

# TOWN OF WARDSBORO, VERMONT ZONING BYLAW

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## **ZONING MAP**

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## ARTICLE I ADMINISTRATION AND PROCEDURE

### **SECTION 110 ENACTMENT AND INTENT**

**111. Enactment.** In accordance with Section 4401 of the Vermont Planning and Development Act, Chapter 117, Title 24 Vermont Statutes Annotated (VSA), hereinafter referred to as "the Act", the Town of Wardsboro Zoning Bylaw is hereby established.

**112. Intent.** This Bylaw is intended to assist in the implementation of the Wardsboro Town Plan and to further the purposes of the Act. Hereinafter, the Town of Wardsboro is referred to as "the Town". The purpose of this Bylaw is to regulate the development of structures and sites to protect the health, safety, convenience and general welfare of the inhabitants of the Town.

**113. Effective Date of this Bylaw.** This Bylaw shall take effect in accordance with the voting and other procedures contained in Section 4442 of the Act.

**114. Amendment of Prior Bylaw.** On the date this Bylaw becomes effective, it shall amend in its entirety the Town of Wardsboro Zoning Bylaw in effect prior to such date.

### **SECTION 120 APPLICATION OF BYLAW**

**121. Other Regulations.** Where this Bylaw imposes a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule, regulation, deed restriction, easement, covenant, or agreement, the provisions of this Zoning Bylaw shall apply in securing a Zoning Permit.

Applicants for a Zoning Permit for the use of a structure or land shall be solely responsible for meeting the requirements of all other applicable local, state and federal permits.

**122. Overlapping Provisions.** If two or more provisions of this Bylaw impose similar restrictions on land development activities regulated under Section 123 below, the more restrictive provision shall control.

**123. Activities which are Land Development.** All land development undertaken in the Town shall be in conformance with this Bylaw.

In accordance with Section 4303 of the Act, and as further defined herein, land development shall include the following, unless otherwise stipulated in Section 124 of this Bylaw:

- a.** The division of a parcel of land into two or more parcels (land subdivision).
- b.** The construction, reconstruction, relocation or enlargement of a structure. Enlargement to include the addition or enlargement of a cellar or basement.
- c.** Structural alterations or conversions which result in a structure with wider, longer or taller dimensions, and/or which result in a reduction in any established setback distance including, but not limited to, setbacks from a property boundary, road right-of-way, watercourse, or wetland as identified in Section 430 of this Bylaw.
- d.** Mining, excavation, landfill or land disturbance including, but not limited to the extraction of earth and mineral resources, the construction of ponds or other impoundment of water.
- e.** Any change of use or extension of use as defined in Article VII.

**124. Activities Not Requiring a Zoning Permit.** The following activities shall not constitute land development provided they comply with the setback standards set forth in Section 232 and do not occur within the Flood Hazard Area as set forth in Article V:

- a.** The repair, modification or renovation of the interior of any building or structure that does not change the lawful use of the building or structure or extend the lawful commercial use.
- b.** Any exterior repairs, renovations or maintenance that does not increase the existing building area coverage, or enlarge the structure, or increase the height, or change the lawful use of the building.
- c.** The installation of a dormer for residential purposes that does not extend above the existing height of the building and does not change the lawful use of the room or rooms.
- d.** No more than two (2) residential accessory buildings or structures on a single residential lot of one hundred-twenty (120) square feet or less in area as measured by the outside dimensions of the structure and less than fifteen (15) feet in height provided that such accessory buildings or structures:
  - i.** comply with these regulations, including setback requirements.
  - ii.** are not connected to any other structure.
  - iii.** are not used for human habitation.

The property owner shall give written notification to the Zoning Administrator prior to the construction of a residential accessory structure.

- e.** The construction, repair and maintenance of stone walls and fences six (6) feet or less in height.
- f.** The removal of a structure or building in whole or in part.
- g.** The construction, repair and maintenance of interior chimneys and exterior chimneys attached to an existing structure.
- h.** Installation of bow and bay windows, not to exceed two (2) feet in their protrusion.
- i.** The construction of exterior building access structures such as stairs, landings, handicap access ramps onto existing buildings that do not involve the construction of a roof. Permit exempt landings shall not exceed the dimensional requirements for a permit exempt deck. See Section 124(j). The property owner shall give written notification to the Zoning Administrator prior to the construction of exterior building access structures.
- j.** The construction of a deck for residential use that does not involve the construction of a roof and is one hundred-twenty (120) square feet or less. Permit exempt decks shall be limited to two per lot and may not be constructed so as to create a deck larger than 120 square feet. The property owner shall give written notification to the Zoning Administrator prior to the construction of such a deck.
- k.** The installation of a satellite dish less than forty (40) inches in diameter mounted to an existing structure provided it is not more than ten (10) feet higher than the existing structure, or if not mounted to an existing structure, fifteen (15) feet high or less. This shall not apply to telecommunication towers and facilities.

**l.** The installation of a TV or radio antenna mounted to an existing structure provided it is not more than ten (10) feet higher than the existing structure, or if not mounted to an existing structure, fifteen (15) feet high or less. This shall not apply to telecommunication towers and facilities.

**m.** Home occupations. See definition of *Home Occupations* in Article VII.

**n.** Agricultural uses and agricultural structures as defined in Article VII. A person shall give written notification to the Zoning Administrator prior to the construction of a farm structure and shall abide by setbacks approved by the Commissioner of Agriculture, Food and Markets.

**o.** Forestry (silvicultural) activities including those activities associated with the sustained management of land for forestry purposes such as the planting, harvesting and removal of trees. (pursuant to 24 VSA 4413(d). Forestry activities in wetland areas as indicated on the Wardsboro Natural Resources Map are permitted without a Zoning Permit provided there is no draining, dredging, filling, grading or alterations of the water flow, and further providing that the provisions of Section Six of the Vermont Wetland Rules, as now constituted or hereafter amended, are met.

**p.** Cordwood operations conducted on the site where the trees are harvested or the processing and storage of cordwood for personal use.

**q.** The construction and maintenance of a driveway serving a one- or two-family dwelling or for agricultural or forestry uses. A driveway or road serving more than one residential structure requires Planning Commission Approval and Site Plan Review as provided in Sections 151 and 370 of this Bylaw. *Special Note: The construction of a new driveway requires an access permit from the Selectboard.*

**r.** The construction or reconstruction of logging roads for the harvest of timber. Roads converted from a logging road to a permanent right-of-way or access shall require a permit as provided for in Section 370 and/or an access permit from the Selectboard.

**s.** Except as provided for in Section 123 of this Bylaw, excavation or fill and the clearing of trees and stumps which are incidental and clearly accessory to a use of land which is lawful under this Bylaw, provided that the excavation, fill, tree clearing or stumping does not violate any provisions of this Bylaw or constitute a change in the use of land. (Examples of activities which are not land development include but are not limited to: excavation to bury power lines to an existing use or to install curtain drains around a structure; the addition of fill to washed out driveways or roads; any excavation for gardening and field cultivation purposes, or regrading or landscaping of yards.) Also see Section 232.

**t.** The installation of septic systems, unless provided otherwise in Section 132.1(d) and (e).

**u.** In-stream ponds and dams in seasonal streams and off-stream ponds provided they are less than five (5) acres or contain less than 500,000 cubic feet of water, are not in a wetland area and meet all applicable criteria in Section 443 of this Bylaw, and further provided all earth and mineral materials are retained on site. The property owner shall give written notification to the Zoning Administrator prior to the construction of a pond.

**v.** Unless specified otherwise in Section 442, the construction, repair or maintenance of a bridge accessory to a residential use serving not more than two dwelling units, agricultural, forestry, non-commercial recreational uses, or any bridge crossing a stream that is not considered a watercourse as defined in Article VII. All bridges shall meet setback requirements from abutting properties. The construction of a bridge shall not cause sedimentation of any stream. The property owner shall

give written notification to the Zoning Administrator prior to the construction of a bridge over a watercourse.

**w.** The construction, reconstruction or maintenance of public roads and bridges by the Town or the State, including, but not limited to, the addition of fill, grading, ditching, installation of guard rails, culverts, etc.

**x.** Public and private transmission lines, poles, cables, pipes, mains and exchange boxes occupying no more than fifteen (15) square feet. This exemption shall not include Telecommunications Facilities referred to in Article VI.

**y.** Unless specified otherwise in this Bylaw, signs meeting the provisions of Section 360.

**z.** Signs erected, maintained or administered by the Town or State.

**aa.** Temporary structures and uses associated with special town events such as street fairs and town meetings.

**bb.** Area lighting for one-family and two-family uses. Light pole shall not exceed 25 feet in height. Light sources attached to a structure shall not exceed 25 feet in height or the height of the structure, whichever is less. Illumination levels, location and direction shall not cause excessive spillover of light onto any adjacent property or road right-of-way.

### **SECTION 130 ADMINISTRATION AND ENFORCEMENT**

**131. Zoning Administrator.** The Zoning Administrator shall be appointed to administer the Wardsboro Zoning Bylaw in accordance with Section 4448 of the Act. The Zoning Administrator shall administer the provisions of this Bylaw literally, in accordance with Section 4449 of the Act, and in so doing, shall inspect land developments, maintain records of his/her actions, and perform all other necessary tasks to carry out the provisions of this Bylaw and the duties of his/her office. The Job Description for Zoning Administrator shall be established by the Planning Commission and a copy filed at the Town Office.

**132. Zoning Permits.** After the effective date of this Bylaw, no "Land Development" as such term is defined in Article VII and Section 123 may be undertaken in the Town until a Zoning Permit has been issued and the fifteen (15) day appeal period has expired without an appeal being filed.

**132.1 Application.** The Zoning Administrator shall issue a Zoning Permit only if all of the following requirements are met:

**a.** A Zoning Permit Application Form as established by the Planning Commission, including plot plan requirements, has been properly completed and submitted.

**b.** The Zoning Permit Fee, as established by the Selectboard in accordance with Section 4446 of the Act, has been paid. Fees shall not be waived unless specified otherwise in this Bylaw.

**c.** For permit applications requiring a variance, Conditional Use Approval, Site Plan Approval, or subdivision, the applicant shall supply the Zoning Administrator with the name and address of the owner of record of the land in question and the names and addresses of all abutting property owners. See *Abutting Property Owners* in Article VII.

**d.** After a Zoning Permit is issued for a use which requires a wastewater and potable water supply permit, construction shall not be initiated nor a use begun until a wastewater and potable water supply permit is issued under 10 V.S.A. Chapter 64 and a copy submitted to the Zoning Administrator.

e. For a subdivision, all applicable State wastewater system and potable water permits shall be obtained and submitted to the Zoning Administrator before a Zoning Permit Application Form is considered complete.

f. If a proposed use requires a Town Highway Access Permit, such permit shall be obtained and submitted to the Zoning Administrator (or, in the case of Conditional Use Approval, to the Board of Adjustment) before a Zoning Permit Application Form is considered complete.

g. All applicable local reviews and approvals, including, but not limited to: Site Plan Approval (Section 151), Conditional Use Approval (Sections 147 and 571), Right-of-way Approval (Section 312), and the granting of a Variance (Section 144) have been secured.

h. All other permits required by this Bylaw have been secured and submitted to the Zoning Administrator.

**132.2 Action.** The Zoning Administrator shall approve or deny a complete application for a Zoning Permit or, if required, forward such application to the Appropriate Municipal Panel (Panels), or appropriate State Agency within thirty (30) days of acceptance of the complete application.

Zoning Permits shall not be issued except in conformance with the provisions of this Bylaw and with the submission of all required approvals. If the Zoning Administrator fails to act with regard to such application for a permit within thirty (30) days, a permit shall be deemed issued on the 31st day. When a Zoning Permit is denied by the Zoning Administrator, he/she shall so notify the applicant in writing, stating the reasons for denial.

**132.3 Effective Date of Zoning Permit.** No Zoning Permit issued by the Zoning Administrator shall take effect until fifteen (15) days have passed or, if an appeal is filed, until the final adjudication of the appeal, pursuant to Section 148 of this Bylaw.

**132.4 Public Notification of Issued Permit.** Within three (3) days following the issuance of a Zoning Permit, the Zoning Administrator shall deliver a copy of the permit to the Board of Listers, and shall post a copy of the permit in at least one public place in the Town until the expiration of fifteen (15) days from the date of issuance of the permit.

**132.5 Notification to Abutting Property Owners.** The Zoning Administrator shall send written notice to all abutting property owners in accordance with Sections 142 of this Bylaw for the public hearings for the purpose of variance, conditional use approval, appeals of administrator decisions, or subdivisions and in accordance with Section 151.2 of this Bylaw for public hearings for the purposes of site plan review.

**132.6 Permit Expiration & Renewal.** A Zoning Permit expires one (1) year from the effective date if the project or use has not been started, and two (2) years from the effective date if the project has not been substantially completed, unless specified otherwise in this Bylaw. A structure is considered substantially completed when the exterior shell has been erected and enclosed in accordance with the dimensions described in the Zoning Permit. Unless specified otherwise, an expired permit may be renewed without fees within a period of one (1) year after expiration. Such renewals shall be for one (1) year, shall be one time only and shall take into account amendments to this Bylaw as adopted in the interim.

**133. State Permits.** The Zoning Administrator in accordance with Section 4448(c) of the Act, shall advise the applicant applying for a Zoning Permit to consult the Permit Specialist employed by the Agency of

Natural Resources. It is the responsibility of the applicant to identify, apply for and obtain relevant State permits. *Special note: State permits may be required in order for the property owners to have clear title to their property.*

**134. Violations and Penalties.** A violation of any provision of this Bylaw shall be a civil matter. The provisions of this Bylaw shall be enforced in accordance with 24 VSA Section 4451 and/or 4452.

Civil penalty for violating the provisions of this Bylaw shall be a fine of not more than \$100 for each offense for actions brought pursuant to Section 4451 of the Act. Each day that the violation continues will constitute a separate violation of this Bylaw.

**135. Appeal of Zoning Administrator Decision.** An interested person, as defined in Section 4465(b) of the Act, may appeal any act or decision, or failure to act, of the Zoning Administrator to the Board of Adjustment within fifteen (15) days of such act or decision, by filing a notice of appeal in accordance with the provisions of Subchapter 8 of the Act (see also Section 143 of this Bylaw).

**135.1 Notice of Appeal.** A notice of appeal by an interested person shall be in writing and shall include the name and address of the person appealing, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by that person, and the alleged grounds why such requested relief is believed proper under the circumstances.

**136. Municipal Record Keeping.** Within 30 days after a municipal permit or document has become final or within 30 days of the issuance of any notice of violation, the Zoning Administrator or the appropriate municipal official shall deliver such documents or memorandums concerning such documents to the Town Clerk who shall record all such documents or memorandums in the Town land records pursuant to Sections 1154, 1161 and 4449 of Title 24 VSA.

**137. Municipal Driveway Permits.** All driveway permit applications shall be submitted to the Zoning Administrator who will then forward them to the Appropriate Municipal Panel.

## **SECTION 140 BOARD OF ADJUSTMENT**

There is hereby established a Zoning Board of Adjustment for Wardsboro (hereinafter referred to as the Board of Adjustment), members of which shall be appointed by the Selectboard, in accordance with the provisions of Section 4460 of the Act. The Board of Adjustment shall have all the powers and duties specified in the Act, including those listed below.

**141. Procedures.** In all matters before it, the Board of Adjustment shall act according to the procedures set forth in Subchapter 8 of the Act. Where required, abutting property owners shall be notified in accordance with Section 132.5 of this Bylaw. The Board of Adjustment shall notify the Zoning Administrator of a pending hearing no later than the day the warning is posted.

**142. Public Hearings and Abutter Notification.** The Board of Adjustment shall hold required public hearings within sixty (60) days of the filing of a complete notice of appeal (Section 4469 of the Act), or the submission of a complete application. In accordance with 4466 of the Act, a warned public hearing shall be required for conditional use review, appeals of decisions of the administrative officer and variances. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

a. publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;

**b.** posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made.

**c.** Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public right-of-ways, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

**143. Appeals.** The Board of Adjustment shall, after public notice and hearing, decide on an appeal of an act or decision of the Zoning Administrator. Appeals to the Board of Adjustment may be made by an interested person regarding any act, decision, order, requirement, or determination made by the Zoning Administrator, including a lack of action (see Section 135 of this Bylaw).

**144. Variances.** The Board of Adjustment shall, after public notice and hearing (Sections 4466 and 4468 of the Act) and notification to Abutting Property Owners (Section 132.5 of this Bylaw) decide upon variance appeals (requests for variances) under Section 4469 of the Act.

