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ANDOVER ZONING REGULATIONS

TABLE OF CONTENTS

SYNOPSIS	3
ARTICLE I: GENERAL PROVISIONS	4
Section 100. APPLICABILITY	4
Section 110. ENACTMENT	4
Section 120. INTENT	4
ARTICLE II: ADMINISTRATION	4
Section 210. ADMINISTRATIVE OFFICER	4
Section 220. ZONING BOARD OF ADJUSTMENT	5
Section 221. POWERS AND DUTIES OF BOARD OF ADJUSTMENT	5
Section 222. APPEALS	6
Section 230. APPLICATIONS AND PERMITS	7
ARTICLE III: GENERAL REGULATIONS	8
Section 310. COMPLIANCE WITH REGULATIONS	8
Section 320. REDUCTION OF LOT AREA OR DIMENSION	8
Section 330. OBSTRUCTION AT STREET INTERSECTIONS	8
Section 340. ACCESSORY BUILDINGS	8
Section 350. USE OF LAND FOR ACCESS OR PARKING	8
Section 360. EXISTING SMALL LOTS	9
Section 370. REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR PUBLIC WATERS	9
Section 380. HOME OCCUPATIONS	9

Section 385.	SEPTIC SYSTEMS	9
Section 390.	REMOVAL OF DAMAGED STRUCTURES	9
ARTICLE IV:	MINIMUM REQUIREMENTS FOR R-1 DISTRICT	9
Section 410.	LOT SIZE AND FRONTAGE	9
Section 420.	BUILDING SIZE	9
Section 430.	SETBACKS	9
Section 440.	PARKING FACILITIES	10
Section 450.	CERTIFICATE OF OCCUPANCY	10
ARTICLE V:	PERMITTED USES FOR R-1 DISTRICT	10
ARTICLE VI:	CONDITIONAL USES FOR R-1 DISTRICT	10
Section 610.	CONDITIONAL USES	10
Section 620.	CONDITIONAL USE REQUIREMENTS	11
Section 620.1	WIRELESS COMMUNICATION FACILITIES DEFINITIONS	11
Section 620.2	WIRELESS COMMUNICATION FACILITIES STANDARDS:	12
Section 620.3	ELECTRICAL UTILITIES:	13
Section 620.4	SAND, SOIL AND GRAVEL EXTRACTION AND SALES	13
Section 630.	SITE PLAN APPROVAL	14
Section 630.1	REQUIREMENTS	15
Section 640.	NON-CONFORMING USES AND NON-COMPLYING STRUCTURES	16
Section 640.1	NON-COMPLYING STRUCTURES	16
ARTICLE VII:	FLOOD HAZARD	17
Section 710.		17
Section 720.	FLOOD HAZARD PROCEDURE	17
Section 730.	EXCEPTIONS AND LIABILITY	19

TOWN OF ANDOVER
ZONING REGULATIONS

SYNOPSIS

This page is intended to provide an overview of the requirements, time limits and appeals which apply to the building permit, variance and conditional use applications. The numbers in the parentheses refer to the Articles and Sections in the Zoning Regulations which deal with the subject.

1. The Town of Andover is zoned “R-1”, Residential. Permitted uses in residential districts are listed in Article V.
2. Building permits for permitted uses are issued by the Administrative Officer (Section 210).
3. A driveway permit and a septic disposal permit are required before a building permit may be issued.
4. Minimum requirements for “R-1” district are listed in Article IV.
5. Building permits are issued within 30 days after receipt of the completed application.
6. Building permits expire 2 (two) years from date of issue.
7. Denial of a building permit may be appealed to the Board of Adjustment.
8. A Certificate of Occupancy is issued by the Administrative Officer.
9. Requests for variances and conditional use applications must be submitted to the Board of Adjustment.
10. Variances may be granted only in conformance with the requirements listed in Section 222.3.
11. Conditional uses which the Board may grant are listed in Section 610.
12. Decisions by the Board of Adjustment may be appealed to the Environmental Court or Superior Court of this county.

ARTICLE I: GENERAL PROVISIONS

Section 100. APPLICABILITY

The following types of land development shall be subject to zoning regulations herein:

- (a) Division of a parcel of land into two or more parcels.
- (b) Lot line adjustments.
- (c) New construction, relocation or substantial improvement of any structure.
- (d) Commencement or extension of any mining, excavation or land filling.
- (e) Change or extension of the nature of use of any structure or land.

Where land development is subject to state and other local regulations, such as permits for subdivision, well-water or septic systems, it is required that these permits be applied for prior to submitting application for a permit under these Regulations. A permit will not be issued until the required state and other local permits have been approved and proof of approval and copy of the permit(s) filed with the Zoning Administrator.

