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## ARTICLE III. GENERAL REGULATIONS

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### Section 3.1 Abandoned & Damaged Structures

(A) **Abandoned Structures.** Structures which are not substantially commenced within two (2) years of the issuance of a zoning permit, or within one (1) year of being substantially damaged or destroyed, shall be considered abandoned for the purposes of these regulations. For such structures, the owner shall either:

- (1) apply for a zoning permit under Section 9.3 to resume construction or repair, and thereby confirm the intent not to abandon the structure; or
- (2) remove all materials from the site, restore the site to a normal grade, and establish ground cover sufficient to prevent erosion.

(B) **Damaged Structures.** No zoning permit shall be required for the stabilization of a damaged structure to prevent hazards to public health and safety, or to adjoining properties, structures or uses; nor for the timely repair or reconstruction of a damaged structure to the extent of its prior condition and use. However:

- (1) Repair or reconstruction of a damaged structure must begin within one (1) year and be substantially completed within two (2) years of the date of the event resulting in its damage or destruction.
- (2) A zoning permit shall be required for any repair or reconstruction that results in changes in structural dimensions (e.g., height or footprint), density (e.g., number of units), or use under applicable provisions of these regulations.
- (3) Any repair or restoration of a nonconforming structure that increases the degree of noncompliance is subject to review by the Development Review Board under Section 3.8.

### Section 3.2 Access & Driveways

(A) **Frontage.** No development, except for forestry and agriculture, may be permitted on lots which do not have either frontage on a maintained public road (Class I, II or III town highway or state highway) or public waters or, with the approval of the Development Review Board, access to a public road or water by means of a Class IV road, or a permanent easement or right-of-way at least 20 feet in width, in accordance with the Act [§4412(3)]. All lots subdivided after the effective date of these regulations shall meet applicable frontage requirements for the district in which they are located.

(B) **Nonfrontage Lots.** The Development Review Board may grant approval for access to a lot legally in existence as of the effective date of these regulations which does not have the required minimum frontage in accordance with the following:

- (1) The Board may consider the intended use of the property, safety, traffic, road, and site conditions, and the recommendations of the Bolton Fire Chief and Road Foreman in granting, conditioning, or denying access approval. Conditions may be imposed by the Board as appropriate to ensure public safety and welfare. These include, but may not be limited to conditions that:
  - (a) the town shall not be required to provide school bussing beyond maintained public rights-of-way;
  - (b) the owner(s) of the property shall have the responsibility to maintain the right-of-way for year-round access by emergency vehicles; and
  - (c) public rights-of-way used for a private access shall remain open to the public.

- (2) If a Class IV road is to be used for development that requires year-round access, the road shall be upgraded and maintained by the applicant and subsequent property owners, at minimum to meet town driveway (B-71) standards, in accordance with Subsection (E).
- (3) The development of a nonfrontage lot to be accessed by a right-of-way or easement 20 feet in width shall be limited to one (1) principal use or structure, as allowed for the district in which it is located.
- (4) The Board shall consider an application for access approval, within 45 days of the date of submission, at a regular or special meeting of the Board. The decision of the Board shall be issued in writing within 45 days of the meeting, to include findings of fact supporting the decision and a statement of the proposed time in which the decision may be appealed under Section 9.5, and shall be recorded in the land records of the town as required under Section 9.8. The decision shall be sent by certified mail to the applicant, and copies shall be filed with the Zoning Administrator and Town Clerk. No zoning permit for development of a nonfrontage lot shall be issued until access approval has been granted by the Development Review Board, and by the Bolton Selectboard or the Vermont Agency of Transportation under Subsection 3.2 (C).

(C) **Highway Access (Curb Cut) Permit.** Access onto public highways is also subject to the approval of the Bolton Selectboard, and for state highways, the Vermont Agency of Transportation. As a condition of access approval, compliance with these regulations is required. In the event that subdivision, site plan and/or conditional use approval from the Development Review Board is required, highway access approval shall be obtained following the issuance of such approvals. Town or state highway access permits must be obtained prior to the issuance of a certificate of occupancy.

(D) **Access (Curb Cut) Management Standards.**

- (1) No lot shall be served by more than one (1) access (curb cut) except for:
  - (a) a temporary or permanent access used only for farming or forestry purposes, as approved by the Bolton Selectboard;
  - (b) a temporary access used for construction purposes or special events, as approved by the Bolton Selectboard;
  - (c) a lot for which it has been determined, subject to subdivision, site plan or conditional use review by the Development Review Board, that additional access is necessary to ensure vehicular and pedestrian safety; or that given physical site constraints (e.g., streams, wetlands, or steep slopes) strict compliance with this requirement would result in a less desirable site layout.
- (2) For development subject to review by the Development Review Board, the Board may require, in consultation with the Bolton Road Foreman or the Vermont Agency of Transportation, the elimination, consolidation and/or relocation of existing accesses to meet the requirements of these regulations.
- (3) The width of an access shall be limited to the width as approved, and shall not extend along the length of road frontage. The installation of curbing, landscaping, or other edge-defining features may be required for accesses subject to review by the Development Review Board.
- (4) Shared access is encouraged and may be required for development subject to review by the Development Review Board. For shared access, the interests of the owner of each lot shall be protected by an easement recorded in the deed of each lot.