On an appeal under Section 4469 of the Act and Section 135 of this Bylaw, wherein a variance from the provisions of a zoning regulation is requested for a structure that is not primarily a renewable energy resource structure, the Board of Adjustment may render a decision granting a variance after public notice and hearing, if the appellant provides evidence which clearly demonstrates compliance with the following criteria:

**a.** That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;

**b.** That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization or variance is therefore necessary to enable the reasonable use of the property;

**c.** That the unnecessary hardship has not been created by the appellant;

**d.** That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, 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;

**e.** That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Bylaw and from the Town Plan.

**144.1 Variance for Renewable Energy Resource Structures.** On an appeal under Section 4469 of the Act wherein a variance from the provisions of a zoning regulation is requested for a structure that is primarily a renewable energy resource structure (e.g., solar panels, wind generators, etc.), the Board of Adjustment may grant such variances, after public notice and hearing pursuant to the provisions of Section 4469(b) and (c) of the Act.

**145. Additional Conditions.** In rendering a decision in favor of an appellant under this Section, the Board of Adjustment may attach such conditions to such variances as it may consider necessary and appropriate to implement the purpose of the Act and the Town Plan.

**146. Timeframe for Decisions on Appeals and Variances.** The Board of Adjustment shall act to approve or deny an appeal or variance request within forty-five (45) days from the final public hearing. Failure to do so within such period shall be deemed to grant the relief requested by the appellant.

**147. Conditional Use Approval.** The Board of Adjustment shall, after public notice (Section 4444 of the Act), notification to Abutting Property Owners (Section 132.5 of this Bylaw) and hearing, decide upon applications for Conditional Use Approvals. In considering its action, the Board of Adjustment shall make findings on general and specific standards, and may attach conditions as provided for in Section 4414(3) of the Act.

No Zoning Permit shall be issued by the Zoning Administrator for any use or structure that requires Conditional Use Approval in this Bylaw until the Board of Adjustment grants such approval. A Site Plan Review by the Planning Commission is required prior to Conditional Use Approval. Conditional uses shall be permitted only if the Board of Adjustment determines, after public notice and hearing, that the proposed use conforms to the general and specific standards contained within this Bylaw.

**147.1 General Conditional Use Standards.** The proposed Conditional Use shall not adversely affect:

- a. The capacity of existing or planned community facilities.
- b. The character of the area affected or the quality of the area environment.
- c. Traffic on roads and highways in the vicinity.
- d. Bylaws then in effect.
- e. The capability of the land to support the use.
- f. Utilization of renewable energy resources.

**147.2 Specific Conditional Use Standards.** In granting a Conditional Use Approval, the Board of Adjustment may impose other conditions in addition to those expressly specified in this Bylaw in order to safeguard the interests of surrounding properties, the neighborhood, or the Town as a whole. The Board of Adjustment may, but is not limited to, the following:

- a. Increase the required lot size or setback requirements.
- b. Limit the coverage or height of buildings.
- c. Require the installation of devices or methods to prevent or control the polluting of waters and the emission of fumes, gas, dust, smoke, odor, noise or vibration.
- d. Apply any additional standards as provided for within this Bylaw except standards reviewed by the Planning Commission in connection with Site Plan Review. (See Section 320)

**147.3 Additional Conditions.** In granting a Conditional Use Approval, the Board of Adjustment may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act, the Town Plan and these regulations.

**147.4 Coordination of Site Plan Review with Conditional Use Review.** The Board of Adjustment shall take into consideration the Site Plan Review findings and report of the Planning Commission for a proposed Conditional Use. The Planning Commission may review a Site Plan



for a Conditional Use Application with the Board of Adjustment at a Board of Adjustment hearing.

**147.5 Required Documentation.** Unless a joint hearing is held with the Planning Commission, a Site Plan shall accompany the Conditional Use Approval Application for all proposed conditional uses. Site plans shall include two (2) sets of site plan maps and supporting data, including the information listed in 151.3 (a) through (c) of this Bylaw, presented in drawn form and accompanied by written text, unless waived or varied by the Board of Adjustment. Additional information, if requested by the Board of Adjustment, shall also be submitted.

**147.6 Timeframe for Approval of Conditional Uses.** The Board of Adjustment shall act to approve or deny a Conditional Use Application within forty-five (45) days after the date of the final public hearing. Failure to do so within such period shall be deemed approval.

**147.7 Issuance of Conditional Use Approval.** Approval of a Conditional Use shall become effective immediately upon issuance of a favorable written decision by the Board of Adjustment and expiration of the thirty (30) day appeal period provided for in Section 148. Provided the applicant has obtained any other approvals required by this Bylaw, the Zoning Administrator may issue a zoning permit immediately upon issuance of the Board's written decision and the fifteen (15) day waiting period provided for in Section 132.3 of this Bylaw shall run concurrently with the conditional use appeal period.

**148. Appeal of a Board of Adjustment Decision.** An interested person, as defined in Section 4464(b) of the Act, may appeal any decision of the Board of Adjustment within thirty (30) days to the Environmental Court in accordance with Section 4471 of the Act.

## **SECTION 150 WARDSBORO PLANNING COMMISSION**

The Planning Commission shall have all of the powers and duties specified in the Act, including those identified below.

**151. Site Plan Approval.** The Planning Commission shall review and decide upon Site Plan Applications in accordance with Section 4416 of the Act. In reviewing site plans, the Planning Commission may impose appropriate conditions and safeguards with respect to: the adequacy of parking, traffic access, and circulation for pedestrians and vehicles; landscaping and screening; the protecting the utilization of renewable energy resources; exterior lighting; the size, location and design of signs; and other matters specified in the bylaws.

Site Plan Approval is required for all Permitted Uses and Conditional Uses except one and two-family dwellings, camps, agricultural and forestry uses, residential accessory uses, temporary structures in accordance with Section 350 of this Bylaw, day care facilities in accordance with Sections 317 and 414, group homes and residential care homes serving not more than eight (8) persons in accordance with Sections 316 and 414 of this Bylaw and 4412 (G) of the Act.

A site plan applicant may request a preliminary site plan discussion meeting with the Planning Commission prior to developing and submitting a formal application for Site Plan Review. The purpose of such a discussion is to explore possible concepts for developing the site prior to submitting detailed plans and materials. This informal exchange of ideas and suggestions is not binding.

**151.1 Application Submission.** The Planning Commission shall hold the required Site Plan review within 45 days of the receipt of a complete application. The date of receipt of a complete application shall be the date the Planning Commission is first presented a complete application at a regular or special meeting. The date shall not be the date upon which the Planning Commission or the Zoning Administrator receives the application.

**151.2 Notification to Abutting Property Owners.** Public notice of site plan review shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:

- a. posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
- b. written notification to the applicant and to all abutting property owners which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and states that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

**151.3 Application Information.** Unless waived or varied by the Planning Commission, an application for Site Plan Approval shall include two (2) sets of site plan maps and supporting data including the following information presented in drawn form and accompanied by written text:

- a. **General Information.** Name and address of the owner of record of the land in question and of abutting property owners. Name and address of applicant as well as the person or firm preparing the map. Scale of map, north point, and date.
- b. **Existing and Proposed Features.** Site plan drawn to scale showing, as applicable: existing features, contours, structures, large trees, utility and other easements of record, right-of-ways, land use and deed restrictions; and proposed structure and sign locations and elevations thereof; land use areas and use to be made of other land subject to future application; roads, driveways, circulation, parking and loading spaces, pedestrian walks; landscaping including site grading and screening.
- c. **Other Information.** If requested by the Planning Commission, a construction schedule outlining sequence and time schedule for completion of each phase of the entire development shall be provided. Additional information, if requested by the Planning Commission, shall also be submitted.

**151.4 General Site Plan Review and Approval Criteria.** In accordance with Section 4416 of the Act, the Planning Commission shall take into consideration the following criteria in reviewing the proposed site plans:

- a. Maximum safety of pedestrian access and vehicular circulation between the site and the road network, and turning radii for all vehicles that can reasonably be expected to serve the site, including emergency vehicles.
- b. Adequacy of traffic circulation, parking and loading facilities, with particular attention to safety. Provisions for clearing snow, for maintaining parking areas, and for refuse and service areas should be considered.
- c. Adequacy of landscaping, screening, setbacks, lighting and similar site features in order to achieve maximum compatibility with and protection of adjacent properties.
- d. Protection of the utilization of renewable energy resources.
- e. The size, location and design of signs.

**151.5 Specific Site Plan Review Standards.** The Planning Commission may impose, but is not limited to, the following:

- a. Control the number and placement of vehicular access points; control the location of off-street parking, storage areas, and placement of buildings and structures on a lot.
- b. Increase or decrease the number of off-street parking spaces.
- c. Limit the number, location and size of signs.
- d. Control the placement, shielding and intensity of lighting.
- e. Require suitable landscaping and screening to accomplish the purpose of buffering, erosion control, etc., and to maintain the district character.
- f. Apply any additional standards as provided for within this Bylaw except standards reviewed by the Board of Adjustment in connection with Conditional Use Review where Conditional Use Review is required.

**151.6 Site Plan Review and Performance Standards.** For permitted uses that require Site Plan Approval, the Planning Commission shall review the plan for conformance with the performance standards in Section 320.

**151.7 Additional Conditions.** In granting a permitted use that requires Site Plan Approval, the Planning Commission may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act, the Town Plan and these regulations.

**151.8 Timeframe for Site Plan Approval.** The Planning Commission shall act to approve or disapprove any such site plan within 45 days from the date of the final public hearing in accordance with Section (4464(b)(1) of the Act; failure to act within such period shall be deemed approval in accordance with the Act, Section 4464(b)(1). The date of receipt of a complete proposed plan shall be the date the Planning Commission is first presented a completed plan at a regular or special meeting. The date shall not be the date upon which the plan is received by the Planning Commission Chairman or the Zoning Administrator.

**151.9 Issuance of Site Plan Approval.** Approval of a Site Plan shall become effective immediately upon issuance of a favorable decision by the Planning Commission and expiration of the thirty (30) day appeal period provided for in Section 155. Provided the applicant has obtained any other approvals required by this Bylaw, the Zoning Administrator may issue a zoning permit immediately upon issuance of the Commission's decision and the fifteen (15) day waiting period provided for in Section 132.3 of this Bylaw shall run concurrently with the site plan appeal period.

**152. Coordination of Site Plan with Conditional Use Review.** Where a land development proposal requires both Site Plan and Conditional Use Approval, the Planning Commission shall review the site plan, act to approve or disapprove it, and present its findings and recommendations to the Board of Adjustment for the Board's consideration under Section 147 of this Bylaw. The Planning Commission may review a site plan for a Conditional Use Application with the Board of Adjustment at a Board of Adjustment hearing.

**153. Right-of-Way.** The Planning Commission shall review and decide upon a right-of-way in accordance with Section 4412(3) of the Act. Also see Section 370 and 237 of this Bylaw.

**154. Subdivision.** The Planning Commission shall review and decide upon subdivisions as provided in Section 151. The notification and timeline for subdivision shall be in accordance with Section 151.2. The subdivision shall be in accordance with all applicable provisions of this Bylaw. Also see Sections 132.1(e), 312, 340 and 237 of this Bylaw.

**155. Appeal of a Planning Commission Decision.** An interested person, as defined in Section 4465(b) of the Act, may appeal any decision of the Planning Commission within thirty (30) days to the Environmental Court in accordance with Section 4471 of the Act.

## ARTICLE II DISTRICT USE AND INTENSITY REGULATIONS

### **SECTION 210 ESTABLISHMENT OF DISTRICTS**

**211. Zoning Districts.** The Town of Wardsboro is hereby divided into the following zoning districts as shown on the Wardsboro Zoning Map:

- a. Conservation District (CN)
- b. Resource Residential District (RsR)
- c. Rural Residential District (RR)
- d. Village-Commercial District (V)

**212. Purpose of Zoning Districts.** The purpose of these districts is to encourage a pattern of development within the Town of Wardsboro which is compatible with the land and existing land uses as guided by the goals and policies of the current Town Plan.

### **SECTION 220 ZONING MAP**

**221. Maps.** The location and boundaries of the Zoning Districts are established as shown on the Wardsboro Zoning Map. The Zoning Map is hereby made a part of this Bylaw, together with all future amendments (as may be legally adopted).

**222. Interpretation.** Where there is any uncertainty, contradiction or conflict as to the intended location of any district boundary due to scale, lack of detail or illegibility of the maps, the Zoning Administrator shall make an interpretation. Such determination may be appealed to the Board of Adjustment.

### **SECTION 230 GENERAL STANDARDS AND DEFINITIONS**

No land development as defined in Article VII and in Section 123 of this Bylaw shall be permitted to commence except in conformance with the following regulations, unless provided for elsewhere in this Bylaw.

#### **231. Density.**

**231.1 Buildings and Uses on Lots.** Except as provided for in Section 250 Multi-use building, Section 260 Secondary Use or Section 350 Temporary Structure, there shall be only one principal building or one primary use and its structures on a lot. (See definition of "lot" in Article VII). Accessory uses or structures, accessory apartments, guest cottage, forestry uses, home occupations, a home industry or business, and home professional offices are to be considered part of one primary use of a lot.

The following structures and uses may be considered accessory (as defined in Article VII) to a principal structure or primary use on a lot, or may be considered the principal structure or primary use when no other structure or use is present on the lot provided they are permitted or conditional in the district: parking, storage facility, studio, airplane landing strip and helicopter landing pad.

**231.2 Density Provision for Accessory Structures larger than the Principal structure.** The construction of an accessory structure with a floor area greater than the floor area of the principal structure shall require that the lot on which the structure is to be located have a minimum lot area of at least twice the minimum required in the district in which it is located. Such structures shall meet the provisions of Section 441.

**231.3 Density Provision for Two-Family Dwelling Units.** The development of a two family dwelling (as defined in Article VII) shall be considered to be the development of a one-family dwelling unit for the purposes of determining density.

**231.4 Density Provision for Multi-Family Dwelling Units.** Unless specified otherwise in this Bylaw, the total number of dwelling units in any multi-family dwelling shall not exceed the number determined by dividing the acreage of developable land within the parcel by the minimum lot area requirement in the zone in which it is located, or six (6), whichever is less. In determining developable land, the Planning Commission shall consider steepness of slope, shallow depth to bedrock, wet areas or other physical features that limit the site's ability to support development.

**231.5 Density Provision for a Secondary Use.** The lot on which the use is to be located shall have a minimum lot area of at least twice the minimum required in the district in which it is located, unless specified otherwise in Section 231.6 Density for Multi-use building. Also, see Section 250.

**231.6 Density Provision for Multi-Use Buildings.** The development of a single building on a lot located within the Village Commercial district, within which is located multiple permitted and/or conditional uses, shall be considered one primary use for the purpose of determining density, setback, coverage and frontage requirements. Note: Multi-Family dwellings are not considered multi-use buildings. Also, see Section 250.

A Multi-Use Building shall not have a building area coverage greater than 5,000 square feet.

**231.7 Multi-District Development.** Where the boundary line between two zoning districts divides a lot held in single and separate ownership, the Planning Commission may extend up to fifty (50) feet the provisions of the least restrictive district where that portion of the lot located in the least restrictive district has frontage on a public right-of-way.

## **232. Setbacks.**

**232.1 Front Yard Setbacks.** All front yard setbacks shall be measured from the center of the legal right-of-way back to the closest point of the structure or setback object. (Caution: The centerline of the right-of-way is not necessarily the same as the centerline of the traveled surface of a road.) Where the highway right-of-way is not established or cannot be determined, the setback shall be measured from the centerline of the traveled surface of the road.

The specific front yard setback requirements of each zoning district, identified in Section 240 of this Bylaw, shall apply to the entire development including structures and fences in excess of six (6) feet in height, but excluding landscaping, signs and driveways. Parking in front yard setbacks shall be in accordance with Section 380. Unless waived by the Planning Commission, parking shall not be located in the front yard setback, except for parking associated with one- and two-family residential uses.

Enlargements may be made to structures that are already extending into the front yard setback area, provided the enlargement does not encroach into the setback further than the building front line as defined in Article VII and does not encroach into the side and rear yard setbacks. When attached to dwelling units constructed prior to 25 January 2000, decks, open porches and handicap access ramps may be placed up to the following limits within the required front yard setback:

Village Commercial District	5 feet
Rural Residential District	15 feet
Resource Residential District	15 feet
Conservation District	15 feet

**232.2 Side and Rear Yard Setbacks.** All side and rear yard setback requirements shall be measured from the property line back to the closest point of the structure or setback object. The side and rear yard setbacks of each zoning district, identified in Section 240 of this Bylaw, shall apply to the entire development including structures, parking facilities, driveways and fences in excess of six (6) feet in height, but excluding landscaping. The Planning Commission may waive, for good cause, side and rear yard setback requirements for parking facilities and driveways. Side and rear yard setbacks shall not apply to parking facilities and driveways serving structures and uses in the Village-Commercial districts that were established prior to 25 January 2000. It is further provided that no commercial buildings may be erected less than sixty (60) feet from an existing dwelling on a neighboring lot.

**232.3 Setbacks from a Stream.** The minimum setback requirement from watercourses and shorelines shall be one hundred (100) feet, measured horizontally from the normal high-water mark, of all streams having a drainage area of one (1) square mile or greater and as indicated on the Wardsboro Zoning Map. Hydroelectric installations, dams and bridges are exempt from this setback requirement. Structural enlargements may be made to structures that already exist within the setback area from a stream, provided the enlargement does not encroach into the setback further than the line of the existing structure and the enlargement meets side and rear yard setback requirements and applicable requirements in Article V.