Section 110. ENACTMENT

In accordance with 24 V.S.A., Chapter 117, (The Act), there are hereby established Zoning Regulations for the Town of Andover. These regulations shall be known and cited as the “Town of Andover Zoning Regulations.”

Section 120. INTENT

It is the intent of these Zoning Regulations to provide for orderly community growth and for implementation of the municipal development plan of the Town of Andover. In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

Section 150. EFFECTIVE DATE

These regulations shall take effect on the date of its approval by the legal voters of the Town of Andover and shall be repealed as of the date on which the legal voters approve such repeal.

Section 160. SEPARABILITY

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

ARTICLE II: ADMINISTRATION

Section 210. ADMINISTRATIVE OFFICER

The Administrative Officer shall administer and enforce these zoning regulations literally, and shall not have the power to permit any land development which is not in conformance with them. The Administrative Officer may make reasonable inspections as he or she deems necessary to

determine compliance, and shall maintain a full and accurate record, available to the public, of all applications and fees received, permits issued and denied, and violations reported.

In the absence or disability of the Administrative Officer, an acting Administrative Officer may be appointed and empowered in the same manner as provided in above.

[Reference: 24 VSA Section 4442]

Section 220. ZONING BOARD OF ADJUSTMENT

- A. A Zoning Board of Adjustment is hereby established. Except as specifically provided herein and in accordance with the provisions of 24 V.S.A., Chapter 117, the Zoning Board of Adjustment shall not amend, alter, invalidate or affect any bylaw of the Town of Andover or the implementation or enforcement thereof; nor shall it allow any use or structure not permitted by the Zoning Regulations.
- B. The Board of Adjustment also serve as members of the Planning Commission. All Board of Adjustment members are nominated by the Planning Commission and confirmed by the Board of Selectmen. Appointments are made in December with the term being four years. If a member of the Planning Commission does not want to serve on the Board of Adjustment, the Board of Selectmen will appoint another a resident of the town to fill the vacancy. Vacancies shall be filled by the legislative body for the unexpired term. Each member of the Board may be removed for cause by the legislative body upon written charges and after public hearing.
- C. The Board of Adjustment shall elect its own officers and adopt rules of procedure subject to the provisions of these Zoning Regulations and the Act. The officers of the Board may administer oaths and compel the attendance of witnesses and the production of material pertinent to any issue under appeal.
- D. Meetings of the Board shall be held at the call of the chairman and at such times as the Board may determine. All such meetings shall be open to the public.
- E. The Board may adopt, from time to time, such rules and regulations as it determines are necessary to effect the provisions of these Regulations in accordance with Section 4462 of the Act.

Section 221. POWERS AND DUTIES OF BOARD OF ADJUSTMENT

The Board of Adjustment shall have the following powers and duties:

- A. to hear and decide appeals including, without limitation, where it is alleged that an error has been committed in any order, requirement, decision, or determination made by an administrative officer in connection with the enforcement of this ordinance.
- B. to hear and grant or deny a request for a variance.
- C. to hear and grant or deny a request for a zoning permit for any structure within the lines

of any proposed street, drainageway, park, school, or other public facility shown on the official map.

- D. to hear and grant or deny a request for a zoning permit for a conditional use.

Section 222. APPEALS

222.1 An interested person may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the Board of Adjustment or the clerk of the municipality if no such secretary has been elected within 15 days of the date of such decision or act. For appeals for variances within flood hazard areas, the appellant shall file a notice of appeal with the Secretary of the Department of Environmental Conservation and the Regional Planning Commission with certification thereof to the Board of Adjustment. An interested party shall include the applicant, the municipality, adjacent property owners, and persons in the immediate neighborhood concerned with compliance with the municipal plan, any 10 persons owning real property within the municipality who petition to the Board of Adjustment that relief granted will not be in compliance with the municipal plan, any state agency owning property or an interest within the municipality, the Department of Environmental Conservation and the Regional Planning Commission if the appeal is with regard to a permit issued for land development in a flood hazard area.

222.2 The Board of Adjustment shall set a date and place for a public hearing on an appeal which shall be within 60 days of the filing of the notice of appeal according to Section 4465 of the Act. For an appeal for a variance within a flood hazard area, the Board shall give notice of the date and place of the hearing to the Agency of Environmental Conservation.

222.3 On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance if it finds that all of the facts listed in the Act [§ 4468(b)] are found in the affirmative and 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 regulation 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, nor 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; and

- E. That the variance, if authorized, will represent the minimum that will afford relief and will represent the least modification possible from the zoning ordinance and the Town Plan.

In granting any variance, the Board may prescribe appropriate conditions in conformity with this ordinance.

222.4 The Board shall render its decision, which shall include findings of fact, within forty-five days after completing the hearing and shall within that period send to the appellant, by certified mail, and to all parties at that hearing, a copy of the decision. A copy of the decision shall be filed with the Administrative Officer and the clerk of the municipality. If the Board does not render its decision within forty-five days, the Board shall be deemed to have rendered a decision in favor of the appellant.