- (5) No access shall be provided to serve a lot located in another zoning district which is to be used for a use that is prohibited within the district in which the access is located.
- (6) Where a lot has frontage on two roads (e.g., a corner or through lot), access to the lot shall be provided from the secondary (less traveled) road unless otherwise approved by the Development Review Board.
- (E) **Driveways.** All driveways shall meet town driveway (B-71) standards for culverts, grading, ditching and design. In addition:
- (1) Driveways may be located within side or rear yard setback areas.
  - (2) No driveway shall exceed an average grade of 15% within any 50-foot section. The approach area within 20 feet of the road right-of-way shall not exceed a 3% grade.
  - (3) Driveways 500 feet or more in length shall include, at minimum, one (1) 10-foot by 30-foot pull-off area and a turn around (a “Y” or “T”) at the end.
  - (4) Driveways, to the extent feasible, shall be sited to avoid areas of steep slope (15% or more), primary agricultural soils, and surface waters, wetlands and associated buffer areas (see Sections 3.16 and 3.17) and to minimize the number and extent of stream crossings.
  - (5) Shared driveways serving up to three (3) lots are encouraged and may be required for development subject to review by the Development Review Board. For shared driveways, the interests of the owner of each lot shall be protected by an easement recorded in the deed of each lot.
- (F) **Class IV Roads.** The town, in accordance with state law and adopted town road policies, is not required to maintain Class IV roads for year-round use. Upgrade and maintenance of the road as required for development of adjoining parcels, and for emergency vehicle access, shall be the responsibility of the applicant and subsequent landowners under a maintenance agreement approved by the Selectboard. At minimum, the applicant shall upgrade the road to meet town driveway (B-71) standards. The reclassification of a Class IV road may be considered by the town only in accordance with state statutes and applicable town road policies currently in effect.
- (G) **Private Roads.** For the purposes of these regulations, any access driveway or road serving four (4) or more lots shall be considered a private road, which must meet town road (A-76) standards and the requirements of Section 7.6. Private roads may be taken over by the town only in accordance with town road policies and state requirements for the dedication and acceptance of such roads as public highways.
- (H) **Improvements.** The applicant shall bear the cost of installing any access, driveway or road improvements and traffic control measures, located on or off-site, which are specifically required to serve the development and to ensure public safety and welfare.

### Section 3.3 Conversion or Change of Use

- (A) A conversion or change in the use of land, existing buildings and other structures is subject to the following requirements:
- (1) The proposed use must meet all the requirements of these regulations pertaining to such use, including but not limited to any district, access, and parking 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 Zoning Administrator in accordance with Section 9.3. Site plan approval also may be required under Section 5.3 depending upon the type of permitted use.
  - (3) A conversion or change in use from a permitted use to a conditional use, or from one conditional use to another conditional use, requires conditional use approval under Section 5.4 prior to the issuance of a zoning permit.
  - (4) A conversion or change of use of a nonconforming use or structure also must meet the requirements of Section 3.8.
  - (5) A conversion or change of use that involves the subdivision of land also requires subdivision approval under Article VI.
- (B) Where a conversion or change of use results in increased wastewater generation, including but not limited to the conversion of a camp or accessory dwelling to a single family dwelling; a single family dwelling to a two-family or multi-family dwelling; or a single principal to a mixed use, a zoning permit shall not be issued by the Zoning Administrator until an approved wastewater system design has been submitted in accordance with Section 3.18.

### 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 excluding the following:
- (1) mobile homes, modular housing, or other forms of prefabricated housing from the town, except upon the same terms and conditions as conventional housing is excluded;
  - (2) housing necessary to meet the needs of the local population, as identified in the *Bolton Town Plan*;
  - (3) mobile home parks, as defined by the state [10 V.S.A. Chapter 153] (see Section 4.15);
  - (4) multi-family dwellings;
  - (5) as a permitted use one (1) accessory dwelling that is located within or appurtenant to an owner-occupied single family dwelling which does not exceed 30 percent of the total habitable floor area of the principal dwelling, and meets applicable setback, coverage and parking requirements of these regulations (see Section 4.2); or
  - (6) a state or licensed or registered residential care home, or group home, serving not more than eight (8) persons who have a handicap or disability as defined by the state [9 V.S.A. §4501], which shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be so considered if it is to be located within 1,000 feet of another such home (see Section 4.12).
- (B) As required by the Act, provisions have been made for each of the above types of housing, within designated zoning districts where applicable.

### Section 3.5 Height Requirements

- (A) No structure shall exceed maximum district height requirements except as allowed under Subsection (B), or for the following structures which are specifically exempted from these requirements:

- (1) farm structures, including barns and silos, in accordance with the Act [§4413(d)];
- (2) church steeples, spires and belfries;
- (3) the following accessory structures which, as mounted or installed, do not exceed 40 feet in height from ground level: antennas, satellite dishes less than three (3) feet in diameter, wind generators with blades less than 20 feet in diameter, rooftop solar collectors, chimneys, belvederes, cupolas, weathervanes, and flag poles;
- (4) structures subject to review by the Vermont Public Service Board, including wind generation and electrical transmission towers, which are exempted from these regulations (see Section 4.17);
- (5) telecommunications towers which meet the requirements of Section 4.19; and
- (6) ski lift towers associated with an approved alpine ski facility.

**Height:** The distance above ground of a structure as measured vertically from the average finished grade at the base of the structure to the highest point of the structure.

(B) In accordance the Act [§4414(8)], the Development Review Board may waive district height requirements and approve a structure in excess of the maximum allowed height as a conditional use subject to conditional use review under Section 5.4, and upon finding that:

- (1) the additional height is necessary to accommodate the proposed use, which is an allowed use within the district in which it is located;
- (2) the structure does not constitute a hazard to public safety, or to adjoining properties;
- (3) that portion of the structure above the district height requirement shall remain unoccupied except for normal maintenance and repair activities;
- (4) front, side and rear yard setbacks are sufficient to protect adjoining properties and public rights-of-way in the event of structural collapse;
- (5) the structure is not to be used for advertising purposes;
- (6) access to the structure, particularly for climbing, is restricted;
- (7) adequate fencing and screening are provided; and
- (8) 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 (also see Section 3.9); and
- (9) the increased height shall not result in an undue adverse visual impact, as viewed from adjoining properties or public rights-of-way.

### **Section 3.6 Lot, Yard & Setback Requirements**

(A) Only one principal use or structure shall be located on a single lot, unless otherwise allowed as an adaptive reuse under Section 4.3, a mixed use under Section 4.14, or with the approval of the Development Review Board, as part of a planned residential or planned unit development under Article VIII.

(B) An accessory structure or use must be clearly subordinate in size, function, and overall appearance to the principal structure and use, and conform to all lot, setback, coverage and other dimensional

requirements for the district in which it is located, unless specifically exempted from such requirements under Section 9.2.