**232.4 Building Protrusions.** Protrusions, not to exceed two (2) feet, of a structure's architectural features such as pilasters, columns, belt courses, sills, cornices, eaves, chimneys, bow and bay windows or similar features may encroach into the setback.

**233. Yards on Corner Lots.** All yards adjoining a road shall be considered a front yard for the purpose of these regulations.

**234. Non-Frontage Lots.** Frontage and setback requirements for lots located on an approved right-of-way shall conform to Section 240 of this Bylaw. Frontage on a right-of-way that serves a single lot or a lot at the end of a right-of-way may be reduced to the width of the right-of-way.

**235. Minimum and Maximum Requirements.** For lot area, lot frontage, lot depth and all yard setbacks, the requirement specified is the minimum standard to be met. For coverage, the requirement specified is the maximum permitted.

**236. Structure Heights.** (See *Structure Height* Article VII). The maximum height of any structure, exclusive of chimneys and TV antennae, in all districts is (3) stories or (35) feet, whichever is less. The maximum structure height shall not apply to the following structures: silos and other agricultural uses; church spires; cupolas; ventilators; solar panels; windmills; flagpoles and bell, clock, and fire towers. These structures or the part of these structures over the maximum height shall not be used for human habitation. In any district, the Board of Adjustment may allow height in excess of thirty-five (35) feet, but not more than fifty (50) feet, subject to the ability to provide fire protection services for a structure not listed as an exception, provided there is compatibility with surrounding structures or vegetation and the character of the area.

### **237. Right-of-Ways.**

**237.1 Lot Area and Right-of-Way.** In calculating the required area, width and depth of a lot, existing and proposed road right-of-ways shall be excluded. Section 237.1 does not apply to right-of-ways created by deed prior to 25 January 2000.

**237.2 Structures in Public Road Right-of-Way.** Unless specified otherwise, no structure, as defined in this Bylaw, may be erected or enlarged within a public road right-of-way without the written permission of the Selectboard or State of Vermont, as applicable.

**238. Prohibited Uses.** Any use not designated as a permitted or conditional use within this Bylaw shall be prohibited.

## **SECTION 240 ZONING DISTRICT USES AND DIMENSIONAL STANDARDS**

No land development as defined in Article VII and in Section 123 of this Bylaw shall be permitted to commence except in conformance with the following regulations, unless provided for elsewhere in this Bylaw.

### **241. Conservation District (CN).**

**241.1 General Description and Purpose.** Conservation areas are large, essentially undeveloped areas without access to an improved public road and to necessary facilities and services. They are predominantly forested with substantial physical limitations to development characterized by shallow soils, bedrock and steep slopes. These areas are important aquifer recharge areas and contain significant wildlife habitat. Conservation areas should be used for agriculture, forestry, low-intensity recreation and open space. These areas should be settled only at very low densities.

#### **241.2 Permitted Uses.**

- |   |   |
|---|---|
| <b>a.</b> Dwelling, single-family                       | <b>g.</b> Forestry *  |
| <b>b.</b> Dwelling, two-family                          | <b>h.</b> Guest Cottage                                     |
| <b>c.</b> Accessory apartments                          | <b>i.</b> Home occupation *                                 |
| <b>d.</b> Accessory use or structure to a permitted use | <b>j.</b> Ponds and dams– manmade *                         |
| <b>e.</b> Agriculture *                                 | <b>k.</b> Residential care facilities (fewer than 8 people) |
| <b>f.</b> Camp  |   |

#### **241.3 Conditional Uses.**

- |   |                                       |
|---|---------------------------------------|
| <b>a.</b> Accessory use or structure to a conditional use | <b>d.</b> Home industry or business   |
| <b>b.</b> Bridges *                                       | <b>e.</b> Recreation, limited outdoor |
| <b>c.</b> Equestrian facility *                           |                                       |

. \* Use may not be considered land development. See Section 124, Activities Not Requiring a Zoning Permit.

#### **241.4 Area, Dimensional and Coverage Requirements.**

- a.** Lot Area: 25 acres
- b.** Lot Frontage: 300 feet
- c.** Lot Depth: 300 feet
- d.** Front Yard Setback: 55 feet measured from centerline of right-of-way (See section 232.1)
- e.** Side & Rear Yard Setback: 30 feet
- f.** Lot coverage: 1%



## **242. Resource Residential District (RsR).**

**242.1 General Description and Purpose.** Resource Residential areas have high natural, recreational, scenic, or other special resource values and/or have substantial critical or serious physical limitations for development. These areas should be used for agriculture, forestry, low-intensity recreation and open space and residential uses only at intensities low enough to protect their resource values and to perpetuate the settlement pattern that has traditionally characterized such lands.

### **242.2 Permitted Uses.**

- |   |  |
|---|--|
| <b>a.</b> Dwelling, single-family                       | <b>j.</b> Forestry *   |
| <b>b.</b> Dwelling, two-family                          | <b>k.</b> Guest Cottage  |
| <b>c.</b> Accessory apartments                          | <b>l.</b> Home industry or business  |
| <b>d.</b> Accessory use or structure to a permitted use | <b>m.</b> Home occupation *  |
| <b>e.</b> Agriculture *                                 | <b>n.</b> Home professional office   |
| <b>f.</b> Bed and Breakfast                             | <b>o.</b> Ponds and dams– manmade *  |
| <b>g.</b> Camp  | <b>p.</b> Residential care facilities, group homes and daycare (fewer than 8 people) |
| <b>h.</b> Cemetery                                      |  |
| <b>i.</b> Equestrian facility *                         |  |

### **242.3 Conditional Uses.**

- |   |  |
|---|--|
| <b>a.</b> Accessory use or structure to a conditional use | <b>i.</b> Recreation, limited outdoor              |
| <b>b.</b> Airplane landing strip                          | <b>j.</b> Recreation, outdoor                      |
| <b>c.</b> Bridges *                                       | <b>k.</b> Resource industry                        |
| <b>d.</b> Campground                                      | <b>l.</b> Storage facility                         |
| <b>e.</b> Earth and mineral extraction                    | <b>m.</b> Telecommunications tower and/or facility |
| <b>f.</b> Helicopter landing pad                          |  |
| <b>g.</b> Kennel  |  |
| <b>h.</b> Landfill  |  |

\* Use may not be considered land development. See Section 124, Activities Not Requiring a Zoning Permit.

### **242.4 Area, Dimensional and Coverage Requirements.**

- a.** Lot Area: 2 acres
- b.** Lot Frontage: 150 feet
- c.** Depth: 200 feet
- d.** Front Yard Setback: 45 feet measured from centerline of right-of-way (See section 232.1)
- e.** Side & Rear Yard Setback: 20 feet
- f.** Lot coverage: 15%

## **243. Rural Residential District (RR).**

**243.1 General Description and Purpose.** Rural Residential areas should be used to accommodate a major proportion of the growth of year-round residences and vacation homes and associated uses. The development of rural areas should not unnecessarily damage resource values and should not ignore the physical limitations to development. Agriculture, forestry, open space and recreational uses should be maintained and encouraged.

### **243.2 Permitted Uses.**

- |   |   |
|---|---|
| <b>a.</b> Dwelling single-family                        | <b>j.</b> Forestry *  |
| <b>b.</b> Dwelling, two-family                          | <b>k.</b> Guest Cottage   |
| <b>c.</b> Accessory apartments                          | <b>l.</b> Home industry or business   |
| <b>d.</b> Accessory use or structure to a permitted use | <b>m.</b> Home occupation *   |
| <b>e.</b> Agriculture *                                 | <b>n.</b> Home professional office  |
| <b>f.</b> Bed and Breakfast                             | <b>o.</b> Ponds and dams– manmade *   |
| <b>g.</b> Camp  | <b>p.</b> Residential care facilities group homes and daycare (fewer than 8 people) |
| <b>h.</b> Cemetery                                      | <b>q.</b> Storage facility  |
| <b>i.</b> Equestrian facility *                         |   |

### **243.3 Conditional Uses.**

- |   |   |
|---|---|
| <b>a.</b> Accessory use or structure to a conditional use | <b>p.</b> Parking ( <i>not associated with other existing or proposed uses on a lot</i> ) |
| <b>b.</b> Airplane landing strip                          | <b>q.</b> Post office   |
| <b>c.</b> Boarding house                                  | <b>r.</b> Professional office   |
| <b>d.</b> Bridges *                                       | <b>s.</b> Public assembly facility  |
| <b>e.</b> Campground                                      | <b>t.</b> Public utility facility   |
| <b>f.</b> Daycare   | <b>u.</b> Recreation, indoor  |
| <b>g.</b> Dwelling, multi-family                          | <b>v.</b> Recreation, limited outdoor   |
| <b>h.</b> Earth and mineral extraction                    | <b>w.</b> Recreation, outdoor   |
| <b>i.</b> Farm/garden supply                              | <b>x.</b> Residential care facility   |
| <b>j.</b> Funeral home                                    | <b>y.</b> Resource industry   |
| <b>k.</b> Helicopter landing pad                          | <b>z.</b> School facility, boarding   |
| <b>l.</b> Inn   | <b>aa.</b> Storage facility, limited commercial   |
| <b>m.</b> Kennel  | <b>bb.</b> Studio   |
| <b>n.</b> Landfill  | <b>cc.</b> Veterinary office  |
| <b>o.</b> Municipal Facility                              |   |

\* Use may not be considered land development. See Section 124, Activities Not Requiring a Zoning Permit.

### **243.4 Area, Dimensional and Coverage Requirements.**

- a.** Lot Area: 1 acre
- b.** Lot Frontage: 100 feet
- c.** Depth: 100 feet
- d.** Front Yard Setback: 40 feet measured from centerline of right-of-way (See section 232.1)
- e.** Side & Rear Yard Setback: 15 feet
- f.** Lot coverage: 15%

## **244. Village-Commercial District (V).**

**244.1 General Description and Purpose.** Wardsboro, West Wardsboro and South Wardsboro Village areas are defined as the existing villages, including additional lands that appear suitable for future village growth. These additional lands are convenient to the existing village, offer few or slight limitations for development, and can be developed for village uses without causing undue damage to resource values. Appropriate village uses include residential and commercial uses, public buildings and public facilities, and associated services. Small, light industrial uses may be accommodated as well, but they should be carefully planned to minimize undesirable impact on village character.

### **244.2 Permitted Uses.**

- |   |   |
|---|---|
| <b>a.</b> Dwelling single-family                        | <b>p.</b> Home industry or business   |
| <b>b.</b> Dwelling, two-family                          | <b>q.</b> Home occupation *   |
| <b>c.</b> Accessory apartments                          | <b>r.</b> Home professional office  |
| <b>d.</b> Accessory use or structure to a permitted use | <b>s.</b> Office  |
| <b>e.</b> Agriculture *                                 | <b>t.</b> Office building   |
| <b>f.</b> Bank  | <b>u.</b> Ponds and dams – manmade *  |
| <b>g.</b> Bed and Breakfast                             | <b>v.</b> Professional office   |
| <b>h.</b> Boarding house                                | <b>w.</b> Repair service  |
| <b>i.</b> Camp  | <b>x.</b> Residential care facilities group homes and daycare (fewer than 8 people) |
| <b>j.</b> Cemetery                                      | <b>y.</b> Retail use  |
| <b>k.</b> Equestrian facility *                         | <b>z.</b> Storage facility  |
| <b>l.</b> Farm/garden supply                            | <b>aa.</b> Studio   |
| <b>m.</b> Forestry *                                    |   |
| <b>n.</b> Funeral home                                  |   |
| <b>o.</b> Guest Cottage                                 |   |

### **244.3 Conditional Uses.**

- |   |   |
|---|---|
| <b>a.</b> Accessory use or structure to a conditional use | <b>w.</b> Multi-Use Building  |
| <b>b.</b> Automobile Salvage                              | <b>x.</b> Municipal facility  |
| <b>c.</b> Automotive service station                      | <b>y.</b> Municipal Maintenance and Service Facility                                      |
| <b>d.</b> Bridges *                                       | <b>z.</b> Parking ( <i>not associated with other existing or proposed uses on a lot</i> ) |
| <b>e.</b> Clinic  | <b>aa.</b> Personal service   |
| <b>f.</b> Daycare   | <b>bb.</b> Post office  |
| <b>g.</b> Dwelling, multi-family                          | <b>cc.</b> Produce stand – not grown on premises  |
| <b>h.</b> Earth and mineral extraction                    | <b>dd.</b> Public assembly facility   |
| <b>i.</b> Earth and mineral processing and stockpile      | <b>ee.</b> Public utility facility  |
| <b>j.</b> Entertainment/cultural facility                 | <b>ff.</b> Recreation, indoor   |
| <b>k.</b> Excavation contractor yard                      | <b>gg.</b> Recreation, limited outdoor  |
| <b>l.</b> Garage, repair                                  | <b>hh.</b> Recreation, outdoor  |
| <b>m.</b> Health care facility                            | <b>ii.</b> Residential care facility  |
| <b>n.</b> Helicopter landing pad                          | <b>jj.</b> Residential child care facility  |
| <b>o.</b> Hotel   | <b>kk.</b> Resource industry  |
| <b>p.</b> Inn   | <b>ll.</b> Restaurant with or without lounge  |
| <b>q.</b> Kennel  | <b>mm.</b> Restaurant, drive-in facility  |
| <b>r.</b> Landfill  | <b>nn.</b> Restaurant, take-out facility  |
| <b>s.</b> Light industry                                  | <b>oo.</b> School facility, boarding  |
| <b>t.</b> Mini-storage                                    | <b>pp.</b> Storage facility, commercial   |
| <b>u.</b> Mobile home park                                | <b>qq.</b> Storage yard   |
| <b>v.</b> Motor vehicle sale                              |   |

**rr.** Venders market  
**ss.** Veterinary clinic  
**tt.** Veterinary office  
**uu.** Warehouse  
**vv.** Wholesale business

**ww.** Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.

**xx.** Hazardous waste management facilities for which a 'Notice of Intent to Construct' has been received under 10 V.S.A. 6606a.

\* Use may not be considered land development. See Section 124, Activities Not Requiring a Zoning Permit.

#### **244.4 Area, Dimensional and Coverage Requirements.**

- a.** Lot Area: 1/2 acre
- b.** Lot Frontage: 100 feet
- c.** Depth: 100 feet
- d.** Front Yard Setback: 35 feet measured from centerline of right-of-way (See section 232.1)
- e.** Side & Rear Yard Setback: 10 feet
- f.** Lot coverage: 25% (Excluding Paved Areas)

#### **SECTION 250 MULTI-USE BUILDING**

A multi-use building shall meet the provisions listed below. Also, see Section 231.6 District Use and Intensity.

- a.** All uses in a multi-use building shall be conducted within the principal structure.
- b.** All uses within the building must be either permitted or conditionally permitted within the district. Multi-use buildings shall require Site Plan Approval and Conditional Use Approval regardless of the type of use proposed and the Planning Commission may review the use of the entire property in this context.
- c.** Each use must meet all requirements for it as specified in the district and this Bylaw.
- d.** A multi-use-building shall be owned and managed by a single entity.
- e.** Parking requirements shall be determined based on the standards established in Section 386 of this Bylaw for each use.
- f.** There shall be no more than two dwelling units within any multi-use building.
- g.** A *Change of Use* as defined in Article VII of this Bylaw will require a new Zoning Permit.
- h.** The combined uses must be compatible with each other and with adjacent lots.

#### **SECTION 260 SECONDARY USE**

Unless specified otherwise in this Bylaw, a secondary use may be allowed in all districts in order to provide for limited, sensible, mixed use of properties within the community. In order for a use to be allowed as a secondary use, it must meet the standards listed below. Also, see Section 231.5 Density.

**261. Secondary Use Within a Structure.** A secondary use within a structure shall comply with the following provisions:

- a.** New exterior construction for a secondary use is subject to Conditional Use Approval.

- b.** When new construction includes a secondary use, the secondary use shall be located within the principal structure.
- c.** A secondary use in an accessory structure constructed prior to 25 January 2000 is subject to Conditional Use Approval.
- d.** The total floor area for the secondary use must be less than for the primary use.
- e.** The use must be listed in Article II as either permitted or conditional in the district. Site Plan Approval in accordance with Section 151 is required for any secondary use that would require Site Plan Approval as a primary use, and the Planning Commission may review the use of the entire property in this context. Where the primary use requires Site Plan Approval, even if the secondary use alone would not, Site Plan Approval must be obtained for the addition of the secondary use. If the secondary use is listed as a conditional use in the district, Conditional Use Approval must be obtained from the Board of Adjustment in accordance with Section 147.
- f.** The use must meet all requirements for it as specified in the district and this Bylaw.
- g.** Where the standards for the secondary use are different from the standards for the primary use, the more restrictive standards shall be met.
- h.** There shall be only one secondary use permitted on a lot.
- i.** The lot on which the use is to be located shall be at least twice the minimum area required in the district in which it is located, unless specified otherwise in Section 231.6 Density for Multi-use Building.
- j.** All secondary uses and structures shall be managed by a single entity.
- k.** Parking requirements shall be determined based on the standards established in Section 380 of this Bylaw for each use.
- l.** The combined uses must be compatible with each other and with adjacent lots.
- m.** A Change of Use as defined in Article VII of this Bylaw will require a new Zoning Permit.