222.5 An interested party may appeal a decision of the Board within thirty days of such decision to Environmental Court or Superior Court.

Section 230. APPLICATIONS AND PERMITS

No land development, new building, moving of an existing structure or conversion of an existing structure to a changed use may commence unless a zoning permit shall have been duly issued by the Administrative Officer. The fee for such zoning permit shall be established by the legislative body.

Permits shall not be required for:

- A. any interior structural alteration which does not change the use of the structure.
- B. any exterior renovations or repairs which do not change the use or increase the exterior dimensions of the structure. The addition of chimneys, vent pipes and steps shall be included in this exemption.
- C. any detached accessory building such as a tool shed, pump house, woodshed, or other such structures, provided that the floor space does not exceed 144 square feet and the total height does not exceed 12 feet. Setbacks are required.

Section 240. APPLICATIONS

Applications for zoning permits shall be submitted to the Administrative Officer on an approved application form available from the Town Office and shall be accompanied by: 1) a sketch of the lot and proposed development clearly and accurately drawn with locations and dimensions of yards, existing structures, lot lines and proposed improvements all carefully recorded; 2) the correct fee for an application established by the legislative body; and 3) other submission requirements specified by these regulations. The Administrative Officer shall not accept an

application unless the application, sketch, fee and other submissions have been properly prepared.

Section 241. ISSUANCE OF PERMIT

Permits shall be issued in accordance with Sections 210 through 240 of these regulations. Notice of denial by the Administrative Officer or of any decision by the Planning Commission or Board of Adjustment shall be sent by certified mail to the applicant explaining reasons for denial or conditions of approval. Action by the Administrative Officer shall include a decision on the application, referral to the appropriate commission, board, or agency, or refusal of an application deemed incomplete.

Section 242. PERMIT EXPIRATION

Any Zoning Permit issued shall become void if the work described therein is not commenced within a period of two (2) year from the date of issuance.

ARTICLE III: GENERAL REGULATIONS

Section 310. COMPLIANCE WITH REGULATIONS

Any land, building and premises, or part thereof, may be used only for a purpose listed under Article V or VI of these Regulations. Each lot shall have an area and width and front, side and rear yard as required by these regulations (Article IV). No building or buildings shall occupy in total a greater percentage of the lot area, nor be greater in height, than as provided herein. Any permitted building or permitted use may be located in that portion of the lot not needed to meet the requirement of front, side or rear yards.

Section 320. REDUCTION OF LOT AREA OR DIMENSION

No lot shall be diminished, nor shall any yard, court, or any other open space be reduced except in conformity with this ordinance.

Section 330. OBSTRUCTION AT STREET INTERSECTIONS

No trees, shrubs, fences, walls or hedges shall be placed or allowed to grow, closer than 35 ft. from the center of the public highway.

Section 340. ACCESSORY BUILDINGS

Detached accessory buildings not used for human habitation may be located in the required rear yards, and in so much of the required side yard as lies not less than 50 feet from any street line, provided that they are not less than 30 feet from any side or rear lot line and provided further that they occupy in the total not more than 20 percent of the area of the required rear yard.

Section 350. USE OF LAND FOR ACCESS OR PARKING

The use of land for access or for parking in connection with a use, shall be considered to be accessory to and part of such uses. Except as otherwise provided in this Ordinance, access to or parking in connection with a permitted use may take place in a required front, side or rear yard.

Section 360. EXISTING SMALL LOTS

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of any zoning regulations, including an interim zoning regulation, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet, provided the plans for any proposed water and sewer provisions comply with applicable State and Town regulations; as more particularly provided in Title 24 VSA Section 4406(1).

Section 370. REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR PUBLIC WATERS

No land development may be permitted on lots which do not have either frontage on a public road or access over public waters, or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or deeded right-of-way at least 50 feet in width.

Section 380. HOME OCCUPATIONS

Any resident in any district may use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the district in which it is located.

Section 385. SEPTIC SYSTEMS

No use shall be made of any land area in any district for human habitation or occupancy, temporary or permanent, unless an on-premise sewer system is first installed. Said system shall comply with the standards and specifications of the Andover Town Health Ordinance.

Section 390. REMOVAL OF DAMAGED STRUCTURES

After any building or structure has burned, collapsed, or otherwise been destroyed or demolished, all structural materials shall be removed from the site within three years.

ARTICLE IV: MINIMUM REQUIREMENTS FOR R-1 DISTRICT

No building or premises permitted in Articles V and VI shall be used and no building shall be erected except in conformity with the following requirements:

Section 410. LOT SIZE AND FRONTAGE

A lot shall be at least two acres in area with a minimum of 200 feet frontage on a maintained road or comply with the requirements of Section 370, above.