(C) No lot shall be so reduced in area that it cannot meet area, yard, setback, frontage, coverage and other dimensional requirements for the district in which it is located, except as approved by the Development Review Board for a planned residential or planned unit development under Section 8.1.

(D) Space required under these regulations to satisfy area, yard or other open space provisions in relation to one structure shall not be counted as part of the open space for any other structure.

(E) District frontage requirements for lots served by private roads, to include all private rights-of-way serving four (4) or more lots, shall be the same as frontage requirements for lots served by public roads.

(F) For lots which do not have frontage on a public or private road or public waters, the minimum setback distance from all property lines shall equal the district minimum side yard setback distance.

(G) Any yard adjoining a public or private road shall be considered a front yard (e.g., a corner lot shall be considered to have only front and side yards); frontage and front setback requirements shall apply along each road right-of-way.

(H) For development subject to subdivision, site plan or conditional use review, the Development Review Board may increase minimum required setback distances, required buffers, and landscaping and/or screening within designated setback areas; and may also limit or prohibit the use of setback areas for parking and storage as necessary to protect public health, safety, and welfare, and adjoining properties and uses (see Sections 5.3 and 5.4).

### **Section 3.7 Nonconforming Lots**

(A) In accordance with the Act [§4412(2)], any lot in individual, separate and nonaffiliated ownership from surrounding properties legally in existence on the effective date of these regulations may be developed for the purposes allowed in the district in which it is located, even though not conforming to minimum lot size requirements, if the lot is not less than one-eighth (1/8) of an acre in area and has a minimum width or depth dimension of not less than 40 feet.

(B) If a nonconforming lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot(s), for the purposes of these regulations. However, the lot shall not be deemed merged and may be separately conveyed if:

- (1) the lots are conveyed in their preexisting, nonconforming 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 disposal 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, potable water systems, or both, in case there is a failed system or failed supply as defined in state statutes [10 V.S.A.. Chapter 64].

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

(A) **Nonconforming Use.** In accordance with the Act [§4412(7)], any use of land or a structure legally in existence as of the effective date of these regulations which does not meet the requirements of these regulations shall be considered a nonconforming use. A nonconforming use may be continued indefinitely in accordance with the Act, subject to the following limitations:

- (1) A nonconforming use may be changed to another nonconforming use that is of the same or a more restrictive nature only with the approval of the Development Review Board, subject to conditional use review under Section 5.4.
- (2) A nonconforming use shall not be re-established if it has been changed to or replaced by a conforming use, or it has been discontinued for a period of one (1) year, regardless of the intent to resume the nonconforming use.
- (3) A nonconforming use may be re-established within a structure or portion thereof which has been damaged or destroyed, only if repair or reconstruction of the structure is started within one (1) year of the date of such damage or destruction, and is completed and the use reestablished within one (1) year thereafter in accordance with Section 3.1.

(B) **Nonconforming Structure.** In accordance with the Act [§4412(7)], any structure, or portion thereof, legally in existence as of the effective date of these regulations which does not meet the requirements of these regulations shall be considered a nonconforming structure. A nonconforming structure may continue to be occupied indefinitely, subject to the following limitations:

**Degree of Noncompliance:** For purposes of these regulations, any enlargement or other structural alteration which extends the footprint, height or volume of a structure within a required setback distance, or above the maximum allowed height (i.e., the amount of encroachment), shall be considered to increase the degree of noncompliance.

- (1) A nonconforming structure may undergo normal maintenance and repair without a zoning permit, provided that such action does not increase the degree of noncompliance.
- (2) A damaged nonconforming structure may be repaired or reconstructed in accordance with Section 3.1, provided that the repair or reconstruction does not increase the degree of noncompliance.
- (3) A nonconforming structure may be structurally enlarged, extended, expanded, modified or moved, with the issuance of a zoning permit under Section 9.3, provided that the enlargement, expansion, modification or relocation does not increase the degree of noncompliance, and meets all other applicable requirements of these regulations.
- (4) In accordance with the Act [§4414(8)], in the event that no reasonable alternative exists, the Development Review Board may allow a nonconforming structure to be structurally enlarged, expanded, extended, modified or relocated in a manner that increases the degree of noncompliance up to 50% as a conditional use subject to conditional use review under Section 5.4. Any further increase in the degree of noncompliance shall require variance approval by the Development Review Board under Section 9.6.

### Section 3.9 Outdoor Lighting

(A) **Purpose.** The town's rural character is enhanced by the ability to clearly view and enjoy a night sky that is free of light pollution. While limited outdoor lighting may be necessary for safety and security, or desirable to promote nighttime recreational activities such as downhill skiing; inappropriate, poorly designed or improperly installed outdoor lighting can result in unsafe conditions and nuisances for adjoining property owners and motorists, sky glow which obstructs views of the night sky, and unnecessary power consumption.

(B) **General Standards.** To allow for outdoor lighting, while minimizing its undesirable effects, the following standards apply to all outdoor lighting installations in the Town of Bolton, with the exception of temporary holiday light displays which are exempted from these regulations:

- (1) All outdoor lighting shall be kept to the minimum required for safety, security, and intended use, consistent with the character of the neighborhood in which it is located.
- (2) Permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties, roads, or public waters, or result in excessive lighting levels that are uncharacteristic of the surrounding neighborhood or area.
- (3) Outdoor lighting fixtures shall be cast downward or be designed to minimize glare. Such fixtures may include recessed, shielded, or cutoff fixtures, or low luminance lamps.
- (4) Outdoor lighting fixtures should include timers, dimmers, and/or sensors to reduce energy consumption and eliminate unnecessary lighting.