**262. Secondary Use Conducted Primarily Outside Of A Structure.** A secondary use outside of a structure shall comply with the following provisions:

- a.** A secondary use conducted primarily outside of a structure shall meet the provisions of 'e' through 'm' in Section 261 above.
- b.** A secondary use conducted primarily outside of a structure shall require Conditional Use Approval.
- c.** In order for the use to be considered secondary, it must be subordinate and of less intensity and impact than the primary use.
- d.** A secondary use conducted primarily outside of the structure on a lot containing a multi-use building may be permitted provided the lot on which the use is to be located shall be at least twice the minimum lot area required in the district in which it is located and all applicable criteria of Section 262 are met.

## ARTICLE III GENERAL REGULATIONS

### **SECTION 310 STATE REQUIREMENTS**

In accordance with Sections 4412(2) of the Act, the following provisions shall apply:

**311. Existing Small Lots.** Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of any zoning regulation, including an interim zoning regulation, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.

**a. Village Commercial Land Use District.** Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the Village Commercial Land Use District, even though the lot does not conform to minimum lot size requirements of this district.

**b. All Land Use Districts Other Than Village Commercial.** If a lot not conforming to the minimum lot size requirements subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

- The lots are conveyed in their preexisting, nonconforming configuration.
- On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
- At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
- 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 water supply as defined in 10 V.S.A. chapter 64.

**312. Required Frontage on or Access to Public Roads or Public Waters.** No land development may be permitted on lots that do not have either frontage on a public road or public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. (All in accordance with Sections 153, 237, 370 and applicable requirements of Section 132 of this Bylaw.)

*Note: the Selectboard is responsible for approving all proposed points of access onto public roads. Applicants should also contact the Selectboard for pertinent information.*

**313. Protection of Home Occupations.** No regulation herein is intended to infringe upon the right of any resident to use a minor portion (less than 50%) of a dwelling for an occupation that is customary in residential areas and that does not change the character thereof.

**314. Equal Treatment of Housing.** Mobile homes, modular housing or other forms of prefabricated housing shall not be excluded by these regulations, except upon the same terms and conditions as conventional housing and except as may be provided in an historic center. These regulations shall not have the effect of excluding from the municipality housing intended to meet the needs of the population as determined in the Town Plan or other planning analyses. Special provisions for mobile home parks are established in Section 420 of this Bylaw.

**315. Required Notification to State Agencies.** No Zoning Permit for the development of land of the following types or located within the following designated areas may be granted prior to the expiration of a period of thirty (30) days following the submission of a report to the state agency designated in each case, describing the proposed

use, the location requested and an evaluation of the effect of such proposed use on the Town Plan and the regional plan:

**a. Department of Environmental Conservation.** Any of the following uses or activities affecting ground or surface water resources:

- i.** Any area designated as a flood plain or wetland. See also Section 430 and Article V of this Bylaw.
- ii.** The damming of streams so as to form an impounding area of five (5) acres or more for reservoir or recreational purposes. See also Section 443 of this Bylaw.
- iii.** The drilling of wells deeper than fifty (50) feet or with a potential yield greater than twenty-five thousand (25,000) gallons per day, except this shall not apply to a well drilled by the owner of a farm or residence for his own use, or the use of the farm.

**b. Department of Fish and Wildlife.** Game lands and stream bank area owned or leased by the state.

**c. Vermont Agency of Transportation.** Airports.

**d. Forests, Parks and Recreation Department.** Any use in or within one-thousand (1,000) feet of any state owned or leased property, except within an incorporated village. In addition, the following recreational areas:

- i.** Ski areas with lifts or other equipment other than tows with total capacity of more than five hundred (500) persons per hour.
- ii.** Camps with accommodations for more than fifty (50) persons.
- iii.** Marinas with accommodations for twenty (20) or more boats with lengths in excess of twenty (20) feet.
- iv.** Public beaches, or lands within one thousand (1,000) feet thereof.
- v.** Natural areas as defined in Section 2010 of Title 10.

**316. Consideration of Residential Care Home or Group Home.** Pursuant to Section 4412 (1) (G) of the Act, a state licensed or registered residential care home or group home, serving not more than eight (8) persons who are developmentally disabled or physically handicapped, 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 located within one thousand (1,000) feet of another existing or permitted such home. See Section 414 of this Bylaw.

**317. Consideration of Family Child Care Home or Facility.** Pursuant to Section 4412 (5) of the Act, a state registered or licensed day care facility serving no more than six (6) full-time and four (4) part-time children, shall be considered by right to constitute a permitted single-family residential use of property. See Section 414 of this Bylaw.

**318. Accessory Dwelling Units.** Pursuant to 24 V.S.A. Section 4412(1) (E), Accessory Dwelling Units are provided for under Section 240, subject to the following regulations:

- a.** The accessory dwelling may be either stand alone or attached to the primary dwelling

- b.** *Both the accessory and primary dwellings show proof of adherence to all applicable state septic and water sufficiency regulations.*
- c.** Both dwelling units must adhere to setbacks established for the applicable land use district.
- d.** The accessory dwelling may not exceed the greater of 400 sq. ft. or 30% of the existing floor area of the primary residence excluding open porches and decks.
- e.** Both dwelling units must be accessible from a single driveway.
- f.** The accessory dwelling may not have more than one bedroom.
- g.** A minimum of two parking spaces per dwelling unit must be provided for.
- h.** A Site Plan Review is required.
- i.** The single family dwelling or accessory dwelling must be owner occupied.
- j.** Accessory dwellings are limited to one per primary residence.

#### **SECTION 320 GENERAL PERFORMANCE STANDARDS**

In all districts and for all uses, the following general performance standards must be met, together with any specific standards as required under this Bylaw. The purpose of these standards is to ensure that any activity on property in Wardsboro will not have an adverse impact on neighboring properties and landowners.

- a. Noise.** No noise that is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development, so as to be incompatible with the reasonable use of the surrounding area, shall be permitted. Noises produced during forestry operations, the construction of roads and structures and maintenance operations customarily incidental to residential uses are exempted from this section.
- b. Vibration.** No proposed development or use, under normal conditions, shall cause or result in any noticeable, clearly apparent vibration of or on the property of another landowner.
- c. Smoke, Dust, Odor, Noxious Gases, or Other Form of Air Pollution.** No proposed development or use, under normal conditions, shall cause or result in smoke, dust, odors, noxious gases, or other forms of air pollution, which constitutes a nuisance to any other landowner.
- d. Heat, Cold or Moisture.** No proposed development or use, under normal conditions, shall cause, create or result in releases of heat, cold, moisture, mist, fog, precipitation, or condensation beyond the property lines of the property on which located or to a height likely to be detrimental to public safety, health or welfare.
- e. Electromagnetic Disturbances.** No proposed development or use, under normal conditions, shall cause any electromagnetic disturbance beyond the lines of the property on which located.
- f. Electronic Signals or Emissions.** No proposed development or use, under normal conditions, shall create, transmit, or release any electronic emission or signal which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals beyond the lines of the property on which located.



**g. Glare, Lights, Reflections.** No proposed development or use shall create, cause or result in glare, lights or reflections which constitute a nuisance to other property owners or tenants or which are detrimental to the public safety, health or welfare.

**h. Liquid or Solid Wastes or Refuse.** No proposed development or use shall create, cause or result in liquid or solid wastes or refuse which cannot be disposed of by available or existing methods without any undue burden on municipal facilities.

**i. Fire, Safety, Explosion or Other Hazard.** No proposed development or use shall create, cause or result in an undue fire, safety, explosive or other hazard, which significantly endangers applicant's property or any other property or which results in a significantly increased burden on municipal facilities.

**j. Screening of Storage.** Any development requiring open storage of commercial materials not in concert with the neighborhood shall have adequate screening around the perimeter of the storage area, such as fencing or evergreen trees, bushes or shrubs which should be expected to reach a height and density adequate to effectively screen the storage within five years of planting. Cordwood, agricultural and forestry uses are exempt from this requirement.

### **SECTION 330 NONCONFORMING USES AND NONCONFORMING STRUCTURES**

The following provisions shall apply to all structures and uses existing on the effective date of this Bylaw which do not conform to the requirements set forth in this Bylaw, and to all structures and uses that, in the future, do not conform by reason of any subsequent amendment to this Bylaw.

**331. Continuation.** Any nonconforming use or nonconforming structure may be continued indefinitely (is grandfathered), but shall not be moved, enlarged, altered, extended, reconstructed or restored, except as provided below. See also definitions of Nonconforming Use and Nonconforming Structure.

#### **332. Nonconforming Uses.**

**332.1 Change.** Once a nonconforming use is changed to a permitted or conditional use in the district in which the property is located, the use may not be changed back to a nonconforming use.

A nonconforming use may be changed to another nonconforming use with the approval of the Board of Adjustment provided that the changed use, in the opinion of the Board, is of equal or less intensity than the current use and does not increase the degree of nonconformity with this Bylaw. (Special Note: An applicant for a change in a nonconforming use shall seek approval from the Board of Adjustment on an appeal of a decision made by the Zoning Administrator.)

**332.2 Re-establishment of a Discontinued Nonconforming Use.** A nonconforming use shall not be re-established or restored if such use has been abandoned or otherwise discontinued in whole or in part for any reason, except as provided for in 332.3, for a period of one (1) year. Intent to resume a nonconforming use shall not confer the right to do so.

**332.3 Special Provisions to Re-establish a Nonconforming Use After Damage to a Structure.** A nonconforming use which is housed within a destroyed or damaged structure, and which must be temporarily suspended for a period of more than one (1) year in order to permit the repair or reconstruction of that structure, may be re-established and resumed, or replaced by another nonconforming use of equal or less intensity, within 18 months of said damage upon prior approval of the Board of Adjustment. If the nonconforming use is not re-established or resumed within eighteen (18) months of damage, it shall be deemed to have been discontinued.

### **333. Nonconforming Structures.**

**333.1 Repair or Reconstruction of a Nonconforming Structure.** If any nonconforming structure is destroyed or damaged, repairs or reconstruction may be made to that structure, in the same nonconforming location provided that such work is commenced within one (1) year from the date of destruction and is substantially completed within eighteen (18) months of said damage, and further provided that the repaired or reconstructed structure does not increase the degree of noncompliance (e.g., the structure could not encroach upon setbacks more than it originally did prior to its destruction).

**333.2 Extension or Enlargement of a Nonconforming Structure.** Except as provided in Section 232 of this Bylaw, extensions or enlargements may be made to the conforming portion of a nonconforming structure in accordance with all applicable requirements of this Bylaw. For example, one could extend the sides and rear, but not the front, of a dwelling that does not meet the district's front-yard setback requirements.

**333.3 Maintenance and Repair of a Nonconforming Structure.** Nothing in this Section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of or create any new nonconformity with regard to the regulation pertaining to such structures.

### **SECTION 340 DIVISION OF LOTS**

**341. Division of a Lot Into Two or More Lots.** The division of a lot into two or more lots shall be allowed in all districts, subject to Site Plan Approval by the Planning Commission and issuance of a Zoning Permit. In addition to the requirements set forth in Section 151.3, a site plan application for the division of a lot shall contain a plat (See definition of *Plat*). In connection with its review of a site plan application for the division of a lot, and in addition to the requirements of Section 151.4, the Planning Commission shall determine whether all proposed lots comply with applicable provisions of this bylaw regarding area, frontage, depth and access.

**342. Division of a Lot Into Four or More Lots.** Division of a lot into four (4) or more lots within any consecutive five (5) year period shall be allowed in all districts subject to Conditional Use Approval by the Board of Adjustment, in addition to Site Plan Approval as required in Section 341 above.

**343. Creation of Nonconforming Lots for Purposes of Conveyance.** As a condition for approval of a Zoning Permit for the subdivision of land whereby a nonconforming lot is created for the sole purpose of conveyance to an adjoining landowner, the Grantee shall be required to merge and incorporate the nonconforming lot with an existing adjacent lot by recorded conveyance. The remaining lands of Grantor must conform to all requirements of this Bylaw after the conveyance. See also Section 132.1(e).

### **SECTION 350 TEMPORARY USES AND STRUCTURES**

**351. Permitted Temporary Structures Incidental to Construction Projects.** A Temporary Zoning Permit for a one-story structure may be issued by the Zoning Administrator for a period not exceeding one (1) year for nonconforming uses incidental to construction projects, such as a construction office. The owner must remove the structure or use upon expiration of the permit. Upon application showing good cause, permits may be renewed. Structures housing such uses shall meet all setback requirements for the district in which the structure is located. Permitted temporary structures incidental to construction projects do not require Site Plan Review.

**352. Temporary Residential Structures Incidental to Construction.** A Temporary Zoning Permit may be issued by the Zoning Administrator for a period not exceeding one (1) year for a detached dwelling unit for the use of

habitation by owners of the lot during the construction of a primary dwelling unit on the same lot, providing the following criteria are met.

**a.** Temporary residential structures for construction purposes shall be removed within six (6) months from the date the principal structure is occupied or the sale of the property. A temporary residential structure need not be removed, provided a valid change of use permit is obtained and the structure complies with all other provisions of this Bylaw.

**b.** The temporary residential structure shall meet all setback requirements.

**c.** A permit for a temporary residential structure shall be renewed without fees on an annual basis, but such renewal shall take into account amendments to this Bylaw as adopted in the interim.

**d.** Temporary residential structures incidental to construction do not require Site Plan Review.

**353.** Temporary structures for use as accessory dwelling units shall meet the requirements of Section 318.

### **SECTION 360 SIGNS**

Signs which are designed and located in such a manner as to meet the criteria below do not require a Zoning Permit. Signs that do not meet the criteria are prohibited.

**a.** Signs and lighting for signs shall not impair public safety.

**b.** Signs shall not restrict clear vision between a road or access from the site or road onto another road.

**c.** Signs shall be designed so as to be in character with the neighborhood.

**d.** Signs shall not be located within the limits of the public right-of-way without the written permission of the Selectboard.

**e.** Signs are exempt from all district front yard setback requirements; signs must however, meet all side and rear yard setbacks for the district in which the sign is located.

**f.** Sign lighting shall be from above, steady, hooded or covered so that the source of the light is not visible from the highway or beyond the property boundary and shall be attached to the sign.

**g.** Wall signs shall not extend above the roofline or extend beyond any portion of the roofline. No structural component of a sign shall be attached to a roof. The total area of all wall signs on a parcel shall not exceed 32 sq. ft.

**h.** Projecting signs shall extend no more than four (4) feet from the wall to which they are attached; shall not extend into the right-of-way and shall not exceed 16 sq. ft.

**i.** Permanent signs and temporary sandwich signs shall not exceed eight (8) feet in height.

**j.** Historic signs erected by the State of Vermont, Windham County or the Town of Wardsboro are exempt from these regulations.

**k.** All signs, except as noted, must be on the premises and relate to or advertise activities on the premises.

### **361. Specific Sign Regulations**

- a. Conservation District** – Limited to one permanent sign per parcel not to exceed 16 sq. ft.
- b. Resource Residential District**
  - 1. Limited to one permanent sign per parcel not to exceed 16 sq. ft.
  - 2. Limited to one temporary sandwich sign not to exceed 8 sq. ft. per side or one flag/banner not to exceed 15 sq. ft.
- c. Rural Residential District**
  - 1. Limited to two permanent signs per use/parcel not to exceed 16 sq. ft. per sign
  - 2. Limited to one temporary sandwich sign not to exceed 8 sq.ft. per side or one flag/banner not to exceed 15 sq. ft.
- d. Village-Commercial District**
  - 1. Limited to four permanent signs per parcel not to exceed 150 sq. ft.
  - 2. Limited to two temporary sandwich signs not to exceed 8 sq. ft. per side or one flag/banner not to exceed 15 sq. ft.
- e. General:** All signs in this category shall be unlit and all signs within this general category do not count against sign limits allowed for the land use district.
  - 1. **Real Estate Signs:** Limited to one sign per parcel not to exceed 4 sq. ft. per side. Signs shall be removed no later than 30 days after closing of sale.
  - 2. **Construction Signs:** Limited to one sign per parcel not to exceed 4 sq. ft. per side. Signs shall be removed no later than 30 days after completion of work.
  - 3. **Municipal/Special Events:** Limited to two signs not to exceed 15 sq. ft. per sign or one banner not to exceed 35 sq. ft. Signs are not limited to the event property and signs shall be removed within 14 days after the event.
  - 4. **Electioneering Signs:** Shall be displayed no longer than 7 days following the election and shall not exceed 4 sq. ft. per side and the number of signs is unlimited.
  - 5. **Residence Signs:** Limited to one sign per dwelling not to exceed 4 sq. ft.