Section 420. BUILDING SIZE

No building shall be more than 30 feet high from finished grade. The total area of all buildings on a lot shall not exceed 5% of the lot size.

Section 430. SETBACKS

A building shall be placed on a lot at least 75 feet from the road center line and 30 feet from any property line.

Section 440. PARKING FACILITIES

In the case of a professional or personal business office or studio, off-street parking/loading facilities of 900 square feet for every five persons of total planned capacity are required.

Section 450. CERTIFICATE OF OCCUPANCY

Any construction or use approved under a Zoning Permit will also require a Certificate of Occupancy, issued by the Administrative Officer, prior to its use. A fee for such certificate may be established by the legislative body.

ARTICLE V: PERMITTED USES FOR R-1 DISTRICT

The following permitted uses, and none other, are allowed in the R-1 District:

1. Single family dwellings
2. Farms, including sugar houses
3. Home Occupation
4. Accessory buildings incidental to the permitted use.

ARTICLE VI: CONDITIONAL USES FOR R-1 DISTRICT

Applications for conditional use permits require action by the Board of Adjustment. All such requests will be considered in conformance with Section 620 of these Regulations.

Section 610. CONDITIONAL USES

The following conditional uses, and none other, are allowed in the R-1 District:

1. Expansion of an existing single family dwelling to contain two independent living units
2. Municipal park or playground
3. Club, including a golf club, public or private
4. Overnight trailer camps
5. School, college, library, museum, or child care facility, public or private
6. Church or parish house
7. Community Center, hall or lodge, public or private
8. Summer camp for children, for adults or for families
9. Public riding stable
10. Carpentry and woodworking shops
11. Retail stores
12. Nursery (greenhouse)
13. Bed & Breakfasts and Inns
14. Nursing home
15. Motor Vehicle Service Station
16. Wireless Telecommunication Facilities
17. Electrical Facilities
18. Sand, Soil and Gravel Extraction and Sales
19. Quarries
20. Professional Office

Section 620. CONDITIONAL USE REQUIREMENTS

General Requirements

No zoning permit shall be issued by the Administrative Officer for any use or structure which requires conditional use approval until the Board of Adjustment grants such approval. In considering its action, the Board shall make findings upon specific standards set forth in the regulations and the following general standards as identified in Title 24 VSA Section 4407:

1. The capacity of existing and planned community facilities
2. The character of the area affected
3. Traffic on roads and highways in the vicinity
4. Bylaws then in effect
5. Utilization of renewable energy resources

Any conditional use shall provide for off-street parking and loading facilities of 900 square feet for every five persons of total planned capacity.

State and Town health ordinances must be complied with.

No level of operation shall be permitted as a conditional use that creates excessive injurious, noxious, flammable, or explosive hazards, as determined by the Board.

The Board of Selectmen may set specific fee requirements for any of the Conditional Uses. Site Plan approval is required (Section 630).

In granting conditional use approval, the Board may attach such additional reasonable conditions as it deems necessary to implement the ordinance. The Board shall hold a public hearing upon notice of the application and shall act to approve or disapprove the application within sixty (60) days after the final public hearing. Failure to so act within such period shall be deemed approval.

Specific Requirements

Section 620.1 WIRELESS COMMUNICATION FACILITIES DEFINITIONS

Purpose: to regulate the construction, alteration, development, decommissioning or dismantling of wireless communication facilities and ancillary structures and improvements. Activities regarding the decommissioning or dismantling of communication facilities and ancillary structures may include requirements that a bond be posted, or other security acceptable to the Zoning Board of Adjustment, in order to finance the decommissioning or dismantling of all or any portion of the facility.

Wireless Communications Facility - Definition: A tower, pole, antenna, guy wire, or related features or equipment intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmission/reception and the construction or improvement of a road, trail, building or structure incidental to a communications facility. Wireless Communication Facilities

include Wireless Telecommunication Facilities. A speculative wireless telecommunications facility, that is, one built on speculation that the builder and operator will be able to lease it to a service provider, is considered a wireless communications facility and does not come under the Telecommunications Act of 1996. Applications for such facilities, until a service provider is named and joins in the application, are subject to the review and regulations as a wireless communications facility and not as a wireless telecommunications facility.

Wireless Telecommunication Facility – Definition: A facility consisting of the structures, including the towers and antennas mounted on towers and buildings, equipment and site improvements involved in sending and receiving telecommunications or radio signals from a mobile communications source and transmitting those signals to a central switching computer which connects the mobile unit with land-based or other telephone lines.