(C) **Specific Standards.** For outdoor lighting installations associated with development that is subject to subdivision, site plan or conditional use review, the Development Review Board also may require the following, and condition approval accordingly:

- (1) Information regarding exterior lighting fixtures, including fixture type, mounting locations and heights, illumination levels and distribution, and color, to be submitted as part of the subdivision or development review application. A lighting plan, prepared by a qualified engineer or lighting expert, may be required for projects requiring ski slope, parking, street, or security lighting. The Board also may require an independent technical analysis of potential impacts and appropriate mitigation measures, prepared by a qualified lighting expert, to be paid for by the applicant.
- (2) The burial of electrical lines to outdoor lighting fixtures.
- (3) The use of security lighting only if unusual or hazardous conditions require it. Security lighting, where deemed necessary by the Board, shall be shielded and aimed so that only designated surfaces or areas are illuminated.
- (4) The use of timers, dimmers, and/or sensors to reduce energy consumption and eliminate unnecessary lighting.
- (5) Street lighting shall not be provided except in Village zoning districts where it is deemed necessary by the Board for safety or security, such as at road intersections or pedestrian crossings.
- (6) Outdoor lighting, except for approved security lighting, shall be on only during business hours, unless otherwise specifically approved by the Development Review Board.

(D) **Waiver.** The Development Review Board may waive or modify the requirements of this section if it finds that doing so will not:

- (1) jeopardize the stated intent of these provisions under Subsection (A), or that
- (2) such a modification or waiver is needed for public safety, or to meet an overriding public purpose, such as the illumination of a public building or monument, or for the nighttime display of the national flag; and that appropriate conditions are attached to minimize adverse impacts to adjoining properties.

### Section 3.10 Outdoor Storage

(A) **Solid & Hazardous Wastes.** The dumping or outdoor storage of trash, garbage, construction debris, or hazardous or corrosive wastes or chemicals, or any refuse is prohibited except in solid or hazardous waste management facilities or salvage yards approved in accordance with these regulations and state

law. The disposal of brush, yard, and organic kitchen waste generated as part of the normal operation and maintenance of a household or property, done in a manner that meets applicable health and safety regulations, is exempted from these regulations.

(B) **Motor Vehicles.** The storage on any lot of more than three (3) unregistered motor vehicles other than farm vehicles is prohibited, except within an approved motor vehicle repair facility or salvage yard. Unregistered vehicles must be stored or screened so that they are not visible from public rights-of-way, including town and state highways, and adjoining properties. No one may discard or abandon any motor vehicle upon the land of another, with or without the permission of the landowner, except in an approved motor vehicle repair facility or salvage yard.

(C) **Aboveground Storage Tanks.** The storage of any highly flammable or hazardous liquid or gas in an above ground tank with a unit capacity exceeding 550 gallons must meet all applicable state and federal construction, storage and safety standards, and the following:

- (1) a tank with a capacity of up to 10,000 gallons must be located at least 100 feet from all lot lines,
- (2) a tank with a capacity in excess of 10,000 gallons must be located at least 200 feet from all lot lines, and
- (3) tanks shall be properly retained with dikes having a capacity of not less than 1.5 times the capacity of the tank.

Where applicable, the applicant shall submit a copy of the permit issued for storage tank installation by the Vermont Department of Labor and Industry prior to the issuance of a zoning permit.

### **Section 3.11 Parking, Loading & Service Areas**

(A) **Parking.** Off-street parking spaces shall be provided on the same lot as the associated use, or on an adjacent lot in the same ownership or under permanent easement, as set forth below:

- (1) All required parking spaces shall have a minimum width of nine (9) feet, a minimum length of 18 feet, unobstructed access and maneuvering room, and a gravel or paved surface sufficient for year-round use.
- (2) A minimum number of parking spaces as determined by the proposed use shall be provided in accordance with the requirements listed in Table 3.1, unless otherwise waived under Subsection (C).
- (3) Heavy equipment, commercial tractor trailers and similarly large commercial vehicles, excluding commercial passenger cars, vans, and trucks, shall not be parked on residential lots, except in association with a home industry approved under Section 4.13. Diesel or commercial vehicles shall not be run overnight while parked anywhere in the Village, Resort Village or Resort Residential Districts.
- (4) Parking areas associated with multi-family, public, commercial and industrial uses are to be located to the side or rear of buildings, unless otherwise specifically approved by the Development Review Board.
- (5) In addition to the requirements listed in Table 3.1, all multi-family, public, commercial and industrial uses must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal (ADA) requirements, and at least one bicycle rack for use by employees and/or the general public.

Table 3.1 Minimum Off-Street Parking Requirements	
Use	Parking Spaces
Bed & Breakfast	2 per dwelling unit, and 1 per guest room
Dwelling/ Accessory	1 per dwelling unit
Dwelling/ Multi-Family Dwelling	3 per every 2 dwelling units
Dwelling/ Single or Two Family Dwelling	2 per dwelling unit
Funeral Home	1 per 2 employees, and 5 per visiting room
Health Clinic	5 per physician, dentist or other primary care giver
Home Child Care	2 per dwelling unit, and 1 per nonresident employee
Home Business [Home Occupation/Home Industry]	2 per dwelling unit, and 1 per nonresident employee
Light Industry	1.25 per employee, for the largest shift
Lodging (hotel, motel, inn)	1 per guest room
Mixed Use	Total (sum) required per each individual use
Motor Vehicle Service Station	5 per service bay
Office/ Professional, Government, Business	1 per 200 sq. ft. of gross floor area
Personal Service	1 per employee, and one per customer service station
Private Club	1 per 4 members
Public Assembly (church, theater, meeting hall, etc.)	1 per 200 sq. ft. of gross floor area, or 1 per 5 seats at capacity, whichever is greater
Public Facility [with limited/no public access] (e.g., garage, fire station)	1 per 1,000 sq. ft. of gross floor area, and 1 per employee
Residential Care Facility	1 per 4 beds, and 1 per employee for the largest shift
Restaurant , Bar	1 per 4 seats, and 1per employee for the largest shift
Retail Sales & Service	1 per 300 sq. ft. of gross floor area
School/ Day Care Facility	3 spaces per 10 children enrolled at the facility
Warehouse	1 per 1,000 sq. ft. of gross floor area, and 1 per employee
Unspecified	As determined by the Development Review Board in accordance with accepted transportation (ITE) standards.

