

the base flood elevation shall be proofed so that the structural components have the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

11. All new construction and substantial improvement of structures have the lowest floor, including basement, elevated to or above the base flood level (100 year flood plain level) elevation, or be flood proofed below the base flood level in accordance with Section 6.03F10 herein.

12. Structures shall be designed to resist flotation, collapse, or lateral movement.

13. Any encroachment within the regulatory floodway, including fill, substantial improvement or other development, shall be prohibited if it will result in any increase in flood levels during the occurrence of the base flood discharge, except flood control measures.

14. All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law.

16. Excavation of earth materials or filling with earth materials or other substances shall be permitted only to the extent necessitated by a permitted or conditional use, or for the re-vegetation and restoration of the streambank and buffer. All streambank alterations must be conducted in accordance with the Vermont Department of Environmental Conservation Stream Alteration rules.

17. The cutting or removal of trees and other natural vegetation shall be allowed only to the extent necessitated by a permitted or conditional use.

6.04 Conservation District (CSVD)

A. Purpose. To maintain preserve and enhance agricultural lands, uses, and rural character of the Town of Colchester and to protect soil, water and other natural resources, to maintain, preserve and enhance open space lands and to protect these lands from suburban development.

B. Municipal Plan. These regulations hereby implement the relevant provisions of the Town of Colchester adopted municipal plan and are in accord with the policies set forth therein.

C. Permitted Uses. Those uses indicated in Table A-1 and accessory uses to those uses. The following additional standards shall apply to the uses indicated in Table A-1:

1. General sales with a significant component of goods sold being agricultural or other items produced on the premises shall be limited as follows:

(a) General sales may be permitted only on parcels of 10 acres or larger. Contiguous parcels under the same ownership may be combined to satisfy this requirement.

(b) 1,000 square feet of building area for general sales is permitted for each 10 acres of land.

2. Distribution facility and warehousing with all storage within completely enclosed structures shall be limited as follows:

- (a) Distribution and warehousing may be permitted only on parcels fronting on Blakely Road and with access provided from Blakely Road.
- (b) Maximum permitted building coverage is 5%.

D. Conditional Uses. Those uses indicated in Table A-1 and approved pursuant to Article 8, and accessory uses to those uses. Any uses not listed in Table A-1 are prohibited. Items that are not customary as accessory uses to those listed in Table A-1 are prohibited.

E. Area, Density and Dimensional Requirements. In the CSVD District, all requirements of Table A-2 shall apply. In addition, the minimum lot size for a residential lot shall be one acre. Density on lots greater than 2 acres shall be determined under the Fixed Area Based Zoning Provisions of Section 6.04F.

F. Fixed Area Based Zoning.

1. Definitions.

- (a) Parent parcel. A parcel of land in the CSVD District that is greater than 2 acres on December 21, 2004.
- (b) Development unit. The number of units determined from density calculations for a parent parcel. One development unit equals one dwelling unit to be developed within the parent parcel, subject to Section 6.04F.3, or one unit eligible for transfer under the Transferable Development Rights program (Section 7.06).
- (c) Unbuildable Land. Class I or II wetland, floodplain or land that has an inadequate ability to support structures.

2. The maximum number of development units per parcel is based on the total acreage of the parent parcel less the unbuildable land area. An overall density of one dwelling unit per buildable acre is permitted in the Conservation District.

3. A maximum of one-sixth ($1/6^{\text{th}}$) of all permitted development units may be built within the parent parcel. All development units are eligible for transfer out of the Conservation District under the Transferable Development Rights program (Section 7.06).

4. Procedure for Determination of Development Units. Prior to or concurrent with the first subdivision of a parent parcel, the subdivider shall submit sufficient information to enable the Development Review Board to determine the maximum number of permitted development units for the parcel and the number of dwelling units that may be developed within the parent parcel. The Development Review Board shall issue Findings of Fact supporting its determination of available development units.