Section 620.2 WIRELESS COMMUNICATION FACILITIES STANDARDS:

- A. New telecommunications and broadcasting facilities should be sited and constructed only as necessary to meet the changing needs of residents and businesses.
- B. Before the construction and siting of new towers and facilities is permitted, existing sites and towers must be utilized to the fullest extent possible. Co-location, (the utilization of existing tower space), is strongly recommended. Individuals or companies owning or operating existing facilities should facilitate the sharing of that space to the fullest extent possible.
- C. The use of existing structures such as water towers, silos, electrical power lines and appropriate existing buildings to support equipment is strongly encouraged when possible and where it will not have a negative impact on significant historic resources and where it blends with its surroundings.
- D. A preferred site has been determined by the Planning Commission to be located on town-owned property on Boone Road.
- E. In the siting and design of towers and other facilities (including support, maintenance, and access facilities), every attempt must be made to minimize impacts on cultural, scenic, health and aesthetic resources to the fullest extent possible utilizing “camouflage” techniques when possible.
- F. Provision of a visual-impact demonstration using photosimulations, elevations and/or other visual or graphic illustrations to determine visual impact shall be required. All costs for this analysis is to be born by the applicant.
- G. Those installing such facilities shall demonstrate that public exposure to EMR (Electromagnetic Radiation) will not exceed applicable Federal Communications Commission standards for human exposure. Assessment of possible health effects shall

be based on the cumulative effects of all facilities and equipment at any given location, and should include both pre-construction estimates and post-construction monitoring.

- H. Any antenna, tower or facility that is not operated for a continuous period of twelve months shall be considered abandoned and the owner of such facilities shall remove the same within 90 (ninety) days of a receipt of notice. If such facilities are not removed within said ninety days, the town may remove such structures at the owner's expense.

Section 620.3 ELECTRICAL UTILITIES:

- A. New electrical facilities and power lines should be sited and constructed only as necessary to meet the changing needs of residents and businesses.
- B. Because power lines can disfigure the landscape, particularly where they cross ridgelines, no new power lines should be constructed except within current corridors and right-of-ways.
- C. Existing corridors should be maintained so as to minimize soil erosion, maximize wildlife habitat, and be landscaped so as to minimize the negative impact on scenic and aesthetic areas. Application of biocides within utility corridors should be according to State regulations.
- D. Underground placement of electric lines, where possible and practicable, is encouraged, otherwise the use of wood support structures and other landscape compatibility techniques are also encouraged.

Section 620.4 SAND, SOIL AND GRAVEL EXTRACTION AND SALES

- A. In accordance with 24 V.S.A., Section 4407(2), (5), and (8), a Conditional Use Permit shall be required for each new operation, re-establishment of a previous operation, or extension of an existing operation.
- B. Each application shall contain a plan for rehabilitation of the site at the conclusion of each phase of the operation. A permit shall not be issued until the plan has been approved by the Board of Adjustment. Each plan shall illustrate phasing of a project whereby upon completion of the phases, the excavated sections are left in a safe, attractive and useful condition.
- C. A performance bond may be required to assure proper completion of the rehabilitation plan.
- D. No blasting shall occur within 100 feet of any property line and no excavation or stockpiling of materials shall be located within 50 feet of any public road, or abutting property line unless a satisfactory written agreement has been reached with the abutting property owner and filed with the Administrative Officer.

- E. No stationary power-activated crushing or sorting machinery or equipment shall be located within 300 feet of any occupied building without written and filed consent of the occupants, or within 100 feet of any public road, or within 100 feet of any property line without written and filed consent of the abutting property owner.
- F. The hours, frequency, and duration of operation shall not unduly affect the character of the surrounding area, or cause unreasonable hardship or inconvenience for nearby residents.
- G. The operation shall not adversely affect water quality or drainage patterns, or create excessive dust, traffic, vibration or noise at the site or in the surrounding area.
- H. Stripping or removal of topsoil for the purpose of sale or use on other premises is prohibited unless a layer of topsoil of at least four inches will remain over the entire stripped area after removal.
- I. The Board of Adjustment shall regulate the frequency of any truck traffic for each application.
- J. Noise levels at the property line shall no exceed 65 Decibels for eight hours in any 24-hour period. Noise levels will be determined by using a decibel meter owned by the municipality.

Section 630. SITE PLAN APPROVAL

For any Conditional Use other than a one family dwelling, and where indicated in these Regulations, the approval of site plans by the Planning Commission is required. In reviewing site plans, the Commission may impose appropriate conditions and safeguards with respect to adequacy of traffic access, circulation and parking; landscaping and screening; compatibility with surrounding development; noise, vibration, erosion, and dust; and protection of natural resources. Consideration shall be given to traffic mobility and safety on affected streets, impacts on surrounding uses, and to desired land use patterns as encouraged by the Municipal Plan and the zoning regulations of the affected district(s). Conditions may include, but are not limited to, the following:

1. Compatibility with surrounding development: The Commission may require the design and placement of structures to conform with the existing relationship of surrounding buildings to the street, the landscape, and to each other, including setback distances, physical orientation, construction materials, and architectural design. Design shall not be limited to any particular style or period, but should be consistent with established trends and patterns in the surrounding area.
2. Traffic access and circulation: Among other appropriate safeguards and conditions, the Commission may:
 - a. require the installation of frontage roads, speed change lanes, or other highway design elements on a street or adjacent to any access or connecting

roads, if deemed necessary based on current or anticipated conditions.

