Introduction to Johnsons Form Based Code

This Code is known as Johnson's Form Based Code. The purpose of this Code is to better control future development within the Town of Johnson, in order to maintain and improve the general appearance, growth and economic health of the Town. This document defines the initial (and perhaps only) phase of this code and seeks to control future development within the Village of Johnson. The proposed area to be controlled by the Code is depicted in the map in article 4, Section 4.01 through Section 4.03. For this initial phase, the map is divided into three districts: Village Storefront, Village General and Village Neighborhood Each district has their own separate Building Envelope Standards which will be defined in this document

Form Based Code is a type of zoning which regulates the physical form and appearance of buildings and does not regulate the uses within those buildings.

How to use this code:

Your first step is to study the maps in Article 4 and determine if your property is within the boundaries of one of the depicted districts. If the answer is no, then you are done. If the answer is yes, then follow the steps in this document to obtain the necessary permit.

It is suggested, but not required, that your first step in the application process should be a meeting with the Administrative Officer (AO). If you have any questions, you should contact the Administrative Officer (AO)

The following are some frequently asked questions which may help.

Frequently Asked Questions

When do I need a Permit?

If your property is within the boundaries of an FBC district, then you will need to obtain a permit prior to development of that property. Basically, if you are building a new structure or substantially modifying an existing structure, you will need a permit. **How does the permit work?**

Fill out the Permit application and submit it to the Administrative Officer with the application fee. Make sure application has all of the required information. The Administrative Officer then has 30 days to review the application and contact you with a decision or request more information. If your development plan meets the requirements of the appropriate FBC district, the AO will issue a Permit. If your development plan does not meet the requirements of the appropriate FBC district, then the AO will may deny the Permit Application or ask for further information. Any denial may be appealed to the Development Review Board (DRB). The Permit application requirements, procedures and standards are in Article II.

What is DRB, and when is DRB Approval required?

The DRB is a board made up of 5 town residents who are appointed to the position by the Select Board. The DRB and its role are further defined in Article III.

DRB Approval is required:

1: If the developer chooses to appeal the AO'S decision to deny a permit

2: when the AO refers the Permit Application to the DRB due to a request for a special condition or non-conforming permit. DRB Approval is required for all special standards and non-conforming plans.

What is the first step?

Although not always a requirement, your first step could be an informal review with the AO. This is an informal review so the applicant may better understand the requirements.

What if the applicant or an interested party doesn't agree with the DRB decision?

If you or an interested party does not agree with the DRB decision, you may appeal to the Environmental Court which is a Division of the Vermont Superior Court.

What is a variance?

When the standards in the regulation do not allow you to do what you want, you may apply to the DRB for a variance. The request for a variance is heard by the DRB but the level of proof required is more difficult. It requires special circumstances that justify the DRB in diverging from the actual standards of the Regulation. If the DRB approves the variance request, you may use that approval as a basis for a Permit application.

What standards do the DRB use in considering applications for Approval?

That answer depends on what kind of DRB Approval you are seeking. The general standards are in Article I, but there may be additional standards depending on the District where the property is located. The district standards are in Article IV and V.

What are Districts and how are their standards different?

The Village is divided into 3 Districts shown on the Regulating Map. The design of each District reflects its character, the density of habitation, the recreational resources and the development within it, the natural resources to be preserved, and the goals of the Town Plan for that District.

Does the Regulation contain sewage and septic standards?

No. The Town/Village, however, has established protocols for waste water allocation. Also, the Vermont Department of Environmental Conservation issues water and wastewater permits.

Will I need other permits?

All people planning a development should consult with the Vermont Department of Environmental Conservation offices at 111 West Street, Essex Junction, VT (802-879-5676) for any applicable state permit requirements. (http://www.anr.state.vt.us/dec/ead/pa/index.htm)

If you are not sure how to proceed, please contact the Administrative Officer for help.

Article I General:

Section 1.01 Authority, Purpose, Maps:

A. This Johnson Form Based Code Regulation (this "Regulation"), is adopted as provided for in the Vermont Planning and Development Act, Chapter 117 of Title 24 of Vermont Statues Annotated (the "Act"). The purpose of this Regulation is to:
   1. Preserve the character and appearance of the Johnson.
   2. Provide developers and property owners with straightforward and predictable development criteria
   3. To improve the growth and economic health of the town

B. The following maps are incorporated in this Regulation:

C. The form Based Code Map contained in Addendum and on Page 3 Nothing in this Regulation shall invalidate any existing permit, approved land plan or survey, the terms and conditions of which shall still be in effect.

D. State regulated utilities and agricultural and silvicultural practices (24 V.S.A. Sec. 4413(d)) do not require a permit, although farmers must notify the Administrative Officer in writing of any planned construction activity in advance, as per state Accepted Agricultural Practices.

Section 1.02 Applications and Enactment:

A. The application of this Form Based Code (FBC) is subject to Title 24 VSA, Chapter 117. Within the Village of Johnson FBC Districts (except as hereinafter provided) no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof shall be occupied or used unless in conformity with this FBC as herein specified for the district in which such structure is located, unless exempted as defined in section 6.02, paragraph 1a.

Section 1.03 Establishments of Form Based Code Districts:

A. The Village of Johnson is hereby divided into the following FBC Districts as shown on the Village Regulating Map:
   1. Village Storefront
   2. Village General
   3. Village Neighborhood

Section 1.04 Other Applicable Regulations

A. All development must comply with relevant Federal, State and municipal regulations. Whenever any provision of this Code imposes a greater requirement or a higher standard than is required in any State or Federal statute or other Municipal regulation, the provisions of this Code shall govern unless preempted by State or Federal law.

B. Where apparent conflicts exist between the provisions of this Code and other existing ordinances, regulation or permits, or by easements, covenants, or agreements, the provisions of this Code shall govern, as is consistent with State and Federal law.

Section 1.05 Minimum Requirements

In interpreting and applying the provisions of the Code, they are the minimum requirements for development under this Code.

Section 1.06 Severability

Should any provision of this Code be decided by the courts to be unconstitutional or invalid, that decision shall not affect the validity of the Code other than the part decided to be unconstitutional or invalid.

Section 1.07 Components of the Code

A. Approval Process, Administration of the Code

Administration covers application and review process for development plan approval.

B. The Map

A map that depicts and delineates the Johnson Form Based Code Districts.

C. The Building Envelope Standards (BES)

The primary purpose of the building envelope standards (BES), is to shape the street-space—its specific physical and functional character— through placement and form standards on buildings, as they frame the street space or public realm. Their secondary purpose is to ensure that the buildings cooperate to form a functioning and consistent block structure. The BES aim for the minimum level of regulation necessary to meet these goals. The applicable standard(s) for a development project is determined by the district designated on the Map.

The Building Envelope Standards (BES) establishes both the boundaries within which things *may* be done and specific things that *shall* be done.

Section 1.08 General Requirements

A. **Uses**: Johnson FBC does not govern land use or use within structures.
B. All completed permit applications shall be submitted to the Administrative Officer.
C. Once a permit application is submitted, the AO may return it to the applicant without approval or denial if the application is deemed to be incomplete
D. Administrative Officer Review: All complete permit applications shall be reviewed and approved by the AO except as described in Article III, section 3.01.
E. DRB review: Only the DRB may approve permits with special conditions or non-conforming plans as defined in Article III.

Article II Permits and Appeals.

Section 2.01 Applicability

A *FBC Permit* ("Permit") is required for all development that is not exempted under Section 2.02.

Section 2.02 Exemptions from the Permit Requirement:

No FBC permit shall be required for the following activities:

A. Required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with 6 V.S.A. §§ 4810 and 4810a. Written notification shall be submitted to the Administrative Officer prior to any construction. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

B. Accepted management practices for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with Title 24 VSA §4413(d).

~~C.~~ Power generation and transmission facilities, which are regulated under Title 30 VSA §248 by the Vermont Public Service Board

D. Hunting, fishing, and trapping as specified under Title 24 VSA §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as recreation facilities.

E. Normal exterior and interior maintenance and repair of an existing structure which conform with the BES for the appropriate district.

F. Entry stairs, decks, porches, handicap access ramps, landings, bulkheads and walkways which conform to the BES in the appropriate district

G. Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under §335 or significant changes in contours which result in new drainage patterns.

H. Small detached buildings associated with residential uses which are less than two hundred (200) square feet of floor area and less than sixteen (16) feet in height.

I. Temporary carports/garages provided that every fall they are erected no sooner than October 15th and every spring they are dismantled no later than May 15th.

J. Highway signs regulated by the State.

K. All onsite equipment needed for the customer's personal use to communicate with a wireless service.

Section 2.03 Application and Fee:

A. To obtain a Permit the landowner, lease holder or an authorized agent, submits an application to the Administrative Officer on the Permit Application form.

B. Required application fees, as set by the Select Board, also shall be submitted with each application. ***(The FBCSC recommends a range of $25.00-$75.00.)***

Section 2.04 Application contents:

A. The Permit application contains:

1. A simple statement(s) of what the applicant is seeking approval for.
2. The name of the applicant(s), property, property tax ID numbers.
3. A reasonably detailed map (at least 8 ½" X 10"), to show:
    a. The shape, dimensions, location of the lot noting principle relevant features, including existing structures, and lot boundary markings.
    b. The shape, size, height and location of all structures to be erected, altered or moved.
    c. The location of existing and proposed utilities and accesses (curb cuts, driveways and parking areas)
    d. The location of any required setbacks, "build to" zones, existing permits and existing and proposed wells, well shields and septic fields.
    e. The location of any existing or proposed easements.
    f. Any additional requirements prescribed for the District where the property is located.
4. A description of all existing development on the property.
5. Any DRB action relating to the Permit application.
6. The application fee.

B. The Administrative Officer may reject the application if any of the required information is not provided. The Administrative Officer may waive any of the above requirements if the requested information is not relevant to what applicant is seeking approval for.

Section 2.05 Administrative Action on Permit Application

A. **Administrative Review Process:**

Within 30 days after the Administrative Officer's acceptance of a complete application, the Administrative Officer approves the application, denies it, or requests additional information. Within 30 days after additional information is provided, the Administrative Officer approves or denies the application. Failure of the Administrative Officer to act within this timeframe shall constitute automatic approval. If the Permit is approved, the Administrative Officer promptly issues a Permit with any conditions required by this Regulation. In considering whether to issue or deny a Permit, the Administrative Officer applies the standards of this Regulation, including those of the District, and overlay District, where the property is located. If all applicable standards are met, the Administrative Officer may adjust

"build-to line" (BTL) requirements if one of the following prevents the BTL from being met:

1. **Steep slope conditions**
2. **Wetlands, waterways or**
3. **Existing utilities.**

B. The Permit shall contain a statement that the applicant should contact state agencies to determine what state permits may be required before commencing development, as required by 24 V.S.A. Sec. 4449(e): "Before beginning development, the applicant is obligated to identify, apply for and obtain all necessary state permits relating to this project by contacting the Vermont Agency of Natural Resources Office, 111 West Street, Essex Junction, VT; 802-879-5676." Note: http://www.anr.state.vt.us/dec/ead/pa/index.htm

C. Within one day following the issuance of a Permit, the Administrative Officer shall:

1. Deliver a copy of the Permit to the Town and Village Administrator
2. Post a copy of the Permit in a public place in Johnson Town Offices for 15 days, at least.
3. Deliver copies to the Town Clerk for recording in the land records and for filing in the Permit records.
4. Post a copy of the Permit on the Town's website.