(6) All off-street parking areas in excess of eight (8) parking spaces shall incorporate landscaped areas which at minimum equal 10% of the total parking area, unless otherwise approved by the Development Review Board. Landscaped areas shall be integrated into parking lot and stormwater management design, and shall be regularly maintained.

(7) For development subject to site plan or conditional use review, shared parking and/or landscaping, screening, lighting, snow removal, pedestrian or transit facilities may be required as a condition of approval.

(B) **Loading & Service Areas.** Where a proposed development will require the frequent or regular loading or unloading of goods or passengers, sufficient on-site service areas shall be provided. Service areas also may be required for emergency vehicles, waste disposal and collection, bus, taxi, or van

service, and other purposes as may be necessitated by the proposed use. All loading and service areas shall be clearly marked and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections, or from any internal road or access.

(C) **Waivers.** For development subject to subdivision, site plan or conditional use review, the Development Review Board may waive on-site parking, loading and/or service area requirements based on the determination under one or more of the following provisions that, due to circumstances unique to the development, the strict application of these standards is unnecessary or inappropriate:

- (1) green areas are to be set aside and maintained as open space for future conversion to parking, loading and/or services areas in the event that the spaces initially permitted are subsequently deemed inadequate to meet demonstrated need;
- (2) adequate shared parking, loading, and/or service areas for use by two (2) or more businesses exist on the same or contiguous lots, under common ownership or a long-term lease;
- (3) adequate off-site public parking exists within reasonable walking distance of the establishment; or
- (4) the proposal is for the development of affordable housing as defined under Section 10.2.

### Section 3.12 Performance Standards

(A) No land or structure in any zoning district shall be used or occupied in any manner that creates dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining or nearby properties.

(B) In accordance with the Act [ §§4414(5), 4413(d)], the following performance standards, as measured at the property line, must be met and maintained for uses in all districts, except for agriculture and forestry. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns. No use, under normal conditions, shall cause, create or result in:

- (1) **noise** in excess of 60 decibels that is not the result of occasional, customary activities associated with an allowed use (e.g., lawn mowing); or noise that otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area;
- (2) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments;
- (3) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;
- (4) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;
- (5) **electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from facilities which are specifically licensed and regulated through the Federal Communications Commission);

- (6) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare (also see Section 3.9);
  - (7) **liquid or solid waste or refuse** which cannot be disposed of by available methods without undue burden to municipal or public disposal facilities, which pollutes surface or ground waters, or which is otherwise detrimental to public health, safety and welfare (see also Section 3.10); or
  - (8) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties, or which results in a significantly increased burden on municipal facilities and services (also see Section 3.10).
- (C) Agricultural operations shall at minimum observe **Accepted Agricultural Practices (AAPs)** as defined and administered by the Vermont Agency of Agriculture (see Section 9.2).
- (D) Forestry operations shall at minimum observe **Accepted Management Practices (AMPs)** as defined and administered by the Vermont Department of Forests, Parks and Recreation (see Section 9.2).
- (E) The Zoning Administrator or Development Review Board may consult with state and federal regulatory agencies in determining accepted performance standards for a particular use.

### Section 3.13 Ponds [Constructed]

- (A) **Intent.** The construction of any pond that impounds more than 100,000 cubic feet of water, other than a fire pond, snowmaking pond, or detention or retention pond constructed as part of a stormwater management, water or wastewater treatment system approved in accordance with these regulations, shall require a zoning permit. The intent of regulating pond construction is to protect the lives and property of Bolton residents, the infrastructure of the community, and the natural environment by:
- (1) reducing the possibility of impoundment failure resulting from improper design or construction,
  - (2) minimizing the potential for flood damage to upstream properties by the storage of flood waters; and
  - (3) minimizing damage caused by the sudden release of stored water from impoundment failure or intentional rapid draining of the impoundment.
- (B) **Requirements.** Prior to issuance of a zoning permit, the applicant shall submit copies of the following issued by the Vermont Department of Environmental Conservation and/or the U.S. Army Corps of Engineers, as applicable to a particular project:
- (1) a dam permit for any pond that will impound, or be capable of impounding 500,000 cubic feet or more of water;
  - (2) a stream alteration permit for any pond that necessitates work in a stream that drains an area of 10 square miles or more;
  - (3) approval of the Fish and Wildlife Commissioner for the placement of obstructions in streams that block the passage of fish;
  - (4) a wetlands permit for any pond located in or near a wetland (see also Section 3.17); and
  - (5) approval from the US Army Corps of Engineers where required (e.g., if dredge or fill material is to be placed in a wetland or water body, or a wetland will be impacted by pond construction).

(C) **Excavated Ponds.** Excavated (dug) ponds which do not require the construction of embankments, may be issued a permit by the Zoning Administrator in accordance with the following requirements:

- (1) All earth work shall be conducted between June 1<sup>st</sup> and October 1<sup>st</sup>.
- (2) Clearing limits shall be confined to the immediate construction area to avoid unnecessary disturbance.
- (3) During the excavation process, soil will be disposed of in an upland site at least 50 feet from the edge of surface waters and wetlands.
- (4) Pond banks shall not exceed a 3:1 slope (three feet horizontally to one foot vertically).
- (5) All areas stripped of vegetation, except the ponded area, shall be seeded and mulched immediately following the completion of excavation.

(D) **Embankment Ponds.** Embankment ponds that require the construction, reconstruction or installation of water control structures such as earthen dikes, concrete dams, and/or spillways may be allowed as a conditional use subject to conditional use review by the Development Review Board under Section 5.4, and the following requirements:

- (1) The pond shall be designed by a professional engineer, licensed by the state, with expertise in pond design and construction.
- (2) The design of all water control structures shall be based on the size of the watershed area that drains into the pond and, at minimum, a 25-year storm event.
- (3) It shall be demonstrated to the satisfaction of the Board that the pond and associated spillway areas will not adversely affect municipal facilities, adjoining properties, or downstream drainage. Easements from adjoining landowners shall be submitted for impoundment and/or spillway areas that will extend on to or have the potential to flood adjoining properties.
- (4) An erosion control plan that incorporates appropriate erosion control methods from the *Vermont Handbook for Soil Erosion and Sediment Control* as most recently amended shall be submitted for review and approval.
- (5) All earth work shall be conducted between June 1<sup>st</sup> and October 1<sup>st</sup>.
- (6) The pond shall be maintained on a regular basis. As a condition of approval, the Board may require periodic safety inspections by a professional engineer, and the submission of safety reports.