- b. limit the number and width of access drives; require consolidation of existing access points.
- c. limit access to a property to a side street or secondary road in order to avoid access to heavily traveled streets and highways.
- d. require shared access and/or parking for adjoining properties or for future users of the remainder of a parcel; require the reservation of shared rights-of-way for future roads, parking areas, and pedestrian facilities; allow for consolidation or shared use of required parking spaces between uses.
- e. require an applicant to commission a traffic impact study from a qualified consultant.
- f. require the location or relocation of access points on one side of a street or highway directly across from existing access points on the opposite sides.
- g. prohibit the location of parking facilities between the front line of building(s) and the street.
- h. accommodate existing or future facilities for non-vehicular travel.

The Board of Adjustment shall approve or disapprove any such site plan within 60 days after the date upon which it has received the proposed plan, and failure to act within such period shall be deemed approval. Maps and specifications describing the location and use in detail shall be presented with application for site plan approval. Plot plans must include precise measurements of lot lines.

3. Protection of natural resources: The Commission may require that structures, parking facilities and other development be located so as to avoid impacts to surface waters, wetlands, wildlife habitat, agricultural land, important scenic resources, and significant natural and cultural features. These requirements may include modification of the minimum setback distances of the district.

Section 630.1 REQUIREMENTS

1. Site plans shall show or designate the following:
 - a. The location, height, and spacing of existing and proposed structures.
 - b. Open spaces and their landscaping.
 - c. Streets.
 - d. Driveways.

- e. Off-street parking spaces.
- f. All other physical features, including surface waters and wetlands, stone walls and fences, and elevations and contours.
- g. Acreage of entire parcel, with existing and proposed lot boundaries.
- h. Areas designated by the Vermont Agency of Natural Resources as critical wildlife habitat or as known locations of endangered or threatened species.

Section 640. NON-CONFORMING USES AND NON-COMPLYING STRUCTURES

Any non-conforming use of land or buildings legally existing at the effective date of these regulations or of any pertinent amendment thereto may be continued, subject to the following provisions:

1. Non-conforming use may be changed, to another non-conforming use no more objectionable in character and upon conditional use review and approval by the Board of Adjustment and site plan review by the planning Commission.
2. A non-conforming use, once it has been changed to a conforming use, shall not be changed back to a non-conforming use.
3. A non-conforming use may be extended or expanded upon conditional use review and approval by the Board of Adjustment and site plan review by the planning commission.
4. A non-conforming use, which has been discontinued for greater than three years, shall not be resumed without conditional use review and approval by the Board of Adjustment and site plan review by the planning commission.
5. In a structure where the non-conforming use exists, and has been damaged or destroyed by fire, accident or other causes, the structure may be rebuilt or restored and the nonconforming use re-established subject to conditional use review and approval by the Board of Adjustment and site plan review by the planning commission, provided such work is undertaken within three years after damage or destruction has occurred.

Section 640.1 NON-COMPLYING STRUCTURES

A non-complying structure is a structure or part of a structure that is not in compliance with the zoning regulations with regards to bulk, height, dimensions, area, yards, density or off-street parking or loading requirements, where the structure complied with all the applicable laws, ordinances and regulations prior to the enactment of these zoning bylaws.

Nothing in these bylaws shall prevent the maintenance or improvement of a non-complying structure provided that such action does not increase the degree of non-compliance. Any non-complying structure lawfully existing as of the effective date of these bylaws or any pertinent amendments may be maintained subject to the following conditions:

1. No non-complying structure shall be enlarged unless the enlarged portion conforms to the building portion of these bylaws.
2. No non-complying structure which has been substantially damaged or destroyed to an extent that more than 75% of its value as assessed by the town has been lost, the structure shall not be reconstructed or replaced with another non-complying structure except with conditional use review and approval by the Board of Adjustment and site plan review by the planning commission.

ARTICLE VII: FLOOD HAZARD

Section 710.

No zoning permit shall be issued by the Administrative Officer for any development within Zone A of the Federal Insurance Administration Flood Hazard Boundary Map for the Town of Andover (which is hereby adopted by reference as part of these regulations) until the Planning Commission has conducted Flood Hazard Review. The Administrative Officer shall determine boundary limits of the flood prone area by scaling distances on the Flood Hazard Boundary Map.