### **SECTION 370 RIGHT-OF-WAY**

The Planning Commission may approve access to lots that do not have frontage on a public road, provided a permanent and legally deeded easement or right-of-way is granted and the following criteria are met:

- a.** A right-of-way serving one or two lots shall be at least twenty (20) feet in width. The Planning Commission may require an increase in the proposed width of a right-of-way after consideration of the physical features of the lots involved, the proposed use, possible future uses and anticipated traffic.
- b.** A right-of-way serving three or more lots shall be not less than fifty (50) feet in width.
- c.** No lot may be created or transferred if the proposed right-of-way will reduce any lot to a size smaller than required in the district, or if such action will violate any other local or state ordinance or requirement. Also, see Section 237.

## **SECTION 380 OFFSTREET PARKING AND LOADING REQUIREMENTS**

The following parking and loading requirements represent the standard required by this Bylaw. The Planning Commission may require more or fewer parking spaces or a different parking circulation and layout based on a review of the site and proposed use. If the applicant requests an increase or reduction of the parking standards, the applicant must show good cause for doing so. Parking shall be designed to provide for maximum safety, ease in traffic flow, and access/egress on the property, while minimizing the need for impervious surfaces. Provisions for the accumulation and removal of snow shall be considered.

**381. Shared Parking.** Where possible, shared parking is encouraged and the required number of spaces may be reduced by the Planning Commission if adjoining uses are compatible and the applicant can demonstrate that such a reduction would still provide adequate parking. The Planning Commission shall determine the maximum reduction where shared parking is used. Shared parking agreements shall be recordable written agreements between affected properties and property owners and shall extend for a term that is coextensive with the anticipated life of the proposed use.

**382. Future Parking.** The Planning Commission may require areas be reserved for future parking and may require the construction of these spaces after Planning Commission review has determined they are necessary to meet the parking demands of the use.

**383. Roadside Parking.** All attempts should be made by the applicant to provide adequate off-street parking and loading areas. However, for structures constructed prior to the adoption of this Bylaw, the Planning Commission may grant a waiver of off-street parking spaces and/or loading areas provided there is accessible and adequate roadside parking within three hundred (300) feet of the property. The Planning Commission shall consider any recommendations made by the Selectboard when acting on a waiver request. The Planning Commission shall also consider practical and safe pedestrian access in making its decision.

**384. Increase of Existing Parking.** Any increase of active floor area in an existing building, or building enlargement, addition, an addition of a use or a change of use shall provide parking in accordance with this Bylaw for such enlargement or change, if applicable.

**385. Parking Within Setbacks.** Unless waived for good cause by the Planning Commission, parking shall not be located in the front-yard setback, except for one- and two-family residential uses. Also, see Section 232 Setbacks.

**386. Parking Space Requirements.** A standard space size shall be nine (9) feet wide by eighteen (18) feet long for off-street parking. Parallel parking spaces shall be eight (8) feet wide by twenty (20) feet long. Standard aisle width for ninety (90) degree parking shall be twenty-four (24) feet. A single handicapped space shall be thirteen (13) feet wide by eighteen (18) feet long.

**387. Specific Standards.** Off-street parking space shall be provided on the same lot or another lot or in public off-street parking facilities within a distance of three hundred (300) feet from the use.

### **387.1 Residential Uses.**

**a. One-family, Two-family, and Multi-family dwellings.** Two (2) spaces per dwelling unit.

**b. Home Industry or Home Business.** Two (2) parking spaces per dwelling unit, plus one (1) additional parking space for each nonresident employee.

**c. Bed and Breakfast, Boarding House.** One (1) space per rented bedroom or sleeping room, plus one (1) space for the owner of the property.

**d. Residential Care Home (with more than 6 residents), Residential Child Care Facility, Group Home Facility, Therapeutic Community Residence.** One (1) space per employee on the largest work shift, plus one space for every three (3) bedrooms or sleeping rooms.

**387.2 Public Assembly/Facility Uses.** One (1) space per four (4) patrons to the maximum capacity, plus one (1) space per employee on the largest work shift.

**387.3 Health Care Facility.** Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and one space per two (2) other employees on the largest work shift.

**387.4 Recreational Uses.** One (1) space per four (4) expected patrons at capacity, plus one (1) space per employee on the largest work shift.

**387.5 Business Uses.**

**a. General Commercial.** All commercial uses, retail stores, crafts shops, and vendors' markets, excluding those commercial uses identified below. One (1) space per two hundred (200) square feet or portion thereof of floor space or outdoor yard space in the case of vendors' markets used for the sale or display of merchandise. Every commercial use having floor space used for sale or display of merchandise of ten thousand (10,000) square feet or more shall maintain at least one permanent off-street loading space of not less than ten (10) feet in width, thirty (30) feet in length and fourteen (14) feet in vertical clearance for each ten thousand (10,000) square feet of floor area or portion thereof.

**b. Office Uses.** One (1) space for each two hundred-fifty (250) square feet of floor space or major portion thereof.

**c. Hotel or Inn.** One (1) space per sleeping room, plus one (1) space for every two (2) employees on the largest work shift. In addition, accessory uses (e.g. bars, restaurants, public meeting spaces) must follow their respective standards.

**d. Restaurant and Lounge.** One (1) space for every three (3) seats, or one (1) space for every two hundred (200) square feet of floor space, whichever provides the greatest number of parking spaces; plus one (1) space per two (2) employees on the largest work shift.

**e. Industrial Uses.** One (1) space for each employee per shift.

**387.6 Other Uses.** As required by the Planning Commission under Site Plan Review.

## ARTICLE IV SPECIAL PROVISIONS

### **SECTION 410 SPECIFIC STANDARDS FOR CERTAIN USES**

The uses below have specific standards that shall be met, in addition to all other applicable provisions of this Bylaw. If there is a conflict between a standard in this section and a standard in another section of this Bylaw, the more restrictive standard shall apply. See Article II to determine in which zoning districts such facilities are allowed.

**411. Automobile Salvage.** Automobile salvage operations shall comply with the following:

- a.** All provisions of the Town of Wardsboro Solid Waste Ordinance shall be met in addition to the requirements of this Section. If there is a conflict between the Town of Wardsboro Solid Waste Ordinance and a standard in this Bylaw, the more restrictive standard shall apply.
- b.** Upon approval by the Board of Adjustment, the commencement of the use/operation shall be contingent upon the applicant receiving a State Junkyard Permit for the use/operation.
- c.** The operation will not have an undue adverse effect on the scenic or natural beauty of the area, other aesthetic values or historic sites.
- d.** Adequate vegetative buffers or other screening shall be maintained at all times between the operation and all property boundaries and right-of-ways.
- e.** The disposal of all liquid and hazardous wastes shall be in accordance with state regulations.
- f.** There shall not be more than twelve (12) unregistered vehicles on the lot at any one (1) time.
- g.** No unregistered vehicle or parts thereof shall be allowed to remain on the lot for longer than one (1) year unless stored in an enclosed structure.
- h.** No unregistered vehicles and parts thereof shall be placed or stored in any setback area.

**412. Automotive Service Station.** Automobile service stations, with or without repair garages, shall comply with the following:

- a.** All structures including pumps, lubricating and outdoor service devices shall meet front, side and rear yard setback requirements.
- b.** All stored fuel and oil, including underground tanks, shall meet all state codes and regulations.

**413. Campgrounds for Tent, Travel Trailer & Recreational Vehicles.** The following specific standards must be satisfied:

- a.** An individual access driveway and parking area, suitably surfaced, shall be provided for each campsite.
- b.** Each site shall be at least two thousand-five hundred (2,500) square feet in area. Each travel trailer and recreational vehicle site shall have a compacted gravel surface at least twenty-five (25) feet in width and of a sufficient length to accommodate the intended vehicle size.
- c.** Each site shall be located in a clean, dry and well-drained area.

**d.** There shall be an undeveloped area of not less than one hundred (100) feet in depth between all camping sites and the traveled portion of any adjacent highway and other boundaries of the campground. These areas shall be landscaped with existing or planted trees or other plant materials for screening purposes.

**e.** Each site shall have access to water and sewage disposal in compliance with and approved by the State (Division of Protection, Agency of Environmental Conservation) and in conformance with any local health regulations.

**f.** All roads within the campground shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the utilization of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established.

**g.** All campgrounds shall keep at least twenty-five (25) percent of the total ground area for recreation or open space purposes.

**413.1 Exceptions.** The following provisions apply to single travel trailers, recreational vehicles, and other mobile camping vehicles and are not subject to the above requirements for campgrounds. They must, however, meet the special requirements outlined below.

**a.** The owner of a travel trailer, recreational vehicle, or other mobile camping vehicle may park it on his or her own property (only as an accessory use to his or her principal dwelling or commercial use) no closer than six feet to any lot line. A travel trailer or recreational vehicle so parked shall not be used as permanent, seasonal or temporary living quarters or for commercial purposes, and shall not be hooked up to any utilities. No Zoning Permit is required for this accessory use.

**b.** A property owner may park and use, for temporary bona fide camping purposes only by nonpaying occupants or guests, his own or another person's travel trailer, recreational vehicle, or other mobile camping vehicle on his property for not more than ninety (90) days within any consecutive twelve (12) month period. Any travel trailer, recreational vehicle or other mobile camping vehicle so parked shall meet all district setback requirements with respect to adjacent property boundaries and adequately and safely control all wastes. No Zoning Permit is required for this accessory use.

**c.** Travel trailers, recreational vehicles, and other mobile camping vehicles parked on a property for more than ninety (90) days within any consecutive twelve (12) month period (except as an accessory use as provided for in Section 413.1(a) or 413.1(b) above) shall be deemed a "dwelling" as defined in Article VII or a temporary structure as defined in Section 350; and such use shall require a Zoning Permit and shall comply with all applicable zoning requirements.

**414. Family Child Care Home or Facility, Residential Care Home and Group Home.** A state registered or licensed family child care home or facility serving no more than six (6) full-time and four (4) part-time children, or a residential care home or group home as identified in Section 316 and 317 and defined herein, and serving eight (8) or fewer persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single-family residential use of property. No Site Plan Review is required for such uses as established in Section 4412(1)(G) and 4412(5) of the Act. Special Note: Family child care homes or facilities serving more than six (6) full-time and four (4) part-time children or residential care or group homes serving more than eight (8) persons do not constitute a single-family use. See Article II to determine in which zoning districts such facilities are allowed.

No Zoning Permit shall be issued by the Zoning Administrator until the applicant for a day care facility, residential care home or group home:



- a. Submits proof that the facility will not exceed six (6) full-time and four (4) part-time children for family child care home or facility or eight (8) persons for residential care or group home.
- b. Submits proof that the facility is properly registered or licensed by the Vermont Department of Social and Rehabilitative Services or the Department of Rehabilitation and Aging, as applicable.
- c. Fulfills the application requirements of Section 132 of this Bylaw.

**415. Earth/Mineral Extraction (Extraction of Soil, Sand or Gravel).** The removal of soil, sand, stone or gravel, except when incidental to construction of a building on the same premises, shall be permitted only after the Board of Adjustment finds, following Conditional Use Review, that the proposed activity meets the standards below.

The applicant for a Conditional Use Approval for earth/ mineral extraction shall submit two (2) copies of a proposed Site Restoration Plan along with all other required documents. In addition, the applicant shall submit a narrative description of how the standards contained in 'a' through 'i' below will be addressed.

Earth/ mineral extraction operations shall comply with the following:

- a. The operation will not cause an unreasonable burden on an existing water supply if one is to be utilized, nor have an adverse impact on the quality or quantity of neighboring water supplies or subterranean aquifers.
- b. The operation will not cause unreasonable soil erosion; it will not result in a reduction in the capacity of the land to hold water during and after the operation which creates a dangerous or unhealthy situation for adjoining property owners or downstream areas due to stream bank erosion, sedimentation of streams, surface water runoff, or flooding.
- c. The operation will not cause unreasonable highway congestion, unsafe conditions or excessive use with respect to highways and bridges existing or proposed in the area, nor shall traffic be generated that will adversely affect the neighborhood it passes through.
- d. The operation will not have an undue adverse effect on the scenic or natural beauty of the area, other aesthetic values, historic sites, or rare and irreplaceable natural resources or areas.
- e. The operation will not result in an embankment with a slope steeper than one (1) foot vertical to two (2) feet horizontal upon completion of an area of work, except in ledge rock.
- f. The operation will provide, in the form of a Site Restoration Plan, for restoration of the area excavated, including but not limited to necessary grading, drainage, replacement of loam or other suitable soil cover to support permanent vegetation and prevent soil erosion, erosion control measures, and planting or other restoration of the area disturbed. Restoration of the site shall be carried out in phases, as excavation work is completed; the Site Restoration Plan shall identify and define each phase of the extraction operation and site restoration process.
- g. A performance bond or equivalent surety acceptable to the Board of Adjustment shall be secured from the applicant. This bond or surety shall be sufficient to ensure that, upon completion of the extraction operations, the site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare, and in conformance with the Site Restoration Plan.
- h. The operation will not undermine any road or any abutting property.

i. Adequate vegetative buffers or other screening shall be maintained at all times between the operation (including excavation blasting, crushing and traffic access and circulation) and all roads and neighboring properties. The purpose of these buffer areas is to protect neighboring properties from excessive noise, dust, fumes and other adverse impacts.

**416. Home Industry or Business.** A home industry or business shall comply with the following. See also the definition of *Home Industry or Business* in Article VII.

a. The home industry or business shall be carried on by members of the family who reside within the dwelling; three onsite employees who are not family members living within the dwelling are permitted. Onsite employees shall not be permitted in the Conservation District.

b. The home industry or business shall be carried on primarily within the dwelling or within an accessory building such as a garage or barn. Conditional Use Approval is required for a home industry or business that is primarily conducted outside these structures.

c. The exterior storage of materials may be permitted if such storage is in character with the neighborhood. The Site Plan Review may require appropriate screening of an exterior storage area.

d. Exterior signs shall meet the provisions of Section 360.

e. No traffic shall be generated in substantially greater volumes than would normally be expected in the neighborhood.

f. A home industry or business requires a Zoning Permit and Site Plan Approval. A home industry or business in the Conservation District also requires Conditional Use Approval.

g. More than one home industry or business on a lot requires Conditional Use Approval. The combined total of employees who are not family members living within the dwelling from all home industries or businesses shall not exceed three. No more than one home industry or business shall be permitted in the Conservation District.

h. Off-street parking, if required, shall be provided in accordance with Section 380.

i. Products not processed on the premises may not be sold directly to the general public. This limitation does not apply to a mail order home industry or business, nor to an antique dealer. An antique shop is not permitted in the Conservation District.

j. A permit for a home industry or business shall be personal to the occupant at that location only and shall not attach to the land.

A home industry or business may include, but is not limited to the following: antique shop; studio; hair stylist; small equipment maintenance and repair such as lawn mowers, bicycles, household appliances and electronic items; pottery, quilt, stained glass, and woodworking shops; caterer; and teaching individuals or small groups.

A home industry or business shall not include the following: health care facilities, excavation/contractor yards, garage/repair facilities, restaurants, retail outlets, automotive service stations, earth and mineral extraction, campgrounds, hotels, kennels, boarding schools, vendors' markets, veterinary clinics, laundromats and any trades or businesses of a similar nature.

**417. Light Industry.** Light industrial activities must be primarily concerned with the enclosed manufacturing, processing, or wholesale selling or warehousing of goods. Light industry uses shall comply with the following:

**a.** Vehicular delivery and shipment activity to and from light industrial uses shall not cause unreasonable highway congestion or unsafe conditions for vehicular or pedestrian traffic on any public or private road. The total number of deliveries or shipments per day shall be limited to a level which ensures such safety and is appropriate to the existing conditions and level of traffic on the road(s) on which the proposed light industrial use is located.

**b.** The total number of employees permitted on the largest shift shall be limited to a level which ensures the safe movement of vehicular and pedestrian traffic on public and private roads and which is appropriate to existing traffic conditions of the road(s) on which the proposed light industrial use is located.

**418. Land Fill.** Unless provided for otherwise in Section 124, and where permitted by this Bylaw, the deposit of soil, sand, stone, stumps, topsoil, or gravel transported to the site shall be permitted only after the Board of Adjustment finds, following Conditional Use Review, that the proposed activity meets the standards below, in addition to any other applicable standards contained in this Bylaw.

The applicant for a Conditional Use Approval for landfill shall submit two (2) copies of a proposed Site Plan that includes finished grades, drainage, replacement of loam or other suitable soil cover to support permanent vegetation and prevent soil erosion, erosion control measures, and plantings or other restoration of the area disturbed along with all other required documents. In addition, the applicant shall submit a narrative description of how the standards contained in 'a' through 'h' below will be addressed.

A landfill shall comply with the following:

**a.** The operation shall not have an adverse impact on the quality or quantity of neighboring water supplies or subterranean aquifers.

**b.** The operation shall not cause unreasonable soil erosion. It will not result in a reduction in the capacity of the land to hold water during and after the operation which creates a dangerous or unhealthy situation for adjoining property owners or downstream areas due to stream bank erosion, sedimentation of streams, surface water runoff, or flooding.