D. On the day of approval, the Administrative Officer shall post a notice of the Permit on the property within view of the nearest public road for 15 days from the date of issuance and shall ensure that it remains posted for the 15 days.

E. Adjoining property owners (abutters) or other interested parties as defined by 24 V.S.A. Sec. 4465(b) may appeal, in accordance with 24 V.S.A. Sec. 4465, the granting of a Permit by giving written notice to the Administrative Officer within the 15 days. The appeal shall state the objections to the granting of the Permit with reference to this Regulation. Timely appeals will be heard by the DRB as provided in Section 207.

F. The Permit shall not take effect until 15 days following the issuance of the Permit during which appeals can be filed as provided in Article II, Section 207 below. **In no event shall any development, occur until the Permit is issued and takes effect.** In the event that an appeal is filed, the Permit is suspended until the appeal is decided by the DRB, and all further appeals are exhausted.

Section 2.06 Certificate of Compliance:

When development is completed, the holder of the Permit must obtain a Certificate of Compliance, issued by the Administrative Officer. The Administrative Officer may inspect the property to confirm compliance with the requirements and conditions of the Permit. Within 15 days of the Permit holder's request for a Certificate of Compliance, the Administrative Officer shall either issue the Certificate of Compliance or provide the

permit holder a statement listing the items of non-compliance. After the holder of the Permit has remedied the items of non-compliance, and re-applied, the Administrative Officer shall issue a Certificate of Compliance.

Section 2.07 Appeal:

The applicant or an interested party, as defined in 24 V.S.A. Sec. 4465(b), may file an appeal of a decision by the Administrative Officer within 15 days from date of the decision. The appeal must be filed at the Town Offices, must be in writing and specify the objections of the party making the appeal to the Administrative Officer's decision. The filing fee must accompany the appeal. The hearing before the DRB on the appeal will be held with the same formalities as with a hearing for DRB Approval. The DRB may deny the appeal or grant it, with or without conditions. As with all DRB Approvals, a DRB decision concerning an appeal specifies the reasons for its decision referencing applicable law and regulations. RECCOMENDED COST OF APPEAL IS $250.00

Section **2.08 Variance**

A landowner may request a variance of this Regulation from the DRB using the same procedure as with appeals from the decision of an Administrative Officer. A variance will only be granted if facts are found that satisfy the criteria in 24 V.S.A. Section 4469(a) with respect to the District where the property is located. In addition, variances in the Flood Hazard District will only be granted after complying with the criteria and insurance notice requirements of Section 60.6 (a) of the National Flood Insurance Program Floodplain Management Regulations (http://www.gpo.gov/fdsys/pkg/CFR-2010-title44-vol1/pdf/CFR-2010-title44-vol1-sec60-6.pdf).

Section 2.09 Permit Expiration:

Permits expire two years from the effective date of the Permit. Longer term permits may be granted approval by the DRB, upon the applicant's request.

Article III DRB Review/Approval:

Section 3.01: When DRB Approval Required:

A. DRB review is required when:

1. The Administrative Officer determines that an application cannot, because of Special Requirement, comply with the applicable Building Envelope Standards, Nonconformities Standards, and Parking Standards.
2. The Administrative Officer determines (for any reason) that DRB review is required
3. Upon the request of the applicant. The Applicant shall specify why DRB approval is requested.

B. The Administrative Officer shall refer the application to the DRB for consideration specifying the reason(s) and the need for DRB approval.

a. In the DRB hearing the authority of the DRB shall be limited to considering the reason(s) specified in applicant's appeal or in the Administrative Officer's reason(s) for referral.
b. In no event is the DRB allowed to inquire about, or attempt to exercise authority beyond, the reasons set forth in the applicant's request or in the Administrative Officer's reason(s) for referral.
c. Where the reason for the referral to the DRB concerns applications not conforming to the Building Envelope Standards, the DRB may approve non-conforming applications on a case by case basis but shall be limited in the exercise of its discretion to the Building Envelope Standards.

Section 3.02 DRB Approval procedures:

A. The owner of the property, or duly appointed representative, may apply for a FBC Permit with Special Requirements by submitting a complete application to the AO.

B. The applicant shall provide all the information required for a Permit application.
   1. For DRB Approval of a Special Requirement, the application shall include, in addition to any requirements in the District standards:
      (a) A detailed description of the intended special requirement or circumstances, and,
      (b) How the Special Requirement or Special Standard will meet the applicable criteria in District standards, and,
   2. The applicant shall also provide any items required by District standards. However, any item may be waived if the AO or the DRB consider the item as irrelevant to the proposed development. In addition, the DRB **may** request:

a. Copies of proposed deeds, agreements or other documents showing the manner in which trails, sidewalks, streets, open space, including park, common gardens, recreation areas and school site areas, are to be dedicated, reserved, and maintained. A certificate from a consulting engineer as to the completion of all improvements required by the DRB. In addition the DRB may require a performance bond to secure completion of such improvements and their maintenance for a period of two years.

C. Within 15 (business) days after submission of the application, the DRB shall review it for completeness. In the event that the application is incomplete, the applicant is to be promptly notified and have the option of withdrawing the application or submitting the missing items. A public hearing will be scheduled on the application 30 days or less following the submission of the application or the submission of the missing items. Notice of the public hearing must be made 7 days or more prior to the hearing by publication in a newspaper of general circulation in Johnson, by posting the notice in three public places in Johnson, on the Town website, and by written notice to adjoining property owners. The notice to the adjoining property owners shall include a brief description of the proposed development, that additional information is available at the Town offices and that participation in the hearing is required to become an interested party, as defined by 24 V.S.A Sec. 4465(b).
D. The public hearing shall be recorded. The Chair shall open the hearing and ask whether any DRB members must excuse themselves because of a conflict of interest or because of having ex parte contacts with the applicant concerning the application.
E. The Chair shall state that the purpose of the hearing is for the DRB to take statements and evidence, along with the application for consideration by the DRB. The Chair shall remind those who would like to speak those statements should address the merits of the proposed development and whether it complies with the specific requirements of this Regulation. The applicant and/or representatives may make statements introducing the application and then interested parties may make statements and present relevant evidence. Questions from members of the DRB to those making statements, including the applicant, should be directed through the Chair. The Chair may set and enforce time limits on oral statements.
F. The DRB may recess the hearing for the submission of additional information, but in no event more than 45 days without the agreement with the applicant. At the conclusion of the statements, questions by DRB members and submission of additional information, the Chair will close the public hearing. Within 45 days from the close of the hearing the DRB will deliberate and issue a findings of fact,

conclusions of law and decision either denying or granting the application, with or without conditions.

G. In considering an application, the DRB shall be limited to the following
    1. The criteria specified for the District where the property is located.
    2. Requirements described on the BES that are applicable to the proposed development
    3. Enforcement of the requirements and conditions of the Permit and whether a bonding and financing agreement is necessary.

Section 3.03 Appeals:

The applicant or an interested party may appeal a decision of the DRB within 30 days to the Environmental Court, which is a division of the Vermont Superior Court. The standards for appeal and who qualifies as an interested party are provided in 24 V.S.A. Sec.4471 (and in the Rules of the Environmental Division, the Vermont Rules of Appellate Procedure and otherwise by law).