(E) Any zoning permit issued for pond construction shall clearly state that the applicant and his or her successors and assigns is responsible for the pond's safety and retains liability for its failure if the pond is not constructed, maintained, operated, or repaired in a safe and proper manner. The municipality, in approving pond construction, assumes no liability in the event of failure.

### Section 3.14 Signs

(A) **Purpose.** These sign regulations are established to achieve the following objectives:

- (1) to ensure businesses, activities, events, or products are provided with sufficient opportunity for identification and promotion;
- (2) to ensure the safety and well being of the users of streets, roads and highways in the Town of Bolton;

- (3) to reduce distractions and obstructions from signs which would adversely affect traffic safety, and to alleviate hazards caused by signs projecting over or encroaching upon public ways;
- (4) to discourage visual competition in signage and ensure that signs aid orientation and adequately identify uses and activities to the public; and
- (5) to protect the natural and historic beauty of Bolton's rural highways and scenic vistas from indiscriminate outdoor signage.

(B) **Applicability.** No outdoor sign shall be erected, displayed, moved or modified in size, height or lighting without the issuance of a zoning permit by the Zoning Administrator, except for signs which are either exempted from the requirement to obtain a zoning permit, or are otherwise prohibited in the Town of Bolton (see Table 3.2).

(C) **General Standards.** All signs, other those specified under Subsection (A), shall require a zoning permit issued by the Zoning Administrator in accordance with the following requirements:

- (1) No outdoor advertising signs shall be permitted in any district except for the purpose of identifying an existing, on-premise use in those districts where such a use is allowed.
- (2) Signs placed on or which are a part of an awning or canopy are subject to all requirements of these regulations.
- (3) No sign shall be erected, relocated or maintained so as to prevent free entrance to or exit from any right-of-way, driveway, door, window, fire escape or public street or road.
- (4) No sign shall be erected or placed within a municipal right-of-way except with the approval of the Bolton Selectboard or the Vermont Agency of Transportation.
- (5) No sign shall be permitted which prevents a clear and unobstructed view of official signs or impairs sight distances at intersections.
- (6) No sign shall be mounted on a roof, or extend above the highest roof eave.
- (7) No sign shall have more than two (2) faces.
- (8) Permanent signs, with the exception of posted trespassing, hunting and safety zone signs, shall not be erected, attached, drawn or painted on fences, utility poles, trees, rocks, or other natural features.
- (9) Freestanding signs shall not extend above the roof eave of the business establishment, nor be located within 12 feet of a side or rear property line, or within any right-of-way.
- (10) Projecting signs shall not extend into a vehicular right-of-way, nor be less than nine (9) feet above a pedestrian right-of-way.
- (11) No sign shall be illuminated during hours when premises are unoccupied or are not open for business. Internally illuminated signs are specifically prohibited. Illuminated signs shall not produce undue glare, hazards or distractions. A constant, shielded light source of one color may be used, provided that the light fixture is mounted on the top or side of the sign, is directed downward onto the sign surface, and does not cast light onto neighboring properties, public rights-of-way, or vehicular traffic. The light source shall not be visible from adjacent properties or roads.

**Table 3.2 Exempted & Prohibited Signs**

(A) **Exempted Signs.** The following signs shall not require a zoning permit, but shall be subject to all other applicable requirements of Section 3.14:

- (1) Signs erected and maintained by the town or state on public roads for directional, safety or public service purposes, including tourist information services.
- (2) Small unlit, directional, warning or informational signs which do not exceed two (2) square feet in area, which are intended to inform the public (e.g., that identify restrooms, public telephones, freight entrances, vacancies) and are located on the premises.
- (3) Legally posted, trespassing, hunting or safety zone signs.
- (4) One private home identification sign not exceeding one (1) square foot in area.
- (5) One unlit sign advertising a home-based business (e.g., home child care, home occupation, home industry or bed & breakfast), that does not exceed eight (8) square feet in area.
- (6) One unlit sign advertising an active farming operation, which does not exceed 16 square feet in area.
- (7) One unlit residential subdivision sign, placed at the main entrance of a subdivision, which does not exceed 16 square feet in area.
- (8) One sign or bulletin board incidental to a school, church, library, public park or other government facility, which does not exceed 16 square feet in area.
- (9) One unlit sandwich board or other moveable sign per business, which does not exceed four (4) feet in height, nor twelve (12) square feet in area, and is displayed only during hours of operation.
- (10) One temporary real estate "for sale" or "for rent" sign per front yard that does not exceed six (6) square feet in area, and is removed immediately following property sale or rental.
- (11) Temporary on-premise signs for the sale of seasonal agricultural products, not exceeding four (4) square feet in area, which are in place for no longer than six (6) months during any one year period.
- (12) One temporary sign erected for a fair, exposition, or other municipal, philanthropic, or community sponsored special event that does not exceed 16 square feet in area, is installed on the premises or in another off-site location approved by the Selectboard no more than two (2) weeks prior to the event, and is removed immediately following the event.
- (13) Temporary auction, lawn or garage or similar sale signs, not exceeding six (6) square feet in area per side, which shall be removed immediately following the sale.
- (14) One temporary, unlit advertising sign, not exceeding 16 square feet, for an approved construction project or residential subdivision, which shall be removed when construction is completed or 75% of residential lots have been transferred into individual ownership.
- (15) Temporary election signs to be posted and removed in accordance with state law. Such signs may be displayed not more than 30 days prior to an election, and shall be removed within seven (7) days of the vote.
- (16) One unlit historic or landmark sign per historic property, not to exceed six (6) square feet in area.
- (17) Decorative, wall-mounted nostalgic or replica signs that are not used for advertising purposes, and do not exceed eight (8) square feet in area.
- (18) Wall murals intended solely for artistic, non-advertising purposes.
- (19) Window signs and displays which do not exceed 30% of the total window pane area.