**c.** The operation will not cause unreasonable highway congestion, unsafe conditions or excessive use with respect to highways and bridges existing or proposed in the area, nor shall traffic be generated that will adversely affect the neighborhood it passes through.

**d.** It shall not have an undue adverse effect on the scenic or natural beauty of the area, other aesthetic values, historic sites, or rare and irreplaceable natural resources or areas.

**e.** It shall not result in an embankment with a slope steeper than one (1) foot vertical to two (2) feet horizontal upon completion of an area of work.

**f.** It shall provide, in the form of a Site Plan, for restoration of the area affected including but not limited to necessary grading, drainage, replacement with loam or other suitable soil cover to support permanent vegetation and prevent soil erosion, erosion control measures, and planting or other restoration of the area disturbed.

**g.** An adequate vegetative buffer shall be maintained at all times between the property on which the land fill operation is conducted and adjoining properties.

**h.** The deposit of materials other than soil, sand, stone, stumps, topsoil, or gravel is prohibited.

**419. Vendors' Markets.** Vendors' markets shall comply with the following:

- a.** The provisions of all applicable state and local health regulations (including but not limited to those regulating sewage disposal, water supply and food handling) shall be met and proof thereof submitted to the Board of Adjustment.
- b.** All accessory uses and structures shall require a Zoning Permit prior to commencement of construction or placement on the lot.
- c.** Bona fide market vendors shall be allowed to remain overnight in their vehicles on the grounds (property) of the market for the sole purpose of protecting their wares for a period not to exceed two (2) consecutive nights. Any market property owner who allows vendors to remain overnight on his/her premises shall maintain adequate sanitary facilities as required in Section 419(b) above.

#### **SECTION 420 MOBILE HOME PARKS**

No person shall construct or operate a mobile home park without first obtaining Conditional Use Approval from the Board of Adjustment and a State Mobile Home Park permit issued under the provisions of Chapter 153, 10 VSA. Where there is a conflict between the provisions of the Wardsboro Zoning Bylaw and that of Chapter 153, 10 VSA, the latter shall take precedence.

#### **SECTION 430 LAND DEVELOPMENT IN WETLAND AREAS**

No Zoning Permit shall be granted for the development of a wetland prior to the expiration of a period of thirty (30) days following the submission of a report prepared by the applicant to the Agency of Natural Resources by the Zoning Administrator, as provided in Section 315a(i) of this Bylaw. The report shall describe the proposed use, the location requested and an evaluation of the effect of such proposed use on the Town Plan and on the Windham Regional Plan.

**431. National Wetlands Inventory Maps.** Wetlands have been identified on the Wardsboro Natural Resources Map that is available for review at the Wardsboro Town Office. The location of all proposed land development must be reviewed by the Zoning Administrator relative to these maps prior to the issuance of a Zoning Permit.

**432. Wetlands Boundaries.** Upon receipt of an application which involves land development in or near a wetland, the Town may require that the wetland boundaries be delineated by a qualified professional using the methodology set forth in the most recent edition of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands. The methodology employs three parameters: vegetation, soils and hydrology. The most recent edition of The Wetland Plant List of the State of Vermont published by the U.S. Fish and Wildlife Service shall be used to determine the frequency of vegetation occurrence in wetlands. The Town may also request an opinion from the State Agency of Natural Resources on the boundaries of the Wetland.

#### **SECTION 440 SPECIFIC STANDARDS FOR CERTAIN STRUCTURES**

**441. Accessory Structures Larger than the Principal structure.** The construction of an accessory structure with a floor area greater than the floor area of the principal structure may be permitted provided the following criteria are met:

- a.** The structure shall require approval of the Planning Commission, Site Plan Review and if the use requires a Conditional Use Review, approval of the Board of Adjustment. In conducting a review, the Planning Commission and Board of Adjustment shall consider the proposed use of the structure, the intensity of such use and the potential impact on and compatibility with adjacent properties.

b. The lot on which the structure is to be located shall have an area at least twice the minimum required in the district in which it is located in accordance with Section 231.2.

**442. Bridges.** Unless specified otherwise in Section 124 or Article V, the construction of a bridge crossing a watercourse as defined in Article VII shall require Conditional Use Approval.

**443. Ponds, Impoundments and Dams.** Unless provided for otherwise in Section 124, the construction of a pond or other impoundment or the damming of a stream shall require a Zoning Permit.

a. In-stream ponds and dams in all permanent streams are permitted provided that all applicable State permits and approvals have been secured and presented to the Zoning Administrator at the time the application is submitted.

b. The construction of any pond or dam shall not divert the flow of water so as to create a new discharge on to another property.

c. The construction of any pond or dam shall not cause a noticeable decrease in water flow nor a degradation of water quality to the pond or stream that receives the discharge.

d. All manmade ponds shall meet all setback requirements.

e. Any manmade pond which impounds more than five hundred thousand (500,000) cubic feet of water or is greater in area than five (5) acres is permitted provided that a permit from the Department of Environmental Conservation has been secured and presented to the Zoning Administrator at the time the application is submitted.

f. The construction of a pond in a wetland area is permitted provided that all applicable State permits and approvals have been secured and presented to the Zoning Administrator at the time the application is submitted.

**444. Public Facilities:** The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use.:

- State- or community-owned and operated institutions and facilities.
- Public and private schools and other educational institutions certified by the State Department of Education.
- Churches and other places of worship, convents, and parish houses.
- Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
- Hazardous waste management facilities for which a Notice of Intent to Construct had been received under 10 V.S.A. 6606a.

#### **SECTION 450 WIND ENERGY CONVERSION SYSTEMS**

Unless provided for otherwise in Section 124, the construction of a Wind Energy Conversion System (WECS) shall require a conditional use approval in all land use districts, and may be permitted, provided the following criteria are met:

- a. **Site Plan Review:** Is required as provided in Section 150, and the application shall, at a minimum, include:
1. The applicant's and property owner's name, address and telephone number.

2. Site Plans showing property lines, easements, setbacks and layout of all structures on the lot, to include proposed poles, towers, guy wires, fences, etc.
3. Fees as determined by the Selectboard.
4. All specifications for the system being proposed.

**b. Safety & Feasibility:**

1. Evidence that the site is feasible for a WECS and the safety of the design shall be certified by a professional engineer or by an authorized factory representative.
2. The WECS shall be equipped with manual and automatic overspeed controls to limit rotation of blades to speeds below the designed limits of the conversion system. The professional engineer or authorized factory representative shall certify that the rotor and overspeed control design and fabrication conform to good engineering practices.
3. The WECS shall be designed to withstand a wind speed of at least 120 miles per hour.
4. The WECS shall not be modified to operate above the manufacturers' originally rated and approved design.
5. The minimum height of the lowest portion of the WECS blade shall be at least twenty (20) feet above the ground.
6. The WECS shall be designed and installed to withstand lightning strikes.
7. All towers and poles must be unclimbable by design for the first twelve (12) feet or be enclosed by a six (6) foot fence and locked gate at the perimeter of the base.

**c. Setbacks:**

1. The minimum setback requirement from the property line to the base of the tower must be at least one and one-half times the height of the tower including the maximum height of the blade.
2. The base of all guy wires and other supplementary supporting structures must meet the existing minimum setback for the land use district.

**d. Noise / Sound:** The windmill shall not exceed 60 decibels at the lot line at the point closest to the base of the tower.

**e. Lighting:** Lighting of the facility shall be prohibited.

**f. Interference:** The WECS shall be operated such that no disrupting electromagnetic interference is caused. If it is determined that a WECS is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or removal of the facilities.

**g. Maintenance:** The site and any access roadways and transmission lines shall be developed and maintained in a manner that minimizes soil erosion, contamination of surface and groundwater sources and damage to wildlife habitats or natural areas.

**h. Abandonment:**

1. If the Zoning Administrator determines that the WECS has been abandoned for more than one year, or has become a hazard, the Zoning Administrator may require that it be removed.
2. If any WECS remains non-functional or inoperative for a continuous period of one year, the current property owner shall remove said system at their expense within two years of cessation of operations or use, or when the tower structure becomes structurally unsound. Removal of the system includes the entire structure including foundations, transmission equipment, and fencing from the property.

## ARTICLE V FLOOD HAZARD AREA REGULATIONS

### **SECTION 510 INTENT AND APPLICATION OF REGULATIONS**

**511. Authorization.** To effect the purpose of 10 VSA Chapter 32, and in accordance with Sections 4401 and 4424 of the Act, there are hereby established Flood Hazard Area Regulations for those areas subject to flooding in the Town of Wardsboro.

**512. Purpose.** The purpose of these Regulations is to promote the public health, safety, and general welfare; prevent increases in flooding caused by the uncontrolled development of lands in flood hazard areas; to minimize losses due to flooding; and to maintain eligibility of citizen participation in the National Flood Insurance Program. *[Special Note: Development in Flood Hazard Areas may impact the property owner's flood insurance policy. It is the responsibility of the applicant and/or property owner to ascertain what, if any, insurance ramifications are entailed.]*

**513. Application of Regulations.** Any proposed use or structure in the Flood Hazard Area must meet all the standards and criteria for development in the zoning district in which it is located, after which it must meet the requirements of these Flood Hazard Area Regulations. The requirements of the Flood Hazard Area Regulations supersede those of the zoning district and may render otherwise permitted uses conditional or not permitted.

**514. Precedence of Regulations.** The provisions of these Regulations shall take precedence over any conflicting and less restrictive local laws.

**515. Warning of Disclaimer of Liability.** These Regulations do not imply that areas outside the Flood Hazard Area or land uses permitted within such areas will be free from flooding or flood damage. These Regulations shall not create liability on the part of the Town of Wardsboro, town officials, or employees thereof for any flood damages that may result from reliance on these Regulations or any administrative decision made hereunder.

**516. Validity and Severability.** If any portion of this ordinance is held unconstitutional or invalid by a competent court, the remainder of this ordinance shall not be affected.

### **SECTION 520 DEFINITION OF TERMS IN FLOOD HAZARD AREA**

The definitions listed below are applicable to the Flood Hazard Area regulations in this Bylaw. Additional definitions are included in Article VII of this Bylaw and shall apply. Where there is a conflict between identical terms in Article V and Article VII, the definitions of Article V shall apply in the Flood Hazard Areas. Additional clarification and definition of terms are also contained in 44 CFR Section 59.1 of the National Flood Insurance Program.

**BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE):** The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

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

**BUILDING:** A walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**CUMULATIVE SUBSTANTIAL IMPROVEMENT:** Any combination of repairs, reconstruction, rehabilitation, addition, alteration or other improvements of a structure, during any five (5) year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure before “start of construction” of the improvement. Refer to definition of “Substantial Improvement”.

**DEVELOPMENT or LAND DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS):** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood related erosion hazards.

**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. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V.

**FLOOD PROOFING:** Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

**HISTORIC STRUCTURE:** Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with



historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR Section 60.3.

**MANUFACTURED HOME or MOBILE HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MINOR RESIDENTIAL BUILDING IMPROVEMENTS:** Any repairs, reconstruction, or improvement of a structure, the cost of which is less than fifty (50) percent of the market value of the structure.

**NEW CONSTRUCTION:** For the purposes of determining insurance rate, structures for which the start of construction commenced on or after 2 March 1976 and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**RECREATIONAL VEHICLE:** A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**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 of whether that alteration affects the external dimensions of the building.

**STRUCTURE:** For floodplain management purposes, a walled and roofed building including but not limited to a building, manufactured home, mobile home, gas or liquid storage tank that is principally above ground. *Structure,*

for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank

**SUBSTANTIAL DAMAGE:** Means 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:** Means any reconstruction, rehabilitation, addition, or other improvement of a structure, during any five (5) year period, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the first improvement. This term also includes repair or restoration of structures that have incurred substantial damage, regardless of the actual repair work performed. The cost of improvement, repair or restoration shall be based on all improvements commencing on and subsequent to the first improvement. 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 a 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.

**VIOLATION:** The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

## **SECTION 530 PERMITS**

**531. Permits Required.** A Zoning Permit or Conditional Use Approval is required in Areas of Special Flood Hazard or the Floodway for all development as defined in Section 520.

**532. Permitted Use.** A Zoning Permit may be issued by the Zoning Administrator for residential accessory structures and minor residential building improvements and other uses listed in and meeting the provisions of Section 550.

**533. Conditional Use Approval.** Conditional Use Approval by the Board of Adjustment is required for new construction, the substantial improvement of existing buildings or any development within the Floodway in accordance with Sections 147 and 570.

## **SECTION 540 FLOOD HAZARD AREA MAP AND BASE FLOOD ELEVATIONS AND FLOODWAY LIMITS**

**541. Flood Hazard Area Map.** These regulations shall apply to all areas in the Town of Wardsboro identified as areas of Special Flood Hazard identified in and on the most recent flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) and National

Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

#### **542. Base Flood Elevations and Floodway Limits.**

- a. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.
- b. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations.
- c. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

### **SECTION 550 PERMITTED USES AND PROCEDURES**

**551. Application and Procedures.** The Zoning Administrator may approve a Zoning Permit in the Flood Hazard Area for those uses and activities outlined in Section 552. Upon receipt of such an application, the Zoning Administrator shall transmit one copy to the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section. A Zoning Permit may be issued only following receipt of comments from the Department or the expiration of thirty (30) days from the date the application was submitted to the Department, whichever is sooner. The Zoning Administrator shall apply all guidelines and recommendations received from the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section.

#### **552. Permitted Uses.**

- a. Small residential accessory structures such as sheds and detached garages and improvements to such structures not located on compacted fill which has been elevated to a level at or above the base flood elevation are subject to compliance with the following criteria: *[Special note: Small accessory structures located in Flood Hazard Areas and not elevated may impact the property owner's flood insurance policy. It is the responsibility of the applicant to ascertain what, if any, insurance ramifications are entailed.]*
  - i. The structure must be used only for parking and storage.
  - ii. The structure must have the required openings to allow floodwaters in and out.
  - iii. The structure must be constructed using flood resistant materials below the Base Flood Elevation.
  - iv. The structure must be adequately anchored to resist flotation, collapse, and lateral movement.
  - v. All building utility equipment including electrical and heating must be elevated or floodproofed.

**b.** Small residential accessory structures such as sheds and detached garages and improvements to such structures located on compacted fill which has been elevated to a level at or above the base flood elevation.

**c.** Minor residential building improvements as defined in this Bylaw. In determining whether an improvement is a minor building improvement, the Zoning Administrator may confer with the Town Listers, consider the recommendations of the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section, and may consider other applicable provisions of this Bylaw.

**d.** Any development for residential purposes except construction of new residential buildings and substantial improvement of existing residential buildings.

**e.** A permit is required for removal of a structure, in whole or in part, and the resulting debris is to be contained or removed from the site within 60 days.

## **SECTION 560 APPLICATION AND PROCEDURES FOR CONDITIONAL USE**

**561. Conditional Use Approval.** Conditional Use Approval by the Board of Adjustment is required for the following:

**a.** New Construction.

**b.** Substantial improvement of a structure.

**c.** Development which is not a permitted use pursuant to Section 550.

**d.** Development in a floodway.

**562. Application Submission and Requirements.** Application for a Zoning Permit for land development requiring Conditional Use Approval in a Flood Hazard Area shall be made to the Zoning Administrator, who shall deny the permit and shall refer the application to the Board of Adjustment for review as provided by these Regulations. Unless waived or varied by the Zoning Administrator and Board of Adjustment Chair, the application and accompanying documents shall include, but are not limited to:

**a.** The elevation (consistent with the datum of the elevation on the NFIP maps) of the lowest floor, including basement, of new buildings or buildings to be substantially improved;

**b.** Where flood-proofing is proposed, the elevation (consistent with the datum of the elevation on the NFIP maps) to which the building will be flood-proofed;

**c.** Plans drawn to scale showing the existing and proposed land contours, buildings, structures, streams, roads and other pertinent physical features;

**d.** Base flood elevations data for subdivisions and other proposed development which contains at least fifty (50) lots or five (5) acres, whichever is the smaller.

**e.** Such other information deemed necessary by the Board of Adjustment for determining the suitability of the site for the proposed development.

### **563. Procedures.**

**563.1 State Review.** Prior to issuing a Zoning Permit for any development in a Flood Hazard Area, a copy of the application shall be submitted to the State National Floodplain Insurance Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with Section 4424 of the Act and Section 315 of this Bylaw. A Zoning Permit may be issued only following receipt of comments from the Agency or the expiration of thirty (30) days from the date the application was submitted to the Agency, whichever is sooner.