Section 720. FLOOD HAZARD PROCEDURE

- a. **Official Submittal Date:** The submittal date of a request for Flood Hazard Review shall be the first regular meeting of the Planning Commission at least seven (7) days after receipt of the submittal requirements by the Administrative Officer. The Administrative Officer will transmit a copy of submitted plans to the Department of Water Resources with a request for their comment within thirty (30) days.
- b. **Decisions:** The Planning Commission shall act to approve or disapprove plans for flood hazard protection within sixty (60) days of the Official Submittal Date, and failure to act within such period shall be deemed approval. Notice of the decision shall be sent to the applicant by registered mail.
- c. **Submission Requirements:** Applicants for Flood Hazard Review shall include two (2) copies of a map drawn to scale showing:
 1. the dimensions of the lot
 2. the location of existing and proposed structures
 3. the elevation above mean sea level of the lowest floor, including basement, of all new or substantially improved structures and notation as to whether or not such structures contain a basement
 4. the elevation above mean sea level to which any structure will be flood proofed
 5. the relationship of the above to the channel, and based upon the best

information available (including Federal Insurance Administration data, if issued), the elevation of the 100-year (base) flood.

When the proposed development is part of a subdivision of greater than fifty (50) lots or when it requires disturbance of more than five (5) acres, submittal #5 shall be based upon hydrologically-determined base flood elevation data, provided by the applicant if necessary.

d. **Review Procedure:** The Planning Commission shall review this map, comments from the Department of Water Resources, if available, and other pertinent information available to insure compliance with the following general and specific standards:

1. Assure that all necessary permits have been received from those governmental agencies from which approval is required by local, State and Federal law.
2. Assure that all new construction and substantial improvements are:
 - a. designed and adequately anchored to prevent flotation, collapse, or lateral movement
 - b. constructed with materials and utility equipment resistant to flood damage
 - c. constructed by methods and practices that minimize flood damage.

Furthermore, the Planning Commission shall determine,, utilizing the best flood elevation data available, that all new construction and substantial improvements of residential and non-residential structures have the lowest floor (including basement) elevated to or above the base flood level or for non-residential structures only, have flood proofed construction to that level.

3. Assure that development is:
 - a. reasonably safe from flooding and consistent with the need to reduce hazards in flood prone areas
 - b. designed so that all public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed so as to minimize or eliminate flood damages
 - c. designed so that adequate drainage is provided so as to reduce exposure to flood hazards and to maintain the flood-carrying capacity of any watercourse.

4. Assure that new or replacement water supply systems and sanitary sewage systems are designed to minimize or eliminate infiltration of flood waters into the systems and (for sewage systems) discharges from the systems are located so as to avoid impairment of them or contamination from them during flooding.
5. Assure that all mobile homes and any additions to these homes are anchored to resist flotation, collapse, or lateral movement by over-the-top ties to ground anchors at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and by frame ties to ground anchors at each corner of the home with five (5) additional ties per side at intermediate points – all components of the anchoring system to be capable of carrying a force of 48,000 pounds.
6. Assure that an evacuation plan for mobile home parks proposed in the flood hazard area is submitted to the Town Civil Defense Director indicating alternate vehicular access and escape routes.

Section 730. EXCEPTIONS AND LIABILITY

Exceptions: The Planning Commission may only allow development within Zone A that does not meet the above standards when:

1. there is a showing of good and sufficient cause for such development
2. failure to grant the exception would result in unnecessary hardship to the applicant
3. the granting of this exception will not result in increased flood levels, threats to the public safety, extraordinary public expense, creation of nuisances, fraud on or victimization of the public or violation of existing laws or ordinances. If the Planning Commission grants an exception, it shall notify the applicant that construction below the base flood elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property.

Disclaimer of Liability: These Regulations do not imply that areas outside the flood hazard area or land uses permitted within such districts will be free from flooding or the flood damages. These Regulations shall not create liability on the part of any town official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE VIII: DEFINITIONS

Section 810.

Doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Board of Adjustment. For the purpose of these regulations, words used in the present tense include the future, the singular includes the plural, and vice versa. The word “shall” is mandatory. The word “applicant” includes an individual, partnership, association, corporation or other organization. The word “structure” includes “building”.

ACCESSORY USE OR BUILDING: A use or building customarily incidental and subordinate to the principal use or building and located on the same lot.

AGRICULTURAL USE: Land (containing at least two acres) which is used for raising livestock, agricultural or forest products, and including farm structures and the storage of agricultural products raised on the property shall be considered in agricultural use.

ALTERATION: Structural changes, rearrangement, change of location or addition to a building, other than repairs and modification in building equipment.

BUILDING: Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel.

BUILDING HEIGHT: Vertical distance measured from the average elevation of proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

CAMP: Land on which are located one or more cabins, trailers, shelters or other accommodations suitable for seasonal or temporary living purposes.