Article IV the Map

Section 4.01: Village Storefront Map

Section 4.02: Village General Maps

Section 4.03: Village Neighborhood Maps

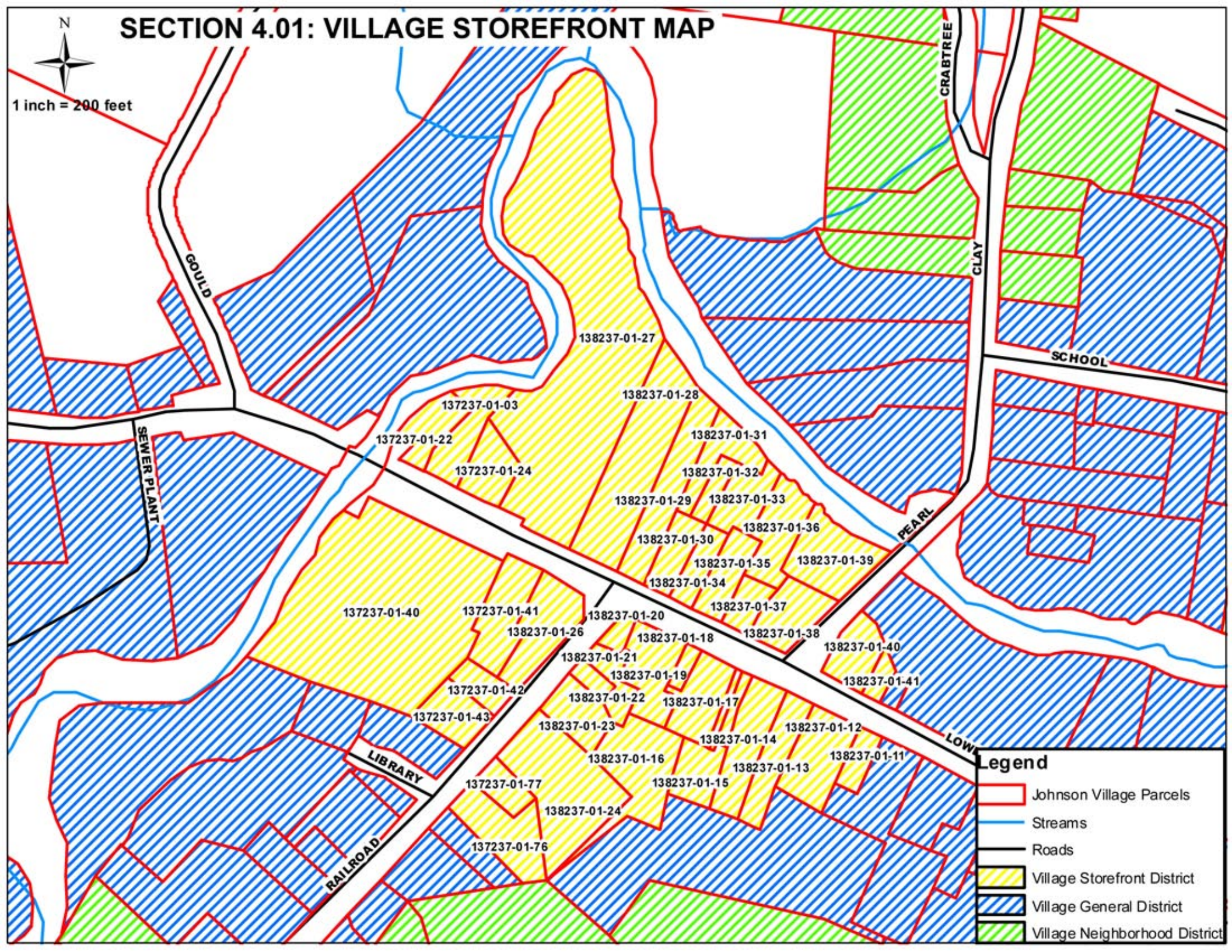
Article V Building Envelope Standards

Section 5.01: Village Storefront Building Envelope Standards

Section 5.02: Village General Building Envelope Standards

Section 5.03: Village Neighborhood Building Envelope Standards

Section 5.04: Glazing Standards


SECTION 4.01: VILLAGE STOREFRONT MAP
N
1 inch = 200 feet
GOULD
CRABTREE
CLAY
SCHOOL
PEARL
SEWER PLANT
LIBRARY
RAILROAD
138237-01-27
138237-01-28
137237-01-03
137237-01-22
138237-01-31
137237-01-24
138237-01-32
138237-01-29
138237-01-33
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138237-01-16
138237-01-11
138237-01-13
137237-01-77
138237-01-15
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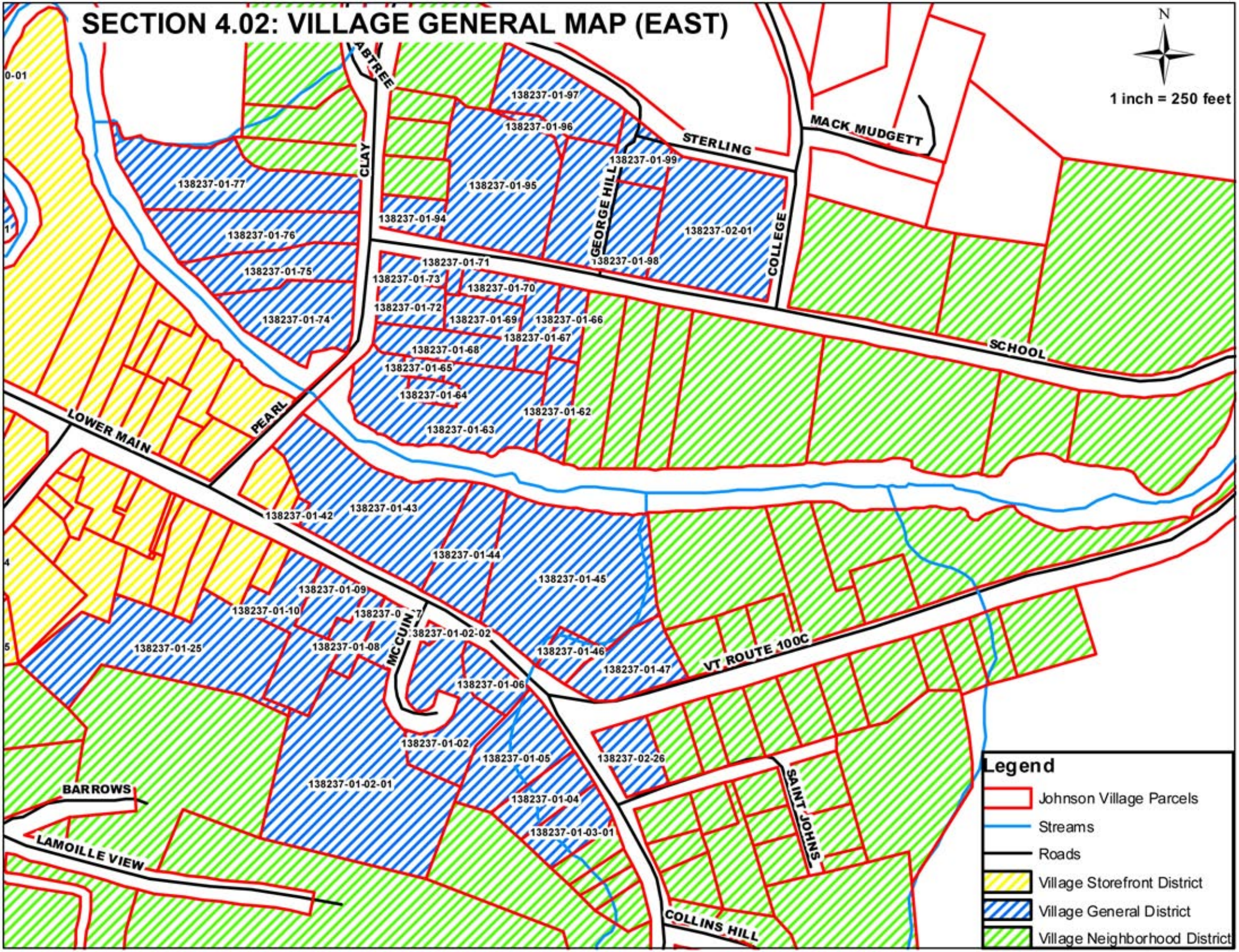
Legend
Johnson Village Parcels
Streams
Roads
Village Storefront District
Village General District
Village Neighborhood District


SECTION 4.02: VILLAGE GENERAL MAP (EAST)
N
1 inch = 250 feet
ABTREE
CLAY
STERLING
MACK MUDGETT
GEORGE HILL
COLLEGE
SCHOOL
LOWER MAIN
PEARL
MCCUIN
VT ROUTE 100C
BARROWS
LAMOILLE VIEW
SAINT JOHNS
COLLINS HILL
138237-01-97
138237-01-96
138237-01-99
138237-01-95
138237-01-77
138237-01-94
138237-02-01
138237-01-76
138237-01-98
138237-01-75
138237-01-71
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138237-01-02-01
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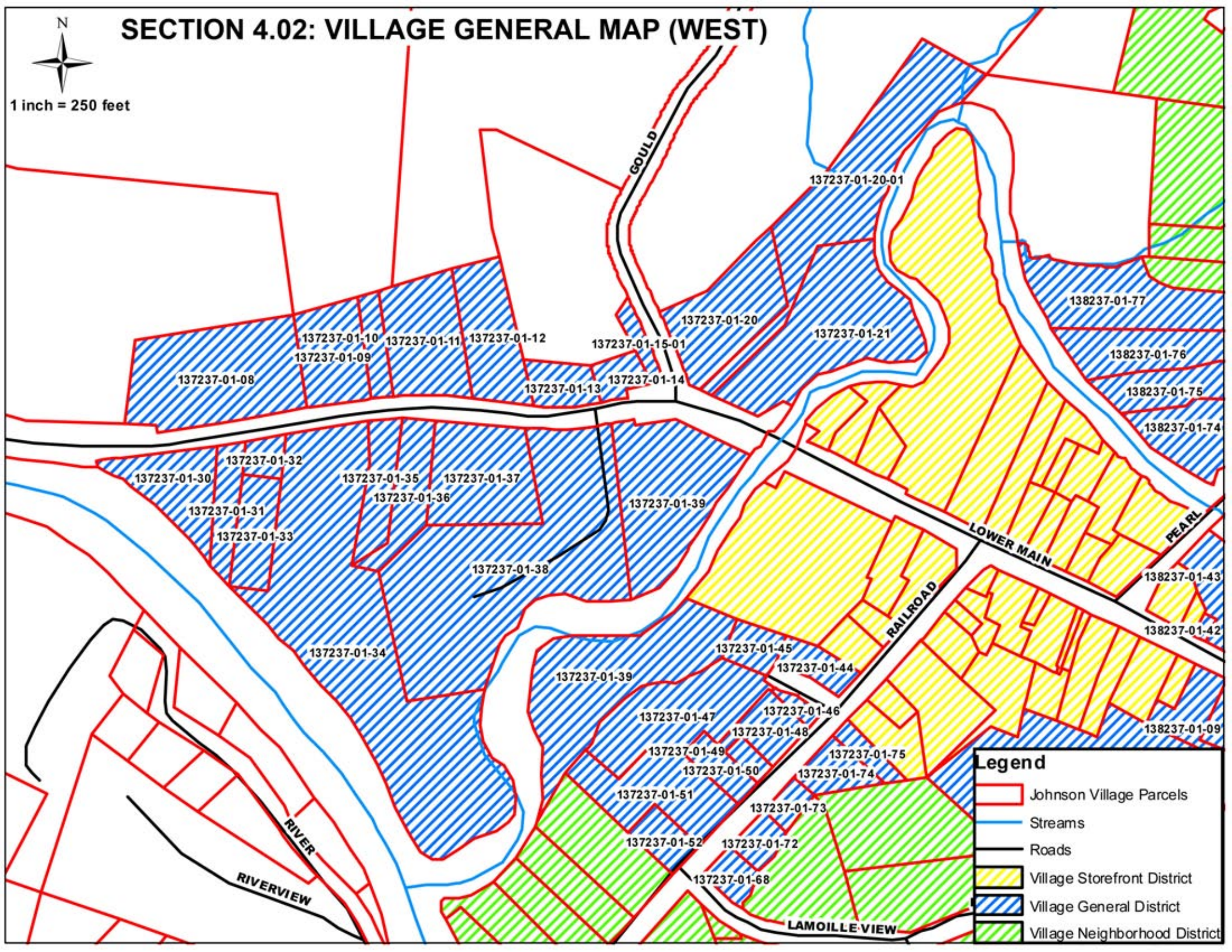
Legend
Johnson Village Parcels
Streams
Roads
Village Storefront District
Village General District
Village Neighborhood District