**563.2 Notification.** Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least thirty (30) days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

**563.3 State and Federal Approvals.** Prior to approval by the Board of Adjustment, proposed development shall be reviewed by the Board of Adjustment to assure that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

### **564. Board of Adjustment Review.**

**564.1. Criteria:** When reviewing an application, the Board of Adjustment shall consider:

- a. The evaluation of the Vermont Department of Environmental Conservation.
- b. The availability of alternative locations not subject to flooding for the proposed use.
- c. The susceptibility of the proposed improvements to flood damage.
- d. The safety of access to the property in times of flood by ordinary and emergency vehicles.
- e. The potential for damage to the property caused by erosion.
- f. The danger of materials being swept onto other lands and causing damage to others.
- g. The proposed water supply and sanitation systems and the ability of these systems to avoid disease, contamination and unsanitary conditions under conditions of flooding.
- h. The costs of providing governmental and public facilities and services during and after flooding.
- i. Such other factors as are relevant to the purposes of this Bylaw.

**564.2 Standards.** The Board of Adjustment may grant a Conditional Use Approval for development provided:

- a. All necessary permits are obtained from those governmental agencies from which approval is required by Federal or State law; and
- b. The development standards of Sections 564.3 and 564.4 below are met or exceeded, as well as all other provisions of this Wardsboro Zoning Bylaw.

### **564.3 Floodway Areas.**

- a.** Development within the Floodway, as determined by Section 542.b, is prohibited unless a registered professional engineer certifies that through hydrologic and hydraulic analyses performed that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
- b.** Storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the Floodway.

### **564.4 Flood Hazard Areas.**

- a.** All development, including subdivisions, shall be designed to:
  - i.** Minimize potential flood damage to the proposed development and to public facilities and utilities; and
  - ii.** Provide adequate drainage to reduce exposure to flood hazards.
- b.** All development shall be reasonably safe from flooding and:
  - i.** Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
  - ii.** Constructed with materials resistant to flood damage;
  - iii.** Constructed by methods and practices that minimize flood damage, and:
  - iv.** Constructed with electrical, heating ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- c.** The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- d.** New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- e.** On-site waste disposal system shall be located to avoid impairment to them or contamination from them during flooding. The lowest elevation of the wastewater distribution field shall be located at least 1 foot above the base flood elevation.
- f.** Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
  - i.** located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.

ii. located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

**g.** The lowest floor, including the basement, of all new buildings shall be at least one (1) foot above the base flood elevation. Residential accessory buildings may be excluded in accordance with Section 552(a) and (b).

**h.** Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of Section 564.4(g) above.

**i.** The substantial improvement of any commercial, industrial or other non-residential structure shall either meet the requirements of Section 564.4(g) or together with attendant utility and sanitary facilities be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.<sup>1</sup> A permit for a building proposed to be flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

**j.** Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage. All new construction and substantial improvements with fully enclosed areas below the lowest floor (such as crawl spaces) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

**i.** A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

**ii.** The bottom of all openings shall be no higher than one (1) foot above grade;

**iii.** Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

**k.** Storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are prohibited in the fringe areas unless the area is filled to at least one (1) foot above the base flood elevation.

**l.** Recreational Vehicles placed on in the Flood Hazard Area shall either:

**i.** Be on the site for fewer than 180 consecutive days, or

**ii.** Be fully licensed and ready for highway use, or

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<sup>1</sup> Note: while buildings need only be flood proofed to the base flood elevation for floodplain management purposes, the building must be flood proofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes.

**iii.** Meet all standards of Section 60.3(b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of Section 60.3(c)(6).

**m.** A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:

- i.** The structure must only be used for parking or storage,
- ii.** The structure must have the required openings to allow floodwaters in and out.
- iii.** The structure must be constructed using flood resistant materials below the Base Flood Elevation.
- iv.** The structure must be adequately anchored to resist flotation, collapse, and lateral movement.
- v.** All building utility equipment including electrical and heating must be elevated or floodproofed.

**n.** Such additional conditions as deemed necessary by the Board of Adjustment in order to meet the purposed and Flood Hazard Area management requirements of this Bylaw.

## **SECTION 570 ADMINISTRATION AND VARIANCES**

**571. Zoning Administrator.** The Zoning Administrator shall maintain records of:

- a.** All permits issued for development in areas of special flood hazard;
- b.** The elevation, consistent with the datum of the elevation on the NFIP maps, of the lowest floor, including basement, of all new construction or substantially improved structures;
- c.** The elevation, consistent with the datum of the elevation on the NFIP maps, to which the structure is flood-proofed;
- d.** All flood-proofing certifications required under this Regulation;
- e.** All variance actions, including justification for their issuance.

**572. Variances.** Variances shall be granted by the Board of Adjustment only in accordance with 24 VSA Section 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6 of the National Flood Insurance Program regulations.



### **573. Board of Adjustment Secretary.**

**573.1 Notification.** The Secretary of the Board of Adjustment shall notify the applicant that:

- a.** The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance;
- b.** Such construction below the base flood elevation increases risks to life and property.

**573.2 Record Keeping.** The Secretary of the Board of Adjustment shall:

- a.** Maintain a record of all variance actions, including justification for their issuance;
- b.** Report such variances issued under Section 572 in its annual report to the Federal Insurance Administrator.

### **SECTION 580 ENFORCEMENT AND PENALTIES**

It shall be the duty of the Zoning Administrator to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Zoning Administrator, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

If the structure is still noncompliant after the opportunity to cure has passed, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## ARTICLE VI TELECOMMUNICATIONS FACILITIES

### **SECTION 610 INTENT AND APPLICATION OF REGULATIONS**

**611. Application of Regulations** Telecommunications facilities shall include all telecommunications service providers and associated equipment and buildings. The provisions of Article VI shall not apply to municipal public safety telecommunications.

**612. Purpose.** The purpose of this bylaw is to protect the public health, safety and general welfare while accommodating the communication needs of residents and businesses. This provision shall:

- a. Preserve the character and appearance of the Town while allowing adequate telecommunications services to be developed.
- b. Protect the scenic, historic, environmental, and natural resources.
- c. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of telecommunications facilities and towers.
- d. Minimize tower and antenna proliferation by requiring the sharing of existing communications facilities, towers and sites where possible and appropriate. Facilitate the provision of telecommunications services to the residences and businesses of the Town of Wardsboro.
- e. Minimize the adverse visual effects of towers through careful design and siting standards.
- f. Encourage, through performance standards and incentives, the location of towers and antennas in non-residential areas and away from other sensitive areas such as schools, hospitals and childcare facilities.

**613. Authority.** Pursuant to 24 VSA § 4401 et seq. the Planning Commission and Board of Adjustment, hereinafter in Article VI referred to as the Appropriate Municipal Panels, are authorized to review, approve, conditionally approve, and deny applications for telecommunications facilities, including sketch, preliminary and final plans, and installation. Pursuant to 24 V. S.A. § 4414(12), the Appropriate Municipal Panels are authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay reasonable costs thereof.

**614. Consistency With Federal Law.** In addition to other findings required by this Bylaw, decisions regarding an application are intended to be consistent with federal law, particularly the Telecommunications Act of 1996. This Bylaw does not:

- a. Prohibit or have the effect of prohibiting the provision of personal wireless services;
- b. Unreasonably discriminate among providers of functionally equivalent services;
- c. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

## **SECTION 620 PERMITS.**

**621. Permits Required.** In districts allowing such use, telecommunications towers or facilities may be permitted as conditional uses upon compliance with the provisions of this Bylaw.

An applicant for a telecommunications tower or facility permit must be a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the Zoning Administrator at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

No construction, alteration, modification (including the installation of antennas for new uses) or installation of any telecommunications tower or facility shall commence without Conditional Use Approval first being obtained.

**622. Application Requirements.** In addition to information otherwise required in Article I, applicants for telecommunications towers or facilities shall include the following supplemental information:

- a.** The name and address of the applicant, the landowners of record and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.
- b.** The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
- c.** The names and addresses of record of all abutting property owners.
- d.** A report from qualified and licensed professional engineers that:
  - i.** Describes the facility height, design and elevation as specified by a structural engineer.
  - ii.** Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas as specified by a radio frequency (RF) engineer.
  - iii.** Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate as specified by a structural engineer.
  - iv.** Documents steps the applicant will take to avoid interference with any established public safety telecommunications, and includes both an intermodulation study by a radio frequency (RF) engineer that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies.
  - v.** In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures within 30 miles of the proposed site cannot reasonably be modified to provide adequate coverage and adequate capacity to the area to be served.
  - vi.** Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage as specified by a radio frequency (RF) engineer.
  - vii.** Describes the output frequency, number of channels and power output per channel for each proposed antenna as specified by a radio frequency (RF) engineer.

**viii.** Includes a written five-year plan for use of the proposed telecommunications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the area to be served as specified by a radio frequency (RF) engineer.

**ix.** Demonstrates the tower's compliance with the Town's structural standards and setbacks for towers and support structures.

**x.** Provides proof that at the proposed site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR). The Planning Commission may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.

**xi.** Includes other information required by the Boards that is necessary to evaluate the request.

**xii.** Includes the stamp and registration number of all engineers.

**e.** A letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this bylaw.

**f.** For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Zoning Administrator at the time an application is submitted).

**g.** To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.

**h.** A copy of the application or draft application for an Act 250 permit, if applicable.

**i.** The permit application shall be signed under the pains and penalties of perjury.

## **SECTION 630 REQUIREMENTS AND CRITERIA**

**631. Site Plan Requirements.** In addition to site plan requirements found in Section 151, site plans for telecommunications facilities shall include the following supplemental information:

**a.** Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed tower site.

**b.** Vicinity Map showing the entire vicinity within a 2500-foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower.

**c.** Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.

**d.** Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.

**e.** In the case of a proposed site that is forested, the approximate average height of the existing vegetation within two hundred (200) feet of the tower base.

**f.** Construction sequence and time schedule for completion of each phase of the entire project.

**g.** Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.

**632. Collocation Requirements.** An application for a new telecommunications tower shall not be approved unless the Board of Adjustment finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

**a.** The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.

**b.** The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost.

**c.** The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFI in violation of federal standards or requirements.

**d.** The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFR in violation of federal standards or requirements.

**e.** Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Vermont.

**f.** Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

**g.** There is no existing or approved tower in the area in which coverage is sought.

**h.** Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

**i.** Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

**633. Tower and Antenna Design Requirements.** Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for its intended use and public safety.

**a.** Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color.

**b.** In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than twenty (20) feet above the average height of the tree line measured within one hundred (100) feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the Board of Adjustment that the additional height is necessary in order to provide adequate coverage in the area to be served or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

**c.** All buildings and structures accessory to a tower shall meet the minimum setback requirements of the underlying zoning district or other setback requirements specified in this Bylaw. If the minimum setbacks of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum distance from the tower to any property line shall be no less than the height of the tower, including antennas and other vertical appurtenances.

**d.** Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six (6) feet and shall have the potential to grow to a height of at least fifteen (15) feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

**634. Alterations to Existing Telecommunications Facility.** An alteration or addition to a previously approved telecommunications facility shall require a Zoning Permit when any of the following are proposed:

**a.** Change in the number of buildings or facilities permitted on the site;

**b.** Material change in technology used by the telecommunications facility;

**c.** Addition or change of any equipment resulting in greater visibility or structural windloading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

**635. Tower Lighting and Signage; Noise Generated by Facility.** Towers shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA or other federal or state authority for a particular tower because of its height. Any lighting required solely as a result of height may be subject to review by the Town. Heights may be reduced to eliminate the need for lighting or another location selected.

No commercial signs or lettering shall be placed on a tower.

Noise at the site perimeter from the operation of any machinery or equipment shall be minimized.

**636. Antennas Mounted on Existing Structures.** The placement of telecommunications antennas on existing buildings, structures, roofs, or walls (governed by Section 634 and in conformance with Section 612) may be conditionally approved, provided the antennas meet the requirements of this Bylaw, upon submission of:

- a. A final site and building plan.
- b. A report prepared by a qualified engineer, licensed to practice in the State of Vermont, indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.

**637. Temporary Wireless Communication Facilities.** Any telecommunications facility designed for temporary use is subject to the following:

- a. Use of a temporary facility is permitted only if the owner has received a Temporary Wireless Communication Facilities permit from the Board of Adjustment.
- b. Temporary telecommunications facilities are permitted for no longer than five (5) days use during a special event.
- c. The maximum height of a temporary facility is fifty (50) feet from grade.
- d. Temporary facilities must comply with all applicable portions of these regulations.

**638. Interference With Public Safety Telecommunications.** No new telecommunications facility shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing or operating new service or changes in existing service, telecommunications providers shall notify the Town at least ten (10) calendar days in advance of such changes and allow the Town to monitor interference levels during that testing process.

#### **SECTION 640 CONTINUING OBLIGATIONS**

**641. Annual Requirements.** Upon receiving a permit, the permittee shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding RFR, and provide the basis for his or her representations. The permittee shall provide a list of the most recent RFR readings at the site, their distances from the tower/transmitter, dates of the readings and the name of the person or company who took the readings.

**642. Abandoned, Unused, Obsolete, Damaged or Dangerous Towers or Portions of towers.** Abandoned or unused towers or portions of towers and their facilities shall be removed as follows:

- a. The owner of a facility/tower shall annually, on January 15, file a declaration with the Zoning Administrator certifying the continuing safe operation of every facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and considered abandoned.
- b. Abandoned or unused towers and associated facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the Board of Adjustment. In the event the tower is not removed within 180 days of the cessation of operations at a site, the municipality shall notify the owner and may remove the tower and all associated facilities. Costs of removal shall be assessed against the property or tower owner.

c. Unused portions of towers shall be removed within 180 days of the time that such portion is no longer used for antennas. The replacement of portions of a tower previously removed requires the issuance of a new telecommunications facility permit.

d. An owner who has failed to file an annual declaration with the Zoning Administrator by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.

**643. Maintenance of Telecommunications Facilities Insurance.** The telecommunications facility owner shall maintain adequate insurance on all telecommunications facilities. All facility sites shall be properly fenced and identified by signage that indicates presence of RFR and any other appropriate warnings required by permit conditions.

## **SECTION 650 FEES**

Fees for filing an application to build or alter a telecommunications facility shall be set by the Selectboard. Fees may include the reasonable costs of an independent technical assessment of the application.

## **SECTION 660 DEFINITIONS**

**ADEQUATE CAPACITY:** Capacity is considered to be "adequate" if the grade of service is p.05 or better for at least fifty (50) percent of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).

**ADEQUATE COVERAGE:** Coverage is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

**ALTERNATIVE DESIGN TOWER STRUCTURE:** Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. See also *Stealth Facility*.

**ANTENNA:** A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

**ANTENNA HEIGHT:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**ANTENNA SUPPORT STRUCTURE:** Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

**APPLICANT:** A person who applies for a telecommunications facility siting. An applicant can be the telecommunications service provider or the owner of the property.



**AVAILABLE SPACE:** The space on a tower or structure to which antennas of a telecommunications provider are both structurally and electromagnetically able to be attached.

**BASE STATION:** The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

**BULLETIN 65:** Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.

**COLLOCATION:** Locating wireless communications equipment from more than one provider on a single site.

**DBM:** Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

**DBU:** Unit of measure of the electric field strength of a signal, expressed in an absolute measure for describing service areas and comparing different transmitting facilities independent of the many variables (see DBM above) introduced by different receiver configurations.

**FACILITY SITE:** A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

**FCC:** Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

**FCC 97-303:** A Report and Order which sets new national standards for exposure to radio frequency emissions from FCC-regulated transmitters.

**FREQUENCY:** The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

**GRADE OF SERVICE:** A measure of the percentage of calls which are able to connect to the base station during the busiest hour of the day. Grade of service is expressed as a number, such as p.05 - which means that ninety-five (95) percent of callers will connect on their first try. A lower number (P.04) indicates a better grade of service.

**HERTZ:** (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second. Gigahertz is one billion hertz (GHz). Megahertz is one million hertz (MHz).

**LOCATION:** References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

**MODIFICATION OF AN EXISTING FACILITY:** Any change, or proposed change, in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit.

**MODIFICATION OF AN EXISTING TOWER:** Any change, or proposed change, in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.

**MONITORING:** The measurement, by the use of instruments in the field, of non-ionizing radiation exposure from telecommunications facilities, towers, antennas or repeaters.

**MONITORING PROTOCOL:** The testing protocol, such as the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which is to be used to monitor the emissions and determine exposure risk from telecommunications facilities.

**PERMIT:** Embodies the rights and obligations extended by the Town to an operator to own, construct, maintain, and operate its facility within the boundaries of the Town.

**PERSONAL WIRELESS SERVICES:** Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

**SCENIC VIEW:** A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or a nearby object.

**STEALTH FACILITY:** Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. See also *Alternative Design Tower Structure*.

**TELECOMMUNICATIONS FACILITY:** All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

**TELECOMMUNICATIONS PROVIDER:** An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

**TEMPORARY WIRELESS COMMUNICATION FACILITY:** Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

**TOWER:** A vertical structure for antenna(s) that provide telecommunications services.

## ARTICLE VII DEFINITIONS

Except where specifically defined herein, all words used in this Bylaw shall carry their customary meanings. Words used in the present tense shall include the future; the singular includes the plural; the word "lot" includes "plot"; the word "structure" includes "building"; the word "shall" is mandatory; the word "may" expresses possibility; "occupied" or "used" shall be considered as though followed by "or intended, arranged or designed to be used or occupied"; "person" includes individual, partnership, association, cooperative, corporation, company, organization or any governmental body.