(Sample calculation: The Development Review Board determines that a parent parcel contains 75 total acres and 15 acres of unbuildable land. The net 60 buildable acres enable a maximum of 60 development units for the overall parcel. One-sixth of those units, or 10 dwelling units, may be developed within the parent parcel. The remaining 50 development units

may be transferred out of the Conservation District. If no dwelling units are built within the parent parcel, 60 development units may be transferred).

5. Subsequent to or concurrent with the first subdivision of a parent parcel, development units shall be assigned and shall be identified by a sequential numbering system such that each parent parcel has a unique set of numbers, one for each development unit. The Planning and Zoning Office shall maintain a record of the total permitted development units for the parent parcel, the number of dwelling units built within the parcel, the number of transferred development units, and the unused number of units.
- F. Additional Standards. In addition to the Site Plan, Conditional Use, Planned Unit Development criteria, all development in the Conservation District shall also be subject to the following standards:
1. Agricultural operations shall be subject to the following standards:
 - (a) Farm buildings shall be a minimum of 100 feet from all property lines.
 - (b) Feed lots, fenced runs, pens, and similar intensively used facilities for animal housing shall be a minimum of 100 feet from a Residential District as defined in Article 3.
 2. All lots created for non-agricultural uses and all structures shall be located to minimize adverse impact on agricultural operations. The Development Review Board may require clustering of lots or other means to accomplish this objective.
- G. Transferable Development Rights. Development units, as determined in Section 6.04F.4, may be transferred out of the Conservation District under the Transferable Development Rights program (Section 7.06). For each development unit created in the sending district, the transfer rate shall be 1.0 TDR unit to be used in the R1, R2, and R3 Districts or 1.5 TDR units to be used in all other designated receiving districts (Section 7.06D).
- (Sample calculation: At the time of the first subdivision of a parent parcel, the Development Review Board determines that 60 development units are available for the overall parcel. The maximum of 10 dwelling units are approved for development within the parent parcel, leaving 50 development units to be transferred. The 1.5 transfer ratio allows 50 TDR units to be developed in the R1, R2, and R3 Districts or 75 TDR units to be developed in any other receiving district).

- (d) changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment, and these changes shall be recognized and respected;
- (e) all structures are recognized as products of their own time. Alterations to reproduce an earlier period are discouraged;
- (f) additions to existing structures are acceptable if such design, materials and construction are of quality and are compatible with the size, scale, material, and character of the neighborhood, structures, and its environment;
- (g) whenever possible, new additions or alterations to structures shall be done in such a manner that if they were removed in the future, the essential form and integrity of the original structure would be unimpaired;
- (h) every reasonable effort shall be made so that structures not be razed or demolished, in order to preserve the historic streetscape;
- (i) new construction shall be sympathetic to architectural features and materials which are in keeping with the character of the historic buildings found within the Historic Preservation District. New structures should enhance, and maintain the integrity of the District and its structures.

7.06 Transfer of Development Rights District (TDRD)

A. Purpose. The Town of Colchester hereby establishes Transferable Development Rights, in accordance with 24 V.S.A. Section 4423 of the Vermont Municipal and Regional Planning and Development Act, in order to protect the agricultural resources and open spaces of the town and to promote residential development in areas that are consistent with the goals of the town's Municipal Plan.

Transferable Development Rights are acquired in designated sending areas and applied in designated receiving areas in accordance with the procedures of this section.

B. Definitions.

1. Sending areas: the designated areas of town within which Transferable Development Rights may be created and acquired for use in a receiving area. (See Section 7.06C)
2. Receiving areas: the designated areas of town within which Transferable Development Rights, created and acquired in another area of town, may be applied to increase permissible density of use on a specific lot. (See Section 7.06D)
3. Sending unit: one unit of development that is removed from the sending area and is available for transfer to a receiving area.
4. Transferable Development Right: the right to build one unit of development within a designated receiving area. One unit of development equals one residential dwelling unit.

C. Sending Areas. Sending areas, or areas from which Transferable Development Rights may be acquired, shall include designated parcels within the Conservation District (CSVD).