SECTION 4.02: VILLAGE GENERAL MAP (WEST)
N
1 inch = 250 feet
GOULD
137237-01-20-01
137237-01-20
137237-01-21
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138237-01-76
138237-01-75
138237-01-74
137237-01-10
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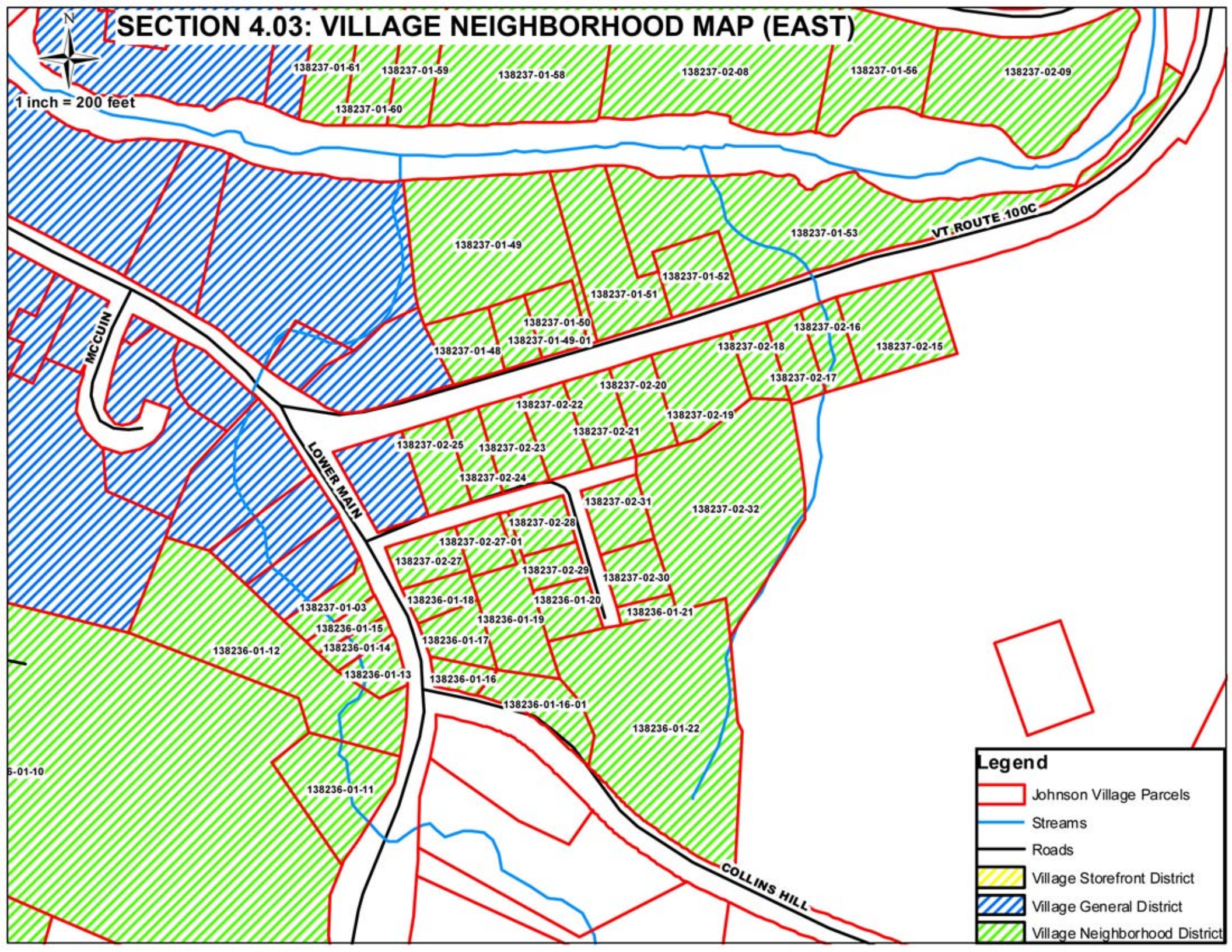
137237-01-39
137237-01-38
LOWER MAIN
PEARL
138237-01-43
138237-01-42
RAILROAD
137237-01-34
137237-01-45
137237-01-44
137237-01-39
137237-01-46
137237-01-47
137237-01-48
138237-01-09
137237-01-49
137237-01-75
137237-01-50
137237-01-74
137237-01-51
137237-01-73
137237-01-52
137237-01-72
137237-01-68
RIVER
RIVERVIEW
LAMOILLE VIEW
Legend
Johnson Village Parcels
Streams
Roads
Village Storefront District
Village General District
Village Neighborhood District


SECTION 4.03: VILLAGE NEIGHBORHOOD MAP (EAST)
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1 inch = 200 feet
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138237-01-59
138237-01-58
138237-02-08
138237-01-56
138237-02-09
138237-01-60
138237-01-49
138237-01-53
VT. ROUTE 100C
138237-01-52
138237-01-51
138237-01-50
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138237-01-48
138237-02-16
138237-02-18
138237-02-15
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138237-01-03
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138236-01-17
138236-01-14
138236-01-12
138236-01-13
138236-01-16
138236-01-16-01
138236-01-22
138236-01-11
MCCUIN
LOWER MAIN
COLLINS HILL
Legend
Johnson Village Parcels
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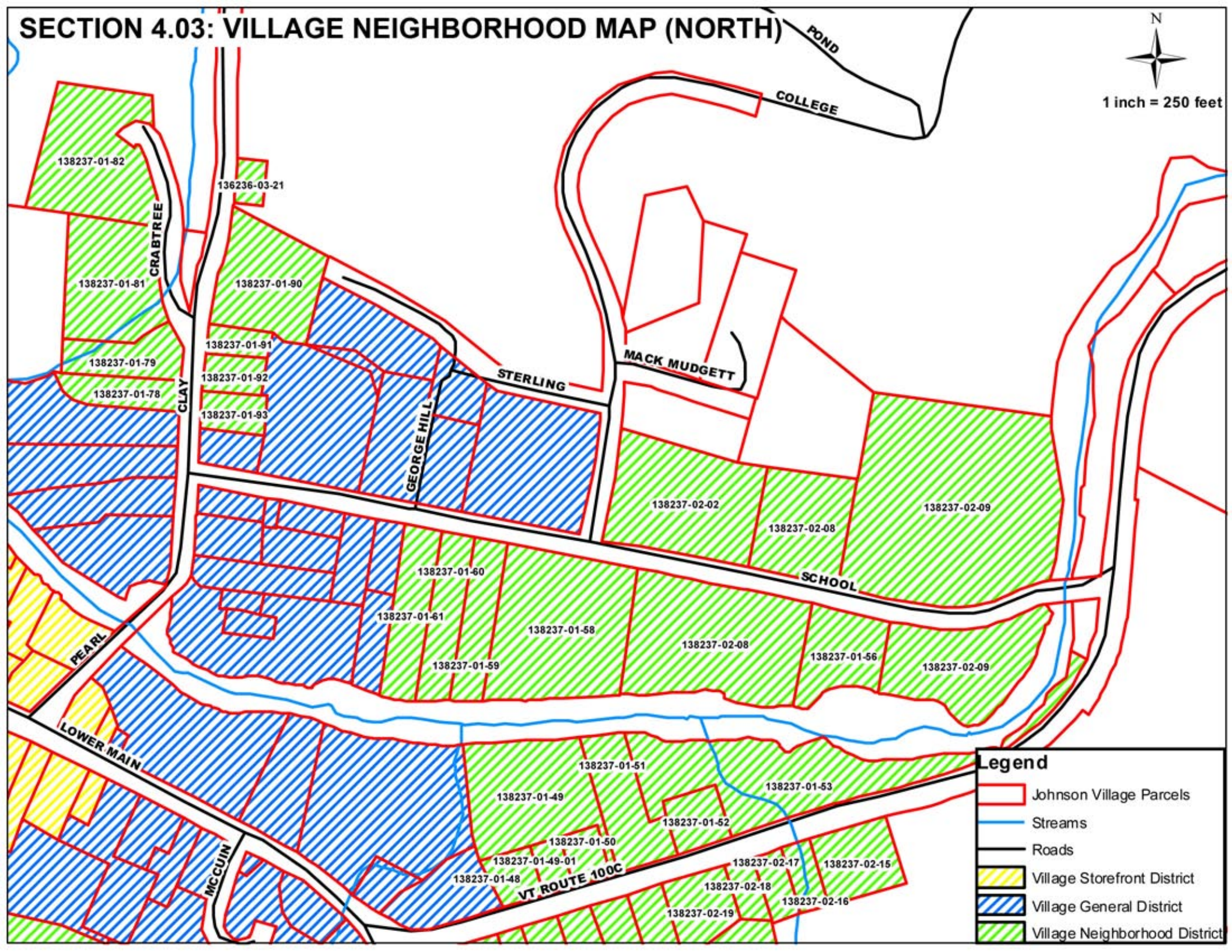
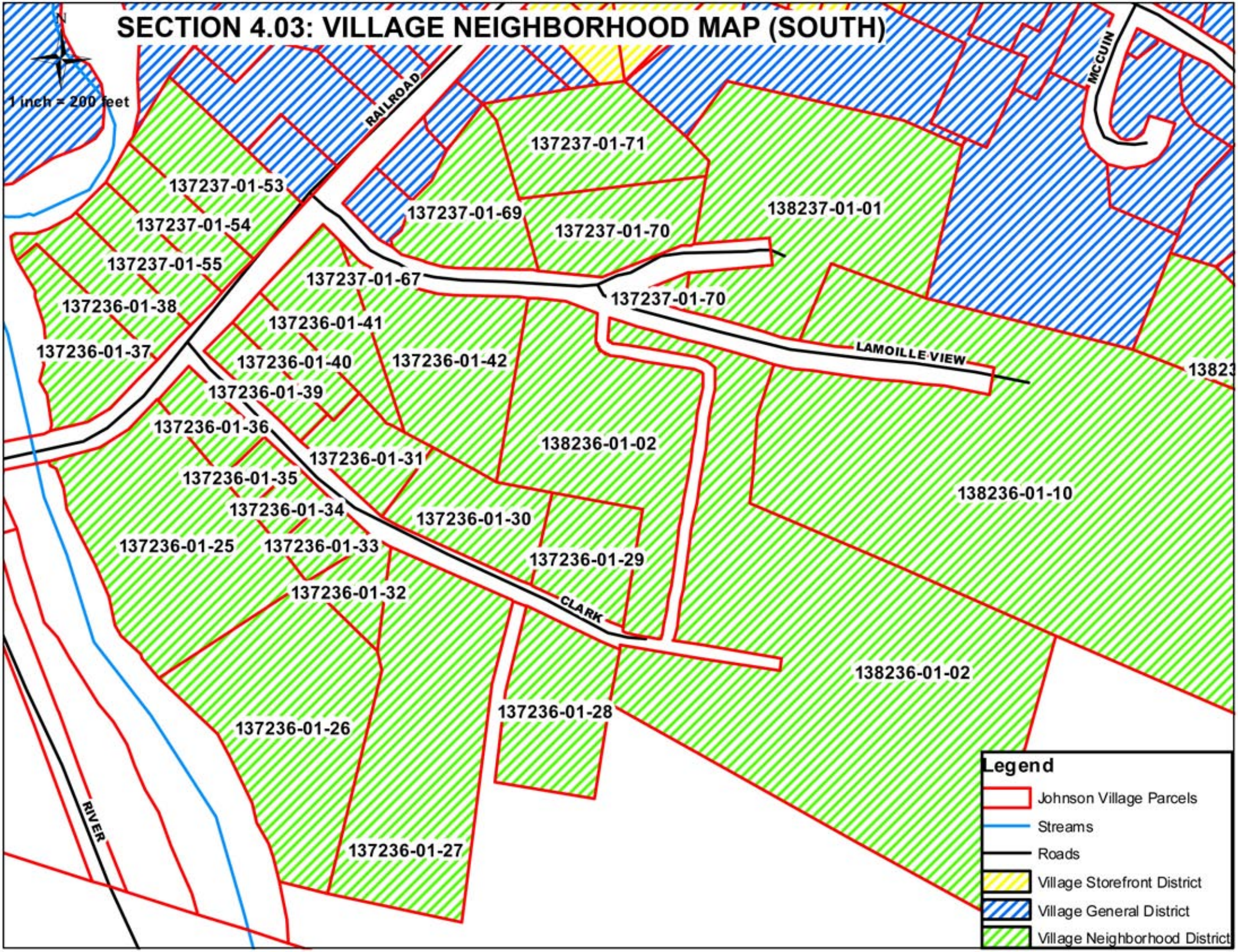
Village Storefront District
Village General District
Village Neighborhood District

