop no more than three lots shall be available to each landowner.
  - (2) Each new lot shall meet frontage requirements of the district along the driveway.
  - (3) A cul-de-sac shall be provided to allow for turnaround of emergency vehicles. The cul-de-sac is to be built to A-76 road base standards with a minimum 50 foot radius, 100 foot width, 16 foot drive width and shall be designed and certified by a licensed engineer.
  - (4) If a Class IV road is to be used as a right-of-way, the applicant shall agree not to request or require the town to upgrade the road to a Class I, II, or III road, nor to maintain it for year-round use. Maintenance shall be the responsibility of the applicant and subsequent landowners. The reclassification of a Class IV road may be considered by the town only in accordance with state statute and applicable town road policies currently in effect.
  - (5) Additional restrictions may be imposed by the Planning Commission based on site, road and traffic conditions, proposed use, and school bus and emergency vehicle access, as required to ensure public