CERTIFICATE OF OCCUPANCY: A finding by the Administrative Officer that a structure which required a zoning permit is in compliance with that permit and with all town regulations before occupancy is permitted.

DWELLING UNIT: Building or part thereof used as living quarters for one family. The terms “dwelling”, “one-family dwelling”, or “two-family dwelling” shall not include a motel, hotel, tourist home or similar structure.

DWELLING, ONE-FAMILY: Detached building used as living quarters by one family.

DWELLING, TWO-FAMILY: Building used as living quarters by two families independently of each other.

FRONT: The front of a building shall be the side facing the street line along a maintained road.

HOME OCCUPATION: Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof (e.g.: carpentry, handcrafts, artisans, and professional offices).

LAND 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 of any mining excavation or landfill, and any change in the use of any building or other structure, or land or extension of use of land.

LOT: Land occupied by or capable of being occupied by one principal structure and the accessory structure or uses customarily incidental to it, including such yards and open spaces as are required by the ordinance.

LOT LINE: The established division line between lots or between a lot and the right-of-way of a public street.

LOT FRONTAGE: Distance measured across the width of the lot at the building front line, or the proposed building front line.

MOBILE HOME: A prefabricated dwelling unit which:

1. is designed for long-term and continuous residential occupancy
2. is designed to be moved on wheels, as a whole or in sections
3. on arrival at the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure
4. contains the same water supply and waste disposal as immovable housing

MOTOR VEHICLE SERVICE STATION: Building or land that is used for the sale of motor fuel, oil and motor vehicle accessories, and which may include facilities for lubricating, washing or servicing motor vehicles.

NON-COMPLYING STRUCTURE: Structure or part thereof not complying with the zoning regulations covering building bulk, dimension, height, area, yards, density, or off-street parking or loading requirements for the district in which it is located, where such structure complied with all applicable laws, ordinances, and regulations prior to enactment of these regulations.

NON-CONFORMING USE: Use of land or structure which does not comply with all zoning regulations for the district in which it is located, where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of these regulations.

PARKING SPACE: Off-street space which is at least ten (10) feet wide and twenty-two (22) feet long, not including access driveway, and having direct access to a street or approved right-of-way and is used for temporary location of one licensed motor vehicle.

RENEWABLE ENERGY RESOURCE: Energy available or collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat and geothermal sources.

RETAIL STORE: Includes shop and store for the sale of retail goods. (This definition does not include any drive-up service, free-standing retail stand, gasoline service, motor vehicle repair service, new and used care sales and service, trailer and mobile homes sales and service.)

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

SET BACK, FRONT: Yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building.

SET BACK, REAR: Yard between the rear lot line and the rear line of a building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

SET BACK, SIDE: Yard between the principal building or accessory building and a side lot line, and extending through the front yard to the rear yard.

STREET: Public way for vehicular and pedestrian traffic which affords the principal means of access to abutting properties.

STREET FRONTAGE: Lot lines which abut a maintained street.

STREET LINE: Right-of-way of a street as dedicated by a deed of record. Where width of the street is not established, the street line shall be considered to be twenty-five (25) feet from the center line of the street pavement.

TRAILER: Includes any vehicle used as sleeping or camping or living quarters mounted on wheels or a camper body usually mounted on a truck; and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, boats, or as an office.

WIRELESS COMMUNICATIONS FACILITY: A tower, pole, antenna, guy wire, or related features or equipment intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmission/reception and the construction or improvement of a road, trail, building or structure incidental to a communications facility. Wireless Communication Facilities include Wireless Telecommunication Facilities. A speculative wireless telecommunications facility, that is, one built on speculation that the builder and operator will be able to lease it to a service provider, is considered a wireless communications facility and does not come under the Telecommunications Act of 1996. Applications for such facilities, until a service provider is named and joins in the application, are subject to the review and regulations as a wireless communications facility and not as a wireless telecommunications facility.

WIRELESS TELECOMMUNICATION FACILITY: A facility consisting of the structures, including the towers and antennas mounted on towers and buildings, equipment and site improvements involved in sending and receiving telecommunications or radio signals from a mobile communications source and transmitting those signals to a central switching computer which connects the mobile unit with land-based or other telephone lines.

USE, CONDITIONAL: Certain specific uses as listed in Article VI Section 610 for which a Conditional Use Permit is required.

USE, PERMITTED: Use specifically allowed in the district, excluding illegal uses and non-conforming uses.

These Zoning Regulations are adopted this 1st day of July, 2003, by the Legislative Body of the Town of Andover, Vermont, and shall become effective this same day as authorized by vote of the Town by Australian Ballot on July 1, 2003.

Board of Selectmen

Matthew Neely, Chairman
Harold Johnson
William Bourque