SECTION 4.03: VILLAGE NEIGHBORHOOD MAP (NORTH)




SECTION 4.03: VILLAGE NEIGHBORHOOD MAP (SOUTH)
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1 inch = 200 feet
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LAMOILLE VIEW
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CLARK
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137236-01-28
137236-01-26
RIVER
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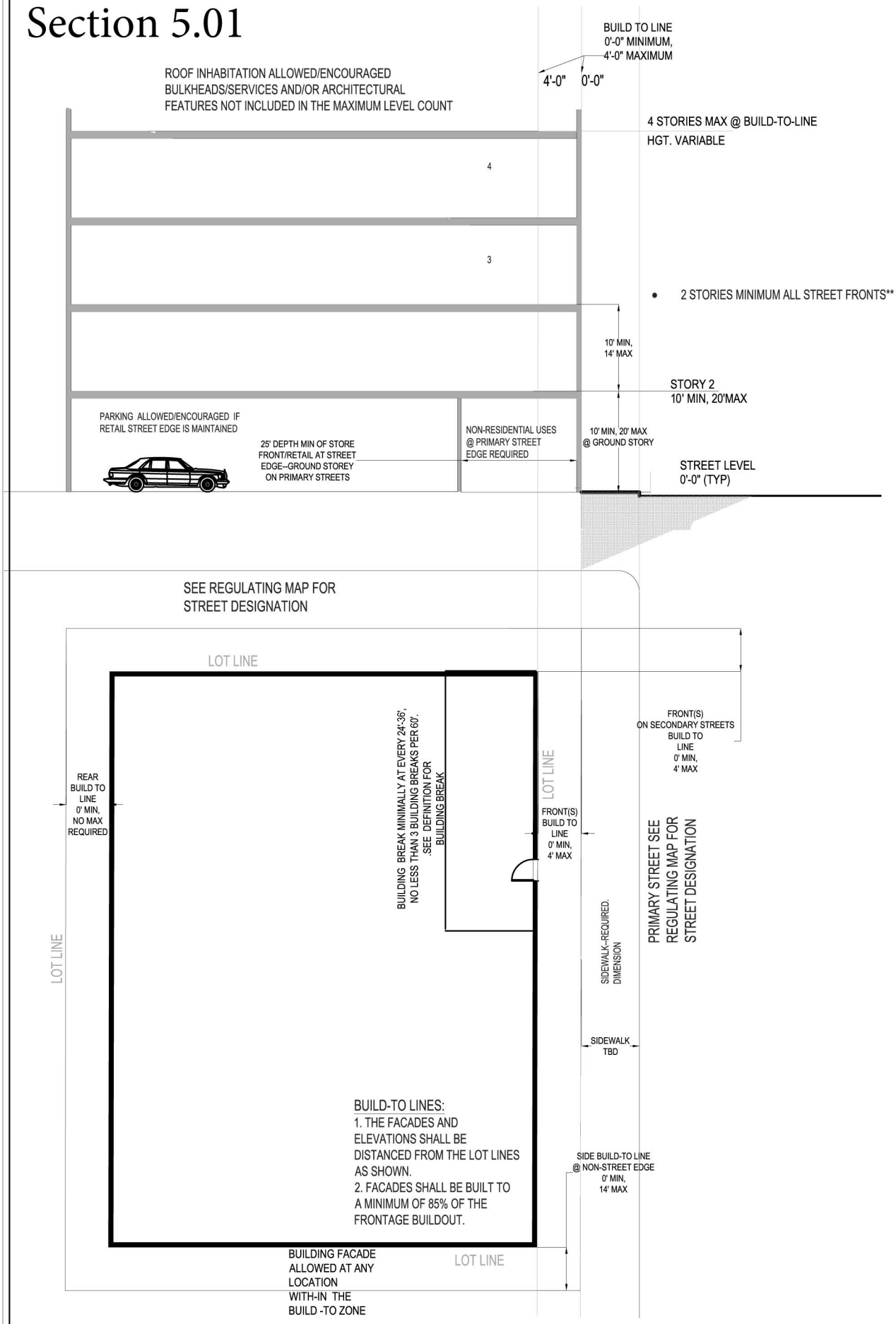
Legend
Johnson Village Parcels
Streams
Roads
Village Storefront District
Village General District
Village Neighborhood District

Village Storefront BUILDING ENVELOPE STANDARDS (BES)

Section 5.01



VILLAGE STOREFRONT BUILDING ENVELOPE STANDARDS (BES): MAIN STREET IN CHARACTER WITH HIGH VOLUME FOOT TRAFFIC. THE PURPOSE IS TO CREATE A STREET-ORIENTED PUBLIC REALM THAT ENCOURAGES A MORE DENSE DOWNTOWN, MULTI-USE/MULTI-PURPOSE BUILT ENVIRONMENT WITH RETAIL AND MIXED USE USES.

VILLAGE STOREFRONT REQUIREMENTS

- LOT SIZE: NO MINIMUM
- PERCENTAGE OF LOT COVERAGE: NO MAXIMUM
- UNITS PER ACRE: NO MAXIMUM
- BUILDING LEVELS:
    - 2 REQUIRED MINIMUM LEVELS
    - 4 MAXIMUM LEVELS
- "BUILD-TO LINE" RANGE (PRINCIPAL FRONTAGE) SHALL BE 0' MIN.-4' MAX.. ***ANY PORTION OF THE BUILDING FRONT CAN BE PLACED WITHIN THE RANGE***
- "BUILD-TO LINE" RANGE (SECONDARY FRONTAGE) SHALL BE 0' MIN.-12' MAX.
- PERCENTAGE OF BUILDING FRONTAGE:
    75% OF LOT WIDTH IS REQUIRED TO BE BUILT. 75% OF THE TOTAL BUILDING FRONTAGE ("PRINCIPAL" FRONTAGE) SHALL BE BUILT AT PRINCIPAL BUILD-TO LINE RANGE. THE REMAINING 25% OF THE BUILDING FRONTAGE MAY BE BUILT AT THE SECONDARY BUILD-TO LINE.
- FREQUENCY OF PUBLIC, OPERABLE ENTRANCES ON PRIMARY FRONT:
    - PUBLIC ENTRANCE REQUIRED EVERY 24' PER BUILDING ON PRINCIPAL STREETS.
- PERCENTAGE OF GLAZING ON GROUND LEVEL:
    - 60% OF WIDTH OF BUILDING SHALL BE GLAZING WITH A MINIMUN HEIGHT OF 5'. GLAZING INCLUDES DOORS AND WINDOWS (SEE DEFINITION AND DIAGRAM).
- GROUND LEVEL HEIGHT - FLOOR TO FLOOR:
    - 10' MINIMUM
    - 20' MAXIMUM
- BUILDING BREAKS:
    - REQUIRED EVERY 24'-36' OR MINIMUM 3 BREAKS EVERY 60', NO SINGLE SPAN GREATER THAN 36' ALLOWED ON PRIMARY, SECONDARY AND PUBLIC OPEN SPACE.

GENERAL NOTES:

- NO BUILDING MASS MAXIMUM: HOWEVER, FIRE ACCESS MUST BE MAINTAINED AND DELIVERY CHANNEL/PUBLIC ALLEYS ARE ENCOURAGED.
- AWNINGS, ENTRANCE VESTIBULE, COVERED PORCHES AND DECKS ARE ENCOURAGED.

PARKING LOCATION AND STANDARDS NEW CONSTRUCTION MUST COMPLY WITH PARKING STANDARDS.

A. NEW SURFACE PARKING SHALL BE SET BACK FROM THE FRONTING STREET MINIMALLY 16'.

B. PARKING SPACES MAY BE LEASED FROM THE MUNICIPALITY OR A PRIVATE LANDOWNER.

PARKING REQUIREMENTS:

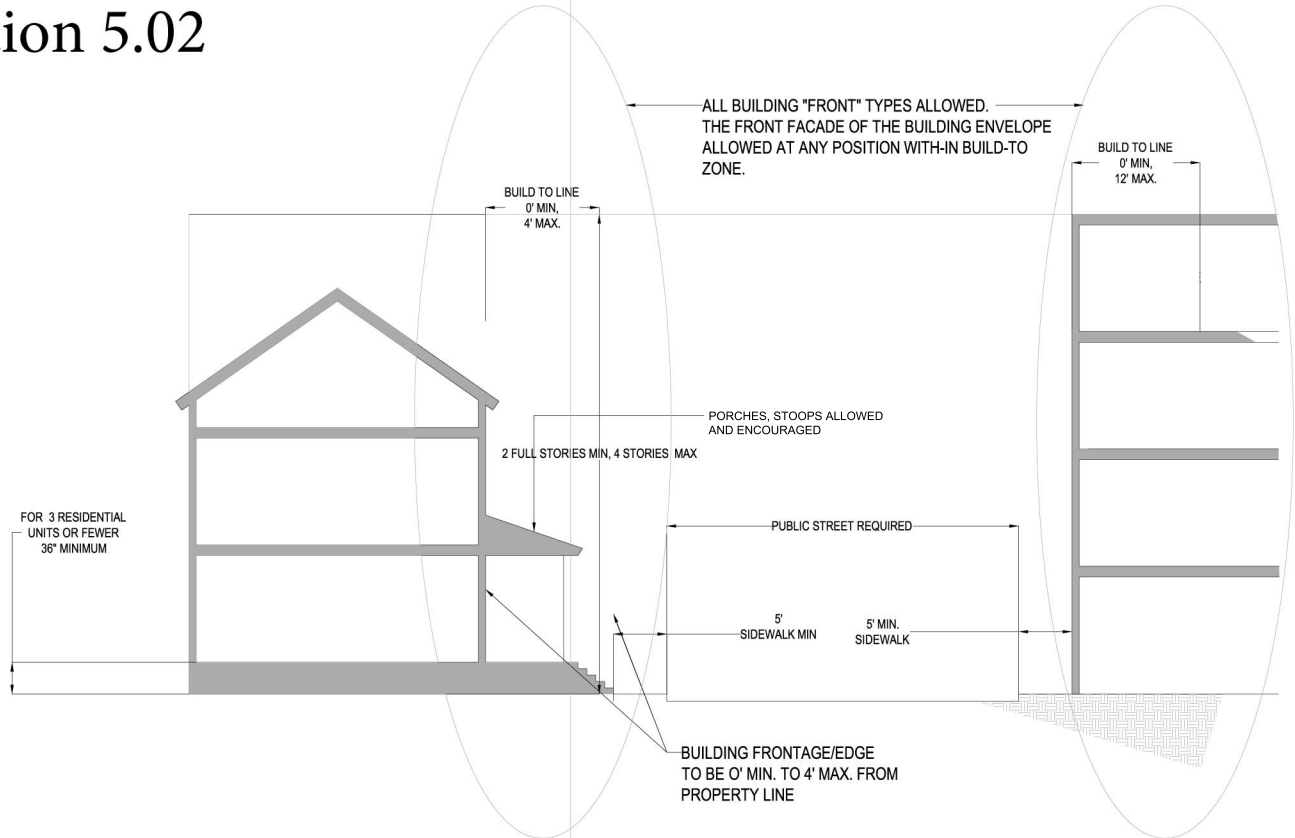
1 per 700 SQ.FT. OF OCCUPIABLE SPACE.