1. TDR Calculation. Development rights available for transfer to the receiving area shall be assigned at the rate of one (1) TDR for each sending unit used in the R1, R2, & R3 Districts and one-and-one-half (1.5) TDRs for each sending unit used in all other receiving districts.
2. Permitted Uses After TDR Transfer. Permitted uses on property in the sending area from which development rights have been severed through execution of an easement agreement, per Section E herein, shall be limited to the following:
 - (a) Temporary Emergency, Construction and Repair Residences
 - (b) Commercial Greenhouse Operation
 - (c) Roadside stands for the sale of produce grown on the premises
 - (d) Stables and Arenas for Horses
 - (e) Agricultural Operation
 - (f) Sivicultural Operation
 - (g) Firewood Operation
 - (h) Privately owned facilities outdoor recreational facilities limited to paths and trails
 - (i) Publicly owned outdoor recreational facilities limited to paths and trails

D. Receiving Areas. The receiving areas, or the areas within which Transferable Development Rights acquired in sending areas may be applied, shall consist of all land in the R1, R2, R3, GD1, GD2, GD3 and GD4 Zoning Districts.

1. Existing Development Rights. In addition to transferable development rights acquired from sending areas, there shall also exist an inherent right to develop the receiving property under the normal density indicated in Table A-2.
2. Permitted Uses. Uses permitted on land in the receiving area shall consist of those uses listed in Table A-1.
3. TDR Usage Rates. Development may occur in conformance with the provisions of this section at the rate of one (1) Transferable Development Right for each one dwelling unit.
4. Maximum Permitted Density. Transferable Development Rights acquired under this section may be applied to any property in the receiving area, with the exception of GD3 and GD4, up to a maximum of two times the normal density indicated in Table A-2. In the GD3 and GD4 receiving areas, the maximum density may be up to three times the normal density indicated in Table A-2 provided the criteria of Section 4.03E3 and Section 4.04E3 are met.

E. Procedures.

1. Creation of Transferable Development Rights. A Transferable Development Right may be created after the Development Review Board has determined the number of development units available in a parent parcel in accordance with Section 6.05F.4. A landowner may designate one or more

development units to be made available for transfer. A Transfer of Development Right is created when a development unit designated above is made transferable upon execution and filing of an "Easement Agreement" between the landowner as grantor and the Town of Colchester as grantee. The Director of Planning and Zoning shall execute the easement agreement which then shall be filed in the land records and a copy sent to the Colchester Assessor. The easement agreement shall:

- (a) establish a restriction on the affected property limiting it to those uses listed in Section 7.06C.2 above for a period of 50 years following the date of execution of the agreement, and
- (b) list by identifying number the specific development units being used for the creation of Transferable Development Rights.

At any time prior to execution of a Deed of Transfer the landowner may revoke such easement by recording in the land records an agreement to that effect as signed by the Director of Planning and Zoning with a copy sent to the Colchester Assessor.

2. Transfer of Transferable Development Rights. Transferable Development Rights may be transferred from one owner to another by execution and filing of a "Deed of Transfer" which shall include identification by number of the development units being transferred. Each transferred development unit shall create one (1) Transferable Development Right for use in the R1, R2, and R3 Districts or one-and-one-half (1.5) Transferable Development Rights for use in all other receiving districts. After execution of the Deed of Transfer by both the seller and the buyer of the Transferable Development Rights, the deed shall be filed in the Colchester land records and a copy sent to the Assessor.
3. Use of Transferable Development Rights. All development applications utilizing Transferable Development Rights shall be reviewed under the same development review criteria used for other applications in the receiving district. As a condition of approval, the required Transferable Development Rights shall be permanently attached to the parcel of land being developed by executing and filing a "Document of Attachment" which:
 - (a) shall be executed by an individual who has clear ownership of both the receiving parcel and the Transferable Development Rights which are to be attached to the receiving parcel;
 - (b) shall identify by number the Transferable Development Rights to be attached, with reference to the book and page number in which the Easement Agreement which created them is recorded, and any Deeds of Transfer by which their ownership has been transferred; and
 - (c) shall be filed in the Colchester land records and a copy sent to the Assessor.