(B) **Prohibited Signs.** The following signs are specifically prohibited in the Town of Bolton:

- (1) Signs which impair highway safety.
- (2) Off-premise signs, except for those that conform to state laws.
- (3) Signs that are internally illuminated, animated, flashing, oscillating, revolving, or made of reflective material or paint, with the exception of public safety signs, time and temperature signs, and barber poles.
- (4) Streamers, pennants, ribbons, spinners or other similar devices.
- (5) Signs identifying businesses that are no longer in existence.
- (6) Signs mounted on or attached to parked rolling stock (e.g., a motor vehicle or trailer) that is not in active use as a vehicle, but is used primarily as a support or foundation for the sign.

(12) All signs shall be maintained in a safe and secure condition. Nothing in these regulations shall prevent the normal maintenance and repair of an existing sign, including the replacement of broken parts. If the Zoning Administrator determines that a sign is not secure, safe, or in a good state of repair, a written warning and/or notice of violation may be issued under Section 9.7 with a request that any defect be immediately corrected.

(D) **District Sign Standards.**

(1) **Village District.** Within the Village District:

- (a) The total area of all signs, including all freestanding, wall, and projecting signs, shall not exceed 40 square feet per lot or development.
- (b) No more than one (1) freestanding sign, identifying one or more businesses, is allowed per lot or development.
- (c) A freestanding sign identifying an individual business shall not exceed 16 square feet in area.
- (d) Directory signs identifying multiple businesses shall not exceed 24 square feet in area.

(2) **Resort Districts.** Within the Resort Village and Resort Residential Districts the number and location of signs is subject to Development Review Board approval in association with site plan, conditional use or planned development review. In addition:

- (a) All signs in these districts shall have a consistent design and color scheme, and may incorporate the resort logo.
- (b) One (1) “welcome sign” may be allowed along the access road identifying the entrance or gateway to the resort. This sign shall not exceed 32 square feet in area.
- (c) Directional signs, to be located at vehicular arrival points, shall not exceed 50 square feet in area.
- (d) Wall-mounted building identification signs shall not exceed 30 square feet in area.
- (e) An individual business sign may include a wall-mounted or projecting sign. Such signs shall be located near the business entrance(s), and shall not exceed 10 square feet in area.
- (f) Directory signs identifying multiple businesses shall not exceed 30 square feet in area.
- (g) Informational signs, intended to inform guests and facilitate traffic flow, shall not exceed 10 square feet in area.
- (h) Temporary signs for the promotion and management of special events, including banners, inflatable signs and sandwich boards, are allowed in approved locations for a maximum of seven (7) days before an event, and must be removed immediately following the event.

(3) **Other Districts.** Within all other zoning districts:

- (a) The total area of all signs, including all freestanding, wall, or projecting signs, shall not exceed 16 square feet per lot or development.
- (b) No more than one (1) freestanding sign, identifying one or more businesses, is allowed per lot or development.
- (c) A freestanding sign identifying an individual business shall not exceed 8 square feet in area.
- (d) Directory signs identifying multiple businesses shall not exceed 16 square feet in area.

(E) **Measurement.** The sign area shall be defined as the total area of one sign face as measured from the outer edges, excluding any supporting frames or panels. Signs consisting of freestanding characters shall include any intervening spaces (the entire message area) in the calculation of total sign area. The height of a sign shall be measured from ground level to the highest point of the supporting structure.

(F) **Nonconforming Signs.** Any sign lawfully in place prior to the effective date of these regulations which does not conform to these regulations with respect to area, height, setback, location, number or lighting, shall be considered a nonconforming sign. Such signs may receive normal maintenance and repair; however no nonconforming sign shall be enlarged, extended, changed in design or altered to advertise a different business or product, unless it is brought into conformance with these standards. A nonconforming sign that has been damaged or destroyed beyond 50% of its appraised value, abandoned for a period of six (6) months or more, or which identifies a business, activity or product that has not existed at that location for more than six (6) months, must be removed.

### **Section 3.15 Source Protection Areas**

(A) To protect the quality of public water supplies, and associated source protection areas:

- (1) no development shall be allowed within a 200-foot radius of a well or spring that serves a public water supply, except for activities, structures and uses that are directly related to the water system.
- (2) to the extent feasible, all on-site septic systems, including leach fields, shall be located outside of a designated source protection area.

(B) All development within designated source protection areas, except for agriculture, forestry, single and two family dwellings, associated accessory uses and structures, and uses that are specifically prohibited under Subsection (C), shall be subject to conditional use review by the Development Review Board under Section 5.4, to include findings that:

- (1) The proposed development is consistent with the Source Protection Plan as most recently adopted and approved by the state, does not include a prohibited activity or use under Subsection (B), and does not present a threat to the public water supply.
- (2) There shall be no on-site discharge of hazardous materials from floor drains; all floor drains will drain into holding tanks.
- (3) Dry wells shall be used only when other methods are unfeasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants. All drainage ways, dry wells, and sediment traps shall be regularly maintained in full working order by the owner.
- (4) Site clearing and disturbance, and on-site paving, roofing, and other impervious surfaces that increase surface runoff and limit water infiltration and recharge, are minimized. All runoff from impervious surfaces shall be diverted to areas covered with vegetation for surface infiltration.
- (5) The storage and application of fertilizers, pesticides, herbicides and other chemicals shall comply with all state and federal regulations and best management practices.
- (6) Above ground storage tanks for oil, gasoline or other petroleum products shall be placed in a building or other impervious containment area to prevent spills and leaks from reaching groundwater (also see Section 3.10).
- (7) The use of sodium chloride for ice control shall be minimized.

The Board, as a condition of approval, may required groundwater monitoring on-site or in the immediate vicinity of the project.