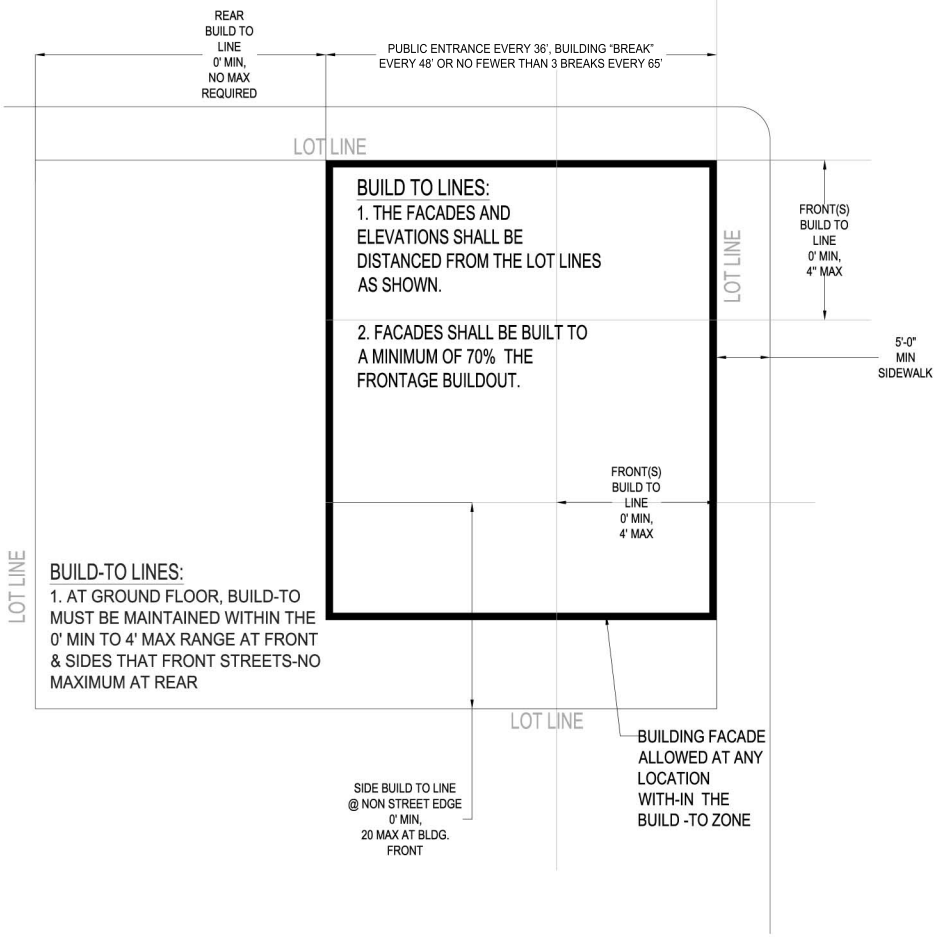
STREETSCAPE STANDARDS

A. UNPAVED GROUND AREA ALONG THE FRONTAGE SHALL BE LANDSCAPED

VILLAGE GENERAL BUILDING ENVELOPE STANDARDS

Section 5.02





VILLAGE GENERAL BUILDING ENVELOPE STANDARDS (BES)

VILLAGE IS GENERALLY A MULTI-USE, MIXED USE DENSE DOWNTOWN BUILT ENVIRONMENT, TYPICAL OF AREAS ADJACENT TO AND SUPPORTIVE OF MAIN STREET(S). HOUSING, COMMERCIAL, AND RETAIL USES ARE TYPICAL; PARKING FACILITIES ARE ALSO ALLOWED. THE BUILT ENVIRONMENT CAN BE A MIX OF FREESTANDING BUILDINGS AND SHARED WALL BUILDINGS WITH AN OVERALL EMPHASIS ON MEDIUM FOOT TRAFFIC PEDESTRIANISM.

VILLAGE GENERAL, GENERAL REQUIREMENTS

- LOT SIZE: NO MINIMUM
- PERCENTAGE OF LOT COVERAGE: NO MAXIMUM
- UNITS PER ACRE: NO MAXIMUM
- BUILDING LEVELS:
    - 2 REQUIRED MINIMUM LEVELS
    - 4 MAXIMUM LEVELS
- "BUILD-TO LINE" RANGE (PRINCIPAL FRONTAGE): 0' MIN.-4' MAX.
- "BUILD-TO LINE" RANGE (SECONDARY FRONTAGE): 0' MIN-12' MAX.
- PERCENTAGE OF BUILDING FRONTAGE:
    - 70% OF LOT WIDTH IS REQUIRED TO BE BUILT. 75% OF THE TOTAL BUILDING FRONTAGE ("PRINCIPAL" FRONTAGE) IS REQUIRED TO BE BUILT AT PRINCIPAL BUILD-TO LINE. THE REMAINING 25% OF THE BUILDING FRONTAGE MAY BE BUILT AT THE SECONDARY BUILD-TO LINE.
- FREQUENCY OF ENTRANCES ON PRIMARY FRONT:

  ENTRANCE REQUIRED EVERY 36' PER BUILDING ON FRONTAGE STREETS AND NO LINEAR SPAN OF MAIN FRONTAGE GREATER THAN 40' PER BLOCK WITHOUT PUBLIC ENTRANCE.
- PERCENTAGE OF GLAZING ON GROUND LEVEL:
    - 40% OF THE WIDTH OF FRONTAGE-GLAZING INCLUDES DOORS AND WINDOWS (SEE DEFINITION/DIAGRAM).
- GROUND LEVEL HEIGHT-FLOOR TO FLOOR
    - 20' MAXIMUM
- BUILDING BREAKS:
    - MINIMUM 3 BREAKS EVERY 65', NO SINGLE SPAN GREATER THAN 48'.

GENERAL NOTES:

- AWNINGS, STOOPS, ENTRACE VESTIBULES, DECKS AND COVERD PORCHES ARE ENCOURAGED.

PARKING LOCATION AND STANDARDS

NEW CONSTRUCTION MUST COMPLY WITH PARKING STANDARDS.

A. NEW SURFACE PARKING SHALL BE SET BACK FROM THE FRONTING STREET MINIMALLY 16'.

B. PARKING SPACES MAY BE LEASED FROM THE MUNICIPALITY OR A PRIVATE LANDOWNER.

PARKING REQUIREMENTS:

1 per 700 SQ.FT. OF OCCUPIABLE SPACE

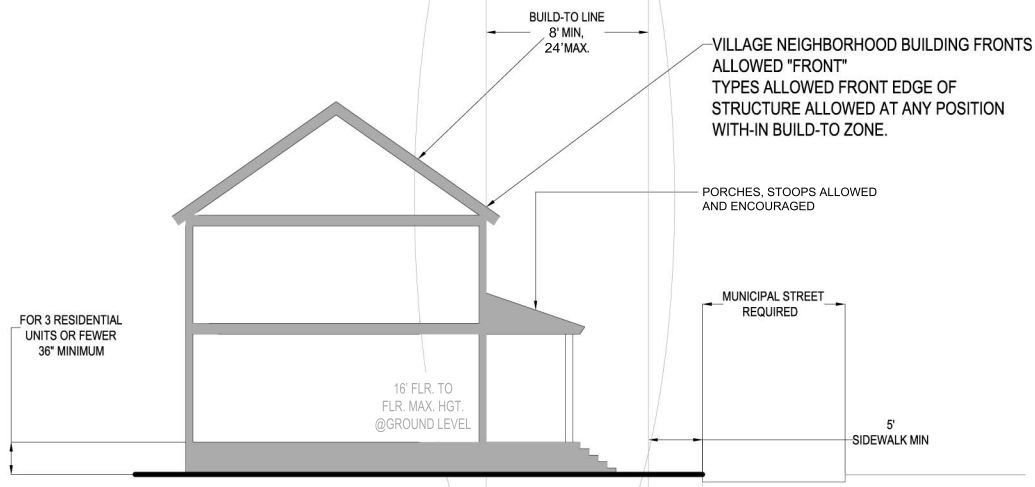
- Off-site parking within 800 may be used to meet parking requirements for Residential uses.
- Shared parking may be used to meet parking requirements. Proof of agreement shall be required.

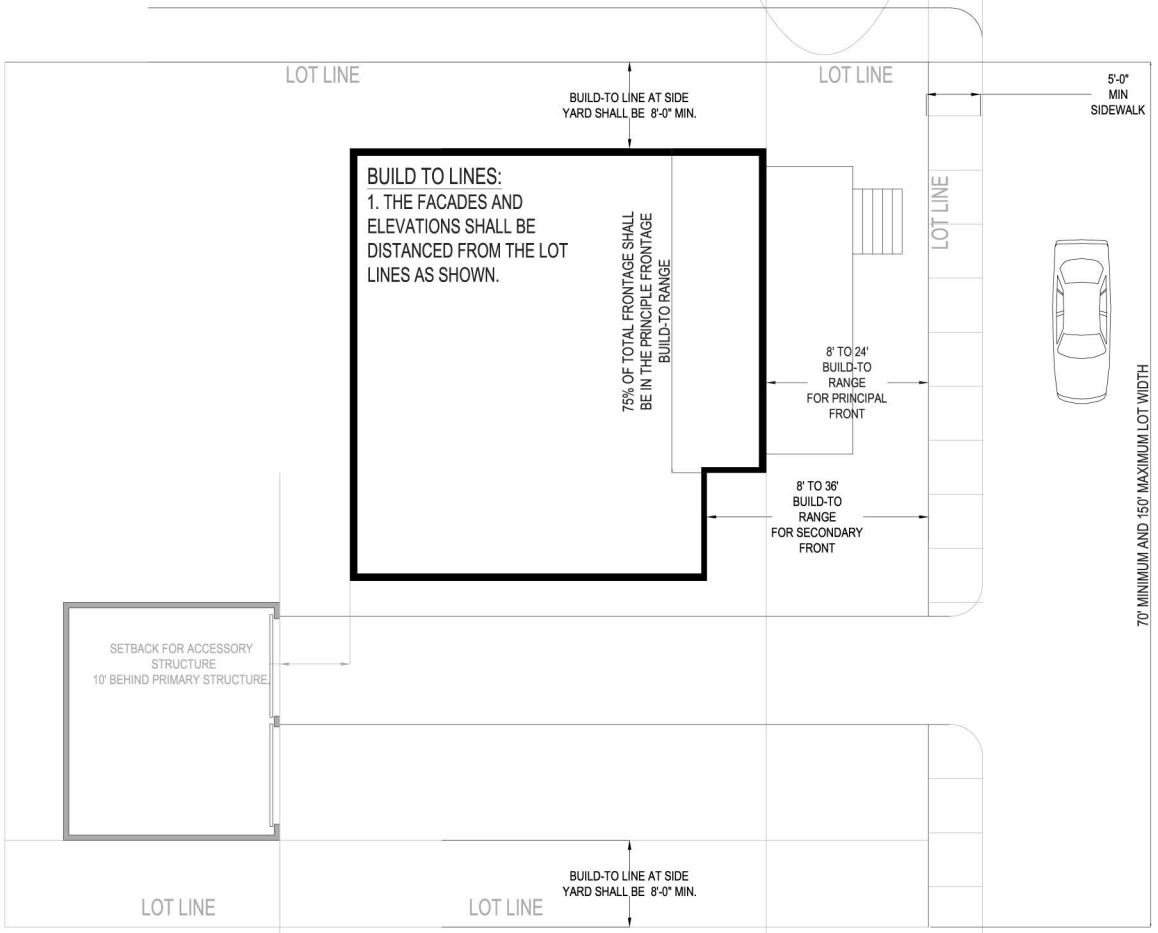
STREETSCAPE STANDARDS:

A. UNPAVED GROUND AREA ALONG THE FRONTAGE SHALL BE LANDSCAPED

VILLAGE NEIGHBORHOOD
BUILDING ENVELOPE STANDARD

Section 5.03





VILLAGE NEIGHBORHOOD BUILDING ENVELOPE STANDARD (BES)

A MULTI-USE NEIGHBORHOOD WITH A STREET-ORIENTED PUBLIC REALM THAT ENCOURAGES MEDIUM DENSITY, MULTIUSE/MULTI-PURPOSE BUILT ENVIRONMENT. TYPICALLY DETACHED/FREESTANDING SINGLE OR TWO FAMILY RESIDENCES, SMALL-SCALE MULTI-FAMILY, CORNER STORES, AND SMALL SCALE COMMERCIAL USES. PEDESTRIAN- ORIENTED STREETS BUT ULTIMATELY MODE NEUTRAL. SMALLER FRONT YARDS ARE ENCOURAGED.

VILLAGE NEIGHBORHOOD GENERAL REQUIREMENTS

- LOT SIZE: WIDTH: 70’ MIN.-150’ MAX (FOR A NEW LOT OR PROPERTY TO BE DEVELOPED/IMPROVED LOT WIDTH REQUIREMENTS SHALL BE MET.)
- PERCENTAGE OF LOT COVERAGE: 75% MAX. (DOES NOT INCLUDE DRIVES UTILIZED).
- UNITS PER ACRE: 4 UNITS MIN.-NO MAXIMUM
- BUILDING LEVELS:
  - 1.5 MIN.
  - 2.5 MAX.
- "BUILD-TO LINE” RANGE (PRINCIPAL FRONTAGE):8' MIN. - 24' MAX. 75% OF THE FRONTAGE SHALL BE IN THE PRINCIPAL BUILD-TO RANGE.
- ACCESSORY STRUCTURE SETBACK SHALL BE 10' FROM REAR OF PRIMARY STRUCTURE.
- ACCESSORY STRUCTURE SIDE AND REAR YARD BUILD-TO LINE SHALL BE 8' MIN.
- FREQUENCY OF (OPERABLE) ENTRANCES ON PRIMARY FRONT: ONE PER UNIT.
- PERCENTAGE OF GLAZING ON GROUND LEVEL:
  - 30% GLAZING - INCLUDES DOORS AND WINDOWS (SEE DEFINITION/DIAGRAM).
- GROUND LEVEL HEIGHT, MEASURED FLOOR TO FLOOR: 16' MAX.
- BUILDING BREAKS: MINIMALLY EVERY 24' (SEE DRAWING).
- GARAGE DOORS SHALL BE LOCATED AT (MINIMALLY) A 90 DEGREE ANGLE TO PUBLIC RIGHT OF WAY OR SET BACK MINIMALLY 10' FROM REAR OF PRIMARY STRUCTURE.

PARKING LOCATIONS AND STANDARDS

A. NEW CONSTRUCTION MUST COMPLY WITH PARKING STANDARDS
B. NEW PARKING UNDER STRUCTURE ENCOURAGED.
C. NEW PARKING IS ALLOWED IN SIDE YARD

PARKING REQUIREMENTS:

1 per 700 SQ. FT. OF OCCUPIABLE SPACE. ALL PARKING SHALL BE ON-SITE.

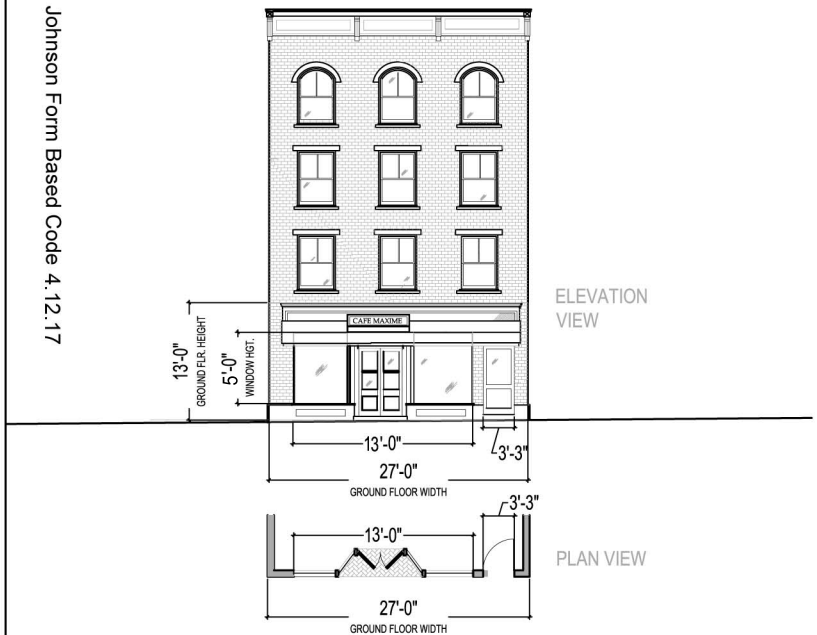
STREETSCAPE STANDARDS

A. ALL NON DRIVEWAY SQ FT OF FRONTAGE BETWEEN STRUCTURE AND ROAD RIGHT-OF-WAY SHALL BE LANDSCAPED

GENERAL NOTES:

- ALL NEW STRUCTURE SHALL FACE THE STREET OR ROAD
- SUBDIVISIONS WILL NOT BE DESIGNED OR LAID OUT IN A MANNER THAT WILL RESULT IN PLACING THE REAR OF HOMES NEXT TO STREETS OR ROADS.
- AWNINGS, STOOPS, ENTRANCE VESTIBULES, DECKS AND COVERED PORCHES ARE ENCOURAGED.

GLAZING STANDARDS



EXAMPLE OF GLAZING REQUIREMENTS:

60% OF GROUND FLOOR BUILDING WIDTH . TOTAL REQUIRED GLAZING AMOUNT CAN BE ACHIEVED BY DOORS AND WINDOWS. APPLIES TO ALL BES.

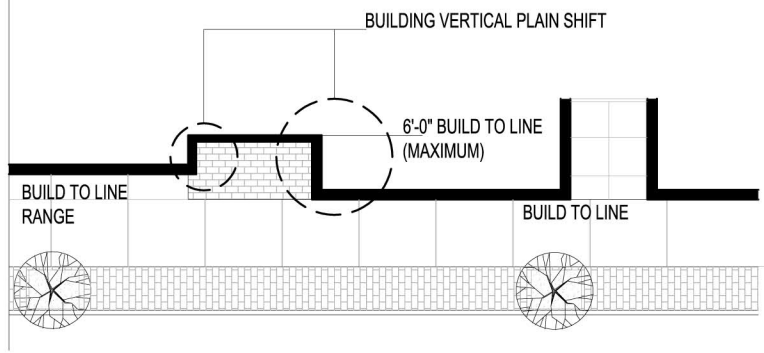
BUILDING FRONT WIDTH = 27'.

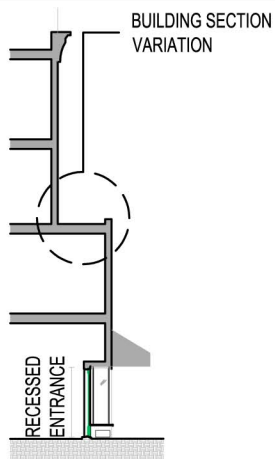
- 60% X 27' = 16'-2" REQUIRED GLAZING WIDTH .
- 16'-3" GLAZING/OPENING WIDTH IS PROVIDED.

GLAZING HEIGHT

- VILLAGE STOREFRONT =5'-0"
- WINDOW UNITS SHALL BE TALLER THAN THEY ARE WIDE

BUILDING BREAK STANDARDS





Article VI Nonconformity

Section 6.01 Purpose

The purpose of this section is to establish regulations and limitations on the continued existence structures established prior to the effective date of this Code that do not conform to the provisions of this Code.

Section 6.02 Nonconforming Structures

1. **Authority to Continue**
    - **a.** Any lawful structure existing prior to the effective date Johnson Village FBC may be continued even though the structure does not conform to the provisions of the Johnson Village FBC.

2. **Replacement, Refurbishment/improvement, Repair and Maintenance**
    - **a.** Alterations, replacement, refurbishments, repair and maintenance may be performed on any nonconforming structure without an FBC permit as long as the changes do not affect any structural or other features regulated by the Building Envelope Standards of this code.

    - **b.** Alterations, replacement, refurbishments, repair and maintenance on a nonconforming structure that affect any structural or other feature regulated by the Building Envelope Standards (BES) of this code require a permit. These projects do not need to comply fully with the facade standards described in the BES applicable to the district's designation, and will be permitted as long as all changes move the structure towards more compliance with the code. Projects that result in making the structure less compliant with the code in any of the standards of the BES will not be granted a permit.

    - **c.** Complete replacement, refurbishment or improvement shall comply with all Building Envelope Standards (BES), applicable to the district's designation described in the Johnson Village FBC.

3. **Extensions/Expansions**
    - **a.** Any nonconforming structure may be enlarged, maintained or altered; provided, however, that no enlargement, maintenance or alteration creates any additional nonconformity or increases the degree of the existing nonconformity of all or any part of such structure.
    - **b.** Any new construction which occurs on a site with a nonconforming structure or any expansion of a nonconforming structure shall comply with the requirements for the district in which the lot is located.

4. **Relocation**

Any structures that whole or in part are relocated (within a lot or from one lot to another) are considered "new development" and must conform to the Code.