(C) The following uses and activities are specifically prohibited within designated source protection areas:

- (1) Operations, including home based businesses, which manufacture, use, process, store or dispose of hazardous materials or wastes in amounts that could threaten public water supplies, including but not limited to metal plating, chemical manufacturing, wood preserving, photographic processing, motor vehicle service, auto body repair, furniture stripping, and dry cleaning materials.
- (2) Solid and hazardous waste landfills, storage and transfer facilities, dumps, salvage and junk yards.
- (3) Outdoor storage of salt, de-icing materials, snow dumps, pesticides or herbicides.
- (4) The storage or spreading of sludge from wastewater treatment facilities.
- (5) Cemeteries.
- (6) The storage of unregistered vehicles unless stored in an enclosed structure and parked on an impervious surface or drained of all fluids.
- (7) Installation of floor drains or sumps that discharge directly to the ground.
- (8) Underground storage tanks, and above ground storage tanks that lack an adequate impervious containment area.

### **Section 3.16 Steep Slopes**

(A) Development on steep 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 5.2 shall include contour intervals of five (5) feet or less, slope profiles showing existing gradients and proposed cut and fill sections, and a stormwater management and erosion control plan, prepared by a professional engineer licensed by the state, that covers all phases of development including site preparation, construction and post construction.
- (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 screening materials is encouraged, and may be required to lessen the visual impact of such development.

(B) All development is specifically prohibited on very steep slopes in excess of 25% except for the following which may be allowed by the Development Review Board subject to conditional use review and the requirements of Subsection (A):

- (1) ski lifts and ski trails associated with an approved alpine or Nordic ski facility,
- (2) hiking and rock climbing trails, and
- (3) development on pre-existing lots legally in existence as of the effective date of these regulations for which the Board determines that there is no portion of the lot on which the slope does not exceed 25% and, as such, that the total prohibition of development on slopes in excess of 25% would unduly preclude reasonable use of the lot.

### **Section 3.17 Surface Waters & Wetlands**

(A) No alteration of the natural course of any stream or brook shall be allowed except to rectify a natural catastrophe for the protection of the public health, safety, and welfare, or to cross a stream or brook for the purpose of access.

(B) To prevent surface runoff and soil erosion, and to protect water quality and riparian wildlife habitat, all structures and impervious surfaces, except for allowed encroachments under Subsection (D) below, shall be set back at least:

- (1) 150 feet from the Winooski River, as measured from the top of the bank;
- (2) 100 feet from Joiner Brook, Duck Brook, Goose Pond Brook, Gleason Brook, Honey Hollow Stream, Preston Brook, Mill Brook, Pinneo Brook, and the South Branch of Mill Brook (paralleling Stage Road), as measured from the top of the bank of the main stream channel; and
- (3) 200 feet from Goose Pond, Preston Pond and Upper Preston Pond, as measured from the annual mean high water mark.

(C) In addition, all structures and other impervious surfaces shall be set back at least 50 feet from:

- (1) other naturally occurring streams and rivers (as measured from the top of the bank, or channel centerline where no bank is discernable), as identified on USGS topographic maps, Vermont Base Mapping Program orthophotos, or through field investigation;
- (2) the shorelines of all other naturally occurring lakes and ponds with a surface area greater than one (1) acre, as measured from the mean water line, and
- (3) wetlands identified on Vermont Significant Wetland Inventory (VSWI) maps or through field investigation, as measured from a delineated boundary.

(D) New on-site septic systems shall be sited to meet applicable Vermont state standards for such systems, including required isolation distances from all surface waters and wetlands specified under Subsections (B) and (C).

(E) 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.

(F) At minimum, one-half of the required setback distance, as measured from the surface water or wetland, shall be maintained as a naturally vegetated buffer. No development, excavation, landfill, or grading shall occur within the buffer area, and vegetation shall be left in an undisturbed state, 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 (including pruning and selective cutting), and
- (5) pond 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.

(G) For development subject to subdivision, site plan, or conditional use review, the Development Review Board may require increased setback distances, limited or shared access to surface waters and wetlands, and/or a buffer area management plan to protect water quality, if it is determined that such measures are needed based on site, slope and soil conditions and the nature of the proposed use.

(H) The expansion or enlargement within required setback areas of any structure or portion thereof 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 3.18 Water Supply & Wastewater Systems**

(A) **Applicability.** No building or structure intended for human occupancy shall be erected, altered or converted to another use unless adequate water supply and wastewater disposal systems are provided in compliance with all applicable municipal and state regulations. This includes:

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

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

(B) **Standards.** Water supply and wastewater disposal systems shall be designed and installed by qualified professionals licensed by the state (i.e., a professional engineer, designer, site technician, installer) in accordance with the following:

- (1) All new wastewater and potable water supply systems shall meet specifications in the Vermont Department of Environmental Conservation's Environmental Protection Rules as most recently amended.
- (2) An existing disposal system subject to the provisions of this section shall be inspected by a qualified professional, licensed or registered by the state, 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 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.
- (4) Wastewater disposal systems shall meet minimum setback requirements from surface waters and wetlands under Section 3.17.
- (5) To the extent feasible, wastewater systems shall not be located within designated source protection areas, in accordance with Section 3.15.

(C) **Off-site Systems.** A lot or use may be served by water supply and/or sewage disposal systems located on an adjoining or noncontiguous parcel. In no event, however, shall a lot or structure outside the Resort Village or Resort Residential Districts be connected to the public water and wastewater systems serving Bolton Valley. The use of, or connection to, an off-site system shall be secured through an easement or other form of legal conveyance.

(D) **Issuance of a Certificate of Occupancy.** In addition to the requirements of Section 9.4, the Zoning Administrator shall not issue a certificate of occupancy for any structure or use that requires new or upgraded potable water supply and/or wastewater disposal systems until copies of applicable state permits and associated certifications have been received.

(E) **Warning & Disclaimer of Liability.** The issuance of a zoning permit shall not imply that a state approved water supply or wastewater system will be free of malfunction. The provisions of this section shall not create liability on the part of the municipality or any municipal official or employee for any system malfunction.