5. **Unsafe Structures**

Any nonconforming structure or portion of that structure determined to be unsafe by the Selectboard may be restored to a safe condition, unless otherwise determined by the Selectboard.

Article VII: Organization: Administrative Officer and Development Review Board

Section 7.01 Administrative Officer:

A. Appointment: The Administrative Officer is nominated for appointment by the Planning Commission and is appointed by the Selectboard for a term of three (3) years to carry out the provisions of this Regulation. The compensation is determined by the Selectboard. The Administrative Officer may be removed by the Selectboard for cause after consultation with the Planning Commission.

B. Duties: The Administrative Officer:

1. Administer and strictly enforce this Regulation. The Administrative Officer does not have the power to authorize or permit any land development except in conformance with this Regulation, other Town ordinances and any applicable conditions of the DRB.
2. Inspect properties for compliance with this Regulation and Town permits, conduct enforcement activities, maintain accurate records and perform related tasks.
3. Provide applicants with all forms required to obtain Permits, to apply for DRB Approval and to appeal to the DRB.
4. Assist persons seeking permits and in navigating the Town's regulatory processes in a helpful and responsive manner.
5. Periodically meet with and provide reports to the Planning Commission.

C. The Administrative Officer shall not be a member of the Planning Commission, DRB or a Select Board.

Section 7.02 Development Review Board:

A. Appointment: The Development Review Board (DRB) consists of five (5) members and two (2) alternates appointed by the Selectboard for three year terms or for other terms determined by the Selectboard in accordance with

Title 24 VSA §4460(b) and §4460(c). A member may be removed for cause by the Selectboard upon written charges and after a public hearing.

B. Organization and Meetings: The DRB elects its own officers, a Chair, Vice Chair and Clerk, and adopts its own rules of procedure, except as provided in Article III. A quorum is not less than a majority of the Board and a vote of a majority of the Board shall be necessary to complete an action, other than recessing a hearing or adjournment of a meeting. The Officers of the Board may administer oaths and compel attendance of witnesses and compel the production of materials in accordance with the Act and this Regulation.

C. Duties: The DRB is authorized to administer its duties as provided in this Regulation and the Act, specifically, but not limited to:

1. Hear and decide appeals from acts of the Administrative Officer.
2. Hear and decide DRB Approvals.
3. Determine such requirements, conditions as are appropriate in carrying out its duties and requirement in accordance with the terms of this Regulation.

Article VIII Enforcement:

Section 8.01 General:

In the event of a violation of this Regulation or of a condition or requirement of a Permit or of a failure to make or maintain a required improvement, the Administrative Officer may give the alleged offender(s) a written seven (7) days warning notice by certified mail or personal service. The notice is designed to give the alleged offender(s) an opportunity to correct the violation or failure before the Administrative Officer begins enforcement. Notice only is required for the first offense within a 12 month period; each subsequent enforcement action within that time does not require advance warning. An alleged offender(s) may appeal the enforcement actions of the Administrative Officer for a hearing before the DRB. The DRB will conduct an appeal hearing with the same formalities as with a hearing for DRB Approval and the decision of the DRB on such appeal is final. Only when appeals are made within the seven days following notice will enforcement actions be deferred until the decision of the DRB. Otherwise, enforcement will not be deferred.

Section 8.02 Enforcement Procedure and Penalties:

Violations of this bylaw shall be regulated as prescribed in Title 24 VSA §4451 - §4454.

Section 8.03 Records:

The Administrative Officer shall maintain a record of all enforcement actions and their outcomes and citizen complaints and all actions taken in response.

Article IX Definitions:

RAP: Required Agricultural Practices.

REQUIRED AGRICULTURAL PRACTICES: Agricultural practices that are governed by regulations promulgated the Vermont Agency of Agriculture, Food and Markets. The practices include, but are not limited to, (a) the confinement, feeding, fencing and watering of livestock, (b) the handling of livestock wastes and by-products, (c) the collection of maple sap and the production of maple syrup, (d) the preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops, € the ditching and subsurface drainage of farm fields and the construction of farm ponds, (f) the stabilization of farm field streambanks constructed in accordance with the USDA-Natural Resources Conservation Services standards and specifications or other standards approved by the Commissioner of the Vermont Agency of Agriculture, Food and Markets, (g) the construction and maintenance of farm structures in accordance with the Federal Flood Insurance Management Program standards, the construction and Maintenance of farm ponds, farm roads, walls, fences, structures, to control the grade and head cutting in natural and artificial channels, and an irrigation, drainage or other water management system that conveys water, controls the direction or rate of flow, or maintains a desired water surface elevation, (h) the on-site production of fuel and power from agricultural products produced on the farm, (i) the on-site storage, preparation and sale of agricultural products principally produced on the farm, and (j) the on-site storage of agricultural inputs including, but not limited to, lime, fertilizer and pesticides.

ACCESSORY DWELLING UNIT: An efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

ACCESSORY STRUCTURE: A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

ACT: Title 24 of Vermont Statutes Annotated, Chapter 117 entitled “Municipal and Regional Planning and Development.”

APPLICANT: A property owner or any person acting as an agent for the owner in the application for a Permit or for DRB Approval.

AMP: Accepted Management Practices.

BASEMENT: Any area of the building having its floor sub-grade, below ground level on all sides.

BOUNDARY ADJUSTMENT: The adjustment of a lot line between two parcels by the relocation of a common boundary where no new lot is created and an existing lot is not reduced by below the minimum lot size nor increased enough to allow for increased development in the District where the lot is located.

BUILDING: A structure with a roof supported by fixed columns or walls for shelter or enclosure of people, animals or property.

BUILDING BREAK: An interruption in the continuous frontage of a building façade facing a street, such as a material change, a stoop, a porches, a permanent structural awning, an inverted dormer or a picture window (that protrudes out from the front of the building at least two feet).

BUILDING FRONT: A line formed by the exterior front wall of a building which is to be in the "build to" zone on the BES.

BUILDING, PRINCIPLE: The building in which the primary use of the lot is located or conducted.

BUILD TO ZONE: The distance from the street right-of-way where the building front of a new building is to be located.

BUFFER: A strip of land designed to separate one use of land from another.

COMMERCIAL: The term collectively defining workplace, office, retail, and lodging functions.

DENSITY: The number dwelling units, principal buildings or uses permitted per acre of land.

DEVELOPMENT: Any human-made change to improved or unimproved real estate including construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure

DWELLING: A building or part of a building, containing independent living, sleeping, housekeeping, cooking and sanitary facilities intended for occupancy by one family or household.

EX PARTE: On or from one side or party only. More specifically, when a member of a board or commission has unauthorized discussions with, or receives evidence from, a party who is appearing before the board or commission concerning the matter about which the party is appearing. Ex parte contacts are discouraged because of the appearance of improper bias, favoritism or partiality by the member in the exercise of his or her official duties.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the Special Flood Hazard Areas and the risk premium applicable to the community.

FLOOD HAZARD AREA or AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year.

FLOOD PLAIN or FLOOD PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of "flood").

GLAZING: The minimum required amount of first floor window coverage on the primary building front facing the street. See diagram.

INTERESTED PARTY: As defined by 24 V.S.A Sec. 4465(b).

LANDSCAPED: Any ground covering excluding bare asphalt or bare concrete that covers all bare soil, prevents soil erosion, promotes rainwater infiltration and does not result in the diversion of rainwater to other properties or town-owned land, sidewalks, medians or roads.

LODGING: Transient accommodations offered to the general public.

LOT: Any parcel of land with its boundaries separately described in a recorded deed or filed plat. A public road right-of-way constitutes a lot boundary.

NON-CONFORMITY: A structure, development or use on a property that is not in compliance with the standards of this regulation in the District where the property is located.

NON-RESIDENTIAL: Includes, but is not limited to: small business concerns, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

OFFICE: A room, group of rooms or building used for conducting the affairs of a business, profession, service industry or government.

PARKING, OFF STREET: A parking space for a motor vehicle that is located within a parking lot, parking structure, garage or a residential driveway.

PRIMITIVE CAMPGROUND: A camping area for tenting only that provides sanitary facilities only.

PRINCIPAL BUILDING: The building in which the primary use of the lot is located or conducted.

PRINCIPAL STRUCTURE: The building in which is conducted the main use of the lot where it is located.

PRINCIPAL USE: The primary or predominant use of a lot, area of land, building or structure.

PUBLIC ASSEMBLEY: Venues where patrons gather for limited sized indoor or outdoor activities such as fitness centers, dance or other forms of physical or instructional training.

PUBLIC ROAD: A road owned or maintained by the Town or the state for use by the general public.

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

RETAIL SALES: The selling of a specified line of goods and services directly to walk in or walk up customers.

RETAIL STORE: An enclosed building housing an establishment offering a specified line of goods or services for retail sale direct to walk-in customers.

RESIDENTIAL: characterizing premises available for long-term human dwelling.

ROAD: The portion of a right-of-way available for vehicular traffic including on-street parking.

SIGN: Any device used for visual communication intended to attract the attention of the public and is visible from the public right-of-way or other properties. Such device may include representation of letters, words, numerals, figures, emblems, pictures, or any part or combination.

SIGN, FREESTANDING: A sign anchored directly to the ground and supported by verticle structures and not attached to or dependent for support from any building.

SITE PLAN: An illustration of a proposed development proposal drawn to sufficient accuracy and detail to be used for the purpose of discussion and review under these regulations.

SPECIAL USE: A use allowed in a specified District that requires prior DRB Approval.

START OF CONSTRUCTION: For purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

STATUTES:

24 V.S.A. Sec. 4413(d): (AAPs and AMPs)

24 V.S.A Sec. 4465(b), INTERESTED PARTY:

27 V.S.A. Sec. 1403: Composition of survey plats

STORAGE: Material or supplies which are being held in reserve for future use.

STREET: Road.

STREETSCAPE: A design term referring to all the elements that constitute the physical makeup of a road and that, as a group, define its character, including building frontage, street paving, street furniture, landscaping.

STRUCTURE: For the purposes of this regulation, a walled and roofed building, as well as a manufactured home or mobile home, and any related built systems including gas or liquid storage tanks.

SUBSTANTIAL DAMAGE: Any damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any improvement of a structure, the cumulative value of which over three years equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvements. This term also includes repair or restoration of structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of an historic structure listed on the National or State Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as an historic structure.

UNIT: A identifiable physical portion of a building designated for separate ownership, occupancy or habitable use. For example, a unit includes a dwelling house, an apartment or an office but does not include a garage or storage shed.

USE: Any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on an area of land.

VARIANCE: The variation of the terms of this Regulation because, owing to conditions peculiar to the property and not the result of the action of the applicant/appellant, a literal enforcement of the Regulation would result in unnecessary and undue hardship. The standards for granting a variance from 24 V.S.A. Section 4469(a) are:

> "(1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.
> (2) The hardship was not created by the appellant.
> (3) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
> (4) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and from the plan."

VIOLATION: The failure of a structure or other development to be fully compliant with these Regulations.