**ABUTTING PROPERTY OWNER:** A person who owns land that shares a boundary with a tract of land where a proposed or actual development or subdivision is located; or is adjacent to a tract of land where a proposed or actual development or subdivision is located and the two properties are separated only by a river, stream, or a public or private right-of-way.

**ACCESSORY USE:** A use and intensity of such use that is incidental and subordinate to the primary use on the same lot, and clearly related to the primary use. An accessory use is considered part of one primary use of a lot. Accessory uses to a conditional use are permitted only when applied for and are granted as part of a conditional use.

**ACCESSORY DWELLING UNIT:** An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with Section 318.

**ACCESSORY STRUCTURE:** A structure that is incidental or subordinate to the primary use or building. An accessory structure is located on the same lot as and is clearly related to the primary use or building. An accessory structure shall be one that is not attached to the principal structure by any common wall, covered porch, breezeway or other roofed structure. Accessory structures to a conditional use are permitted only when applied for and are granted as part of a conditional use. An accessory structure larger than the principal structure shall meet the provisions of Section 231.2. See also Section 124.

**ACRE:** A measure of land area containing 43,560 square feet.

**AFFILIATED:** For the purpose of determining the status of existing small lots as provided for in Section 311 of this Bylaw, ownership of two contiguous lots shall be considered affiliated if one of the following conditions exists: If a person owns, in whole or in part, both lots; if an individual owns one lot and a corporation, business, company, or other organization--of which that same individual is a primary stockholder or owner in whole or part--owns the other lot; if a wife owns one lot and her husband owns the other lot. Contiguous lots owned separately by siblings are not considered in affiliated ownership. Contiguous lots owned separately by a parent or parents and their child or children are not considered in affiliated ownership. This definition does not purport to represent every possible relationship which could or should be considered affiliated. Instead it should be used as a basis for determining other relationships as they arise.

**AFFORDABLE HOUSING:** Housing is affordable when households, whose gross annual income does not exceed 80 percent of the county median, pay no more than thirty (30) percent of their income on housing. Housing costs for renters include rent and utilities. Housing costs for homeowners include mortgage principal and interest, property insurance and property taxes.

**AGRICULTURAL USE:** The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding or management of livestock, poultry, equines, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; or the on-site production of fuel or power from agricultural products or waste produced on a farm. (pursuant to 10 VSA 6001(22)) This definition does not include a resource industry.

**AGRICULTURAL STRUCTURE:** A structure associated with agricultural (farming) practices as defined under Agricultural Use in the Definitions Section of this Bylaw, outlined in 24 VSA 4495 and (Farming and Farm Structure) as defined in the Accepted Agricultural Practice Rules from the Vermont Department of Agriculture under Farm Structure. An agricultural structure does not include a dwelling or dwelling unit for human habitation. If the agricultural structure is changed to another use or an additional non-agricultural use is added, a Zoning Permit is required. The Zoning Administrator may require proof or certification that a structure is or will be used for agricultural purposes. An Agricultural structure must be used solely for agriculture,

**AIRPLANE LANDING STRIP:** A facility that provides space for safe aircraft take-off and landing and may include storage of aircraft.

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

**AMPS:** Appropriate Municipal Panels. Includes, but is not limited to, Selectboard, Planning Commission, Zoning Board of Adjustment, Development Review Board.

**AUTOMOBILE SALVAGE:** Any place of outdoor storage of four (4) to twelve (12) junk motor vehicles waiting for the removal of parts for resale or waiting to be crushed and removed, which is maintained, operated or used in connection with a business. However, the term does not include a private garbage dump or a sanitary landfill. It does not mean a repair garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

**AUTOMOTIVE SERVICE STATION:** Land or structures used for the sale of petroleum products, motor fuel, oil or other fuel for the propulsion of motor vehicles, which may include facilities for lubrication. A service station is not a sales or repair agency for any type of motor vehicle.

**BANK:** An establishment for the deposit, custody, and remittance of money and the performance of other financial services.

**BED AND BREAKFAST:** The renting out of not more than four (4) rooms in a residential dwelling to transient guests on a day-to-day basis, whereby meals are served to those guests. Bed and breakfast facilities shall be operated under a license issued by the Department of Labor and Industry or the Department of Health. Cooking facilities shall not be provided in individual guestrooms.

**BOARDING HOUSE (Rooming House):** A dwelling in which lodging is provided by the owner or operator to more than three (3) unrelated people for profit. Boarding houses are distinguished from Hotels by the sharing of bathrooms, living rooms and/or kitchens.

**BUILDING:** A structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, materials or equipment.

**BUILDING AREA COVERAGE:** The ground area enclosed by walls of a building, together with the area of all covered porches and other roofed portions.

**BUILDING FRONT LINE:** The line parallel to the front lot line transecting the point in the building face that is closest to the front lot line. This face includes porches, whether enclosed or unenclosed, but does not include steps.

**CAMP:** A single structure such as a cabin, travel trailer, shelter or other recreational accommodation for seasonal or temporary living, excluding mobile homes, that must meet all standards for residential development unless otherwise exempt under the provisions of Section 413.1.

**CAMPGROUND:** A lot or parcel of land upon which is located more than one, or any combination thereof, tent sites, campers, travel trailers, recreational vehicles, temporary cabins or similar structures constructed or operated for commercial gain or purposes, occupied for seasonal vacation, or temporary purposes. All Campgrounds must meet the requirements of Section 413 of this Bylaw.

**CEMETERY:** Property used for interring the dead. For purposes of this definition a single grave or a family cemetery does not apply to this use and does not require a Zoning Permit.

**CHANGE OF USE:** To alter or vary the function or purpose of a building, structure or parcel of land. Any change of use from one category to another (e.g. residential to commercial, etc.), or within a category of use (e.g. one conditional use to another, etc.). A change of use shall also include a change of character of the business activity (e.g. retail to wholesale, etc.).

**CLINIC:** An office building used by members of the medical profession for the diagnosis and outpatient treatment of human ailments.

**COMMERCIAL USE:** Activity carried out for monetary gain.

**CONDITIONAL USE:** A use permitted in a particular zoning district only upon a finding by the Board of Adjustment that such use in a specified location will comply with the conditions and standards for the location and operation of such use as specified in this Bylaw. A conditional use requires Site Plan Approval. See Section 147 Conditional Use Approval and Section 151 Site Plan Approval.

**COVERAGE:** Unless specified otherwise in this Bylaw, coverage shall mean that portion of a lot that is covered by buildings, structures and man-made improvements on the ground surface, such as paving that prevents the absorption of storm water. Coverage requirements for lots less than one half acre, existing prior to 25 January 2000, in the village commercial district shall apply to buildings and structures only.

**DAY CARE FACILITY:** Any place operated under a state day care facility license as a business or service on a regular or continuous basis, whether for compensation or not. Its primary function is protection, care and supervision of children under sixteen (16) years of age outside their homes for periods of less than twenty-four (24) hours a day by a person other than a child's own parent, guardian or relative. See also Sections 316 and 414 of this Bylaw.

**DEVELOPMENT:** See *LAND DEVELOPMENT*.

**DRIVE-IN FACILITY:** See *RESTAURANT (DRIVE-IN FACILITY)*.

**DRIVEWAY:** Private access connecting a house, garage or other building with a public or private right-of-way.

**DWELLING UNIT:** A room or rooms connected together containing cooking, sanitary and sleeping facilities that constitute a separate, independent housekeeping establishment and is occupied by residents, not transients. It shall include prefabricated modular units and mobile homes, as well as recreational vehicles that remain on a parcel for more than 90 days within any consecutive twelve (12) month period. (See Section 413.1 of this Bylaw.) It shall not include a motel, hotel, boarding house, bed and breakfast, or similar structure.

**DWELLING, ONE-FAMILY:** A building used as living quarters by one family. (Note: This includes use on a permanent, seasonal, or temporary basis.)

**DWELLING, TWO-FAMILY:** A building used as living quarters by two families living independently of one another. Units in two-family dwellings must be attached. (Note: This includes use on a permanent, seasonal, or temporary basis.)

**DWELLING, MULTI-FAMILY:** A building used as living quarters by three to six families living independently of one another. Units in multi-family dwellings must be attached. (Note: This includes use on a permanent, seasonal, or temporary basis.)

**EARTH/ MINERAL EXTRACTION:** The extraction and/or processing of soil, sand, gravel or other geological materials. This use may include stockpile as a conditionally approved accessory use.

**EARTH/ MINERAL PROCESSING/ STOCKPILE:** The processing and/or stockpile of soil, sand, gravel or other geological materials transported to the site.

**ENTERTAINMENT/CULTURAL FACILITY:** A museum, art gallery, actors' theater, concert hall or other establishment offering programs, performances or exhibits of cultural, educational, historical or scientific interest.

**EQUESTRIAN FACILITY:** (public/private) A use of land and or structures for the care, breeding, training, riding or driving of horses. Equestrian uses and structures may qualify as an agricultural use and may not require a Zoning Permit. See *AGRICULTURAL USE and AGRICULTURAL STRUCTURE*.

**EXCAVATION:** The disturbance or removal of soil.

**EXCAVATION CONTRACTOR'S YARD:** An area on a lot used for the storage of equipment, supplies and fuel associated with an excavation contractor's business. An excavation contractor's yard may include as a conditionally approved accessory use log stockpile, cordwood operations, earth and mineral stockpiling and processing.

**EXTENSION OF USE:** An increase in the area on a lot allocated to a use regulated in this Bylaw. This increase in area may, but does not necessarily, include a structure or parts thereof. Extension of use shall also include any increase in the intensity of use of a lot or structure that impacts one or more of the performance standards set forth in Section 320 or any other provision of this Bylaw.

**EXISTING SMALL LOT:** See *NONCONFORMING LOT or PARCELS*

**FAMILY:** One or more persons occupying a single dwelling unit and residing together as a single household unit.

**FAMILY CHILD CARE HOME OR FACILITY:** Any place operated under a state day care facility license as a business or service on a regular or continuous basis, whether for compensation or not. Its primary function is protection, care and supervision of children under sixteen (16) years of age outside their homes for periods of less than twenty-four (24) hours a day by a person other than a child's own parent, guardian or relative. See also Sections 316 and 414 of this Bylaw.

**FARM:** See *AGRICULTURAL USE*.

**FARM STRUCTURE:** SEE *AGRICULTURAL STRUCTURE*.

**FENCE:** An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land. For the purposes of this Bylaw, fences which are six (6) feet or less in height shall not be considered "structures" and, therefore, shall not require a Zoning Permit.

**FLOOR AREA:** The sum of the gross horizontal areas of the floors of the building or buildings on a lot measured from the interior faces of exterior walls or from the center line of common walls separating two buildings, excluding cellar, basement and attic areas used only for storage or for the operation and maintenance of the building. Roofed porches shall be included in calculating floor area.

**FORESTRY:** Activities associated with the sustained management of land for forestry purposes such as the planting, harvesting and removal of trees. Forestry activities in wetland areas (as defined in the National Wetlands Inventory Maps, *Wardsboro Natural Resources Map*) are permitted without a Zoning Permit providing there is no draining, dredging, filling, grading or alterations of the water flow, and further providing that the provisions of Section Six of the Vermont Wetland Rules are met. Forestry may not require a Zoning Permit. See Section 124.

**FRONTAGE:** That side of a lot abutting a right-of-way. (Note: For the purposes of meeting minimum frontage requirements for a lot that is divided by a right-of-way, frontage shall be measured from only the side of the right-of-way on which the proposed use or structure is located.)

**FUNERAL HOME:** A building used for preparation of the deceased for burial, for display of the deceased and for ceremonies connected therewith before burial or cremation.

**GARAGE, REPAIR:** Any building, premises and/or land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of motor vehicles and/or heavy equipment is conducted or rendered. Upon conditional approval, a repair garage may involve the sale and/or rental of vehicles as an accessory use.

**GARDEN/ FARM SUPPLY or NURSERY:** A retail business or commercial activity concerned with the sale of tools, small equipment, plants and related goods used in gardening or farming. Related goods are defined as only those used on the plants or in their soil to preserve the life and health of the plants sold (e.g., fungicides, peat moss and mulches).

**GASOLINE STATION:** See *AUTOMOTIVE SERVICE STATION*.

**GOVERNMENTAL BUILDING:** See *PUBLIC ASSEMBLY FACILITY*.

**GRADE, FINISHED:** The completed surface grade of grounds, lawns, walks, paved areas and roads.

**GRAVEL PIT:** See *EARTH AND MINERAL EXTRACTION*.

**GROUP HOME:** A residential facility providing shelter and/or rehabilitation for not more than eight (8) persons who are developmentally disabled or physically handicapped. Twenty-four-hour-a-day supervision is mandatory and professional supervision and consultation are available to these people. The purpose of these homes is to provide a service for people who do not present a threat to the community and are not institutional candidates. Group Homes must be licensed or registered with the State of Vermont and/or must be court-sanctioned. As provided in Section 4412 (1) (G) of Chapter 117, 24 VSA a Group Home is considered by right to constitute a permitted single-family residential use of property. See also *RESIDENTIAL CARE HOME*. See also Section 316 and 414.

**GROUP HOME FACILITY:** A residential facility providing shelter and/or rehabilitation for more than eight (8) persons who are developmentally disabled or physically handicapped. Twenty-four-hour-a-day supervision is mandatory and professional supervision and consultation are available to these people. The purpose of these homes is to provide a service for people who do not present a threat to the community and are not institutional candidates. Groups Homes must be licensed or registered with the State of Vermont and/or must be court-sanctioned. . See also Section 316 and 414.

**GUEST COTTAGE:** A structure or part of a structure used on an occasional basis by guests of the resident owner. It may include kitchen and bathroom facilities. A guest cottage is not rented. For density purposes, a guest cottage is part of the principal residence on a lot. The total floor area of a guest cottage shall not exceed one thousand (1000) square feet or one-third of the total floor area of the principal structure, whichever is less.

**HEALTH CARE FACILITY:** A facility or institution whether private or public, principally engaged in providing services for health maintenance and for the diagnosis and treatment of human ailments, that has equipment and facilities for extensive testing and provisions for extended periods of 24-hour care by full-time certified medical staff.

**HELICOPTER LANDING PAD:** A facility that provides space for safe helicopter take-off and landing and may include storage of aircraft.

**HOME INDUSTRY OR BUSINESS:** A small industrial or service type operation which is customarily conducted entirely within a dwelling or accessory structure, and carried on by the occupants thereof, and which is clearly incidental and secondary to the use of the property for residential purposes and does not change the character of the neighborhood. A home industry or business differs from a home occupation in one or more of the following ways: it may involve up to three (3) employees who are not household members living within the dwelling; and/or it may involve some additional traffic from commuting employees or shipments/deliveries, but not in a substantially greater volume than would normally be expected in the neighborhood; and/or it may be conditionally permitted to be conducted outside of a building. A home industry or business requires a Zoning Permit and Site Plan Approval and may require Conditional Use Approval. A home industry or business is considered part of one primary use of a lot. See also Section 416.

**HOME OCCUPATION:** Any use customarily conducted entirely within a minor portion (less than 50%) of a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use for dwelling purposes. It must not change the character of the dwelling or neighborhood nor result in any additional traffic other than that normally generated by the residents of the dwelling. The home occupation does not draw the public to the residence on a regular basis. A home occupation does not require a Zoning Permit. See Section 313.

**HOME PROFESSIONAL OFFICE:** A home-based business within a minor portion of a dwelling and consisting of the office of a practitioner of a recognized profession; the practitioner must also reside within the dwelling within which the office is located. A Home Professional Office differs from a Home Industry or Home Occupation in that traffic generated by customers or clients is anticipated on a regular basis. A Home Professional Office may include the skilled practice of an accountant, architect, artist, dentist, doctor, engineer, insurance agent, lawyer, musician, photographer, realtor or any other related or similar profession.

**HOSPITAL:** See *HEALTH CARE FACILITY*.

**HOTEL:** A building containing more than 10 rooms that are rented as a series of sleeping units for transients. Each sleeping unit consisting of at least a bedroom and a bathroom. The rooms are rented from day to day as opposed to having an expressed contract at a certain rate for a certain length of time, such as a boarding house. A hotel may have a restaurant and/or lounge.



**IMPOUNDMENT:** A body of water, such as a pond, confined by a dam, dike, floodgate or other barrier. See also Section 443 and 124.

**INN:** A residential dwelling in design or previous use, containing up to ten rooms used for commercial purposes wherein the patronage is of a transitory nature, the rooms being rented from day to day. Such use must include food service for guests within the structure and may include a restaurant with or without a lounge. Individual quarters shall not contain food preparation capability. An inn may contain a dwelling unit in which the owner or manager may reside.

**IN-STREAM PONDS AND/OR DAMS:** A pond or dam constructed within the stream channel. See also *SEASONAL STREAMS* and Sections 443 and 124.

**INDOOR RECREATIONAL FACILITY:** See *RECREATION*.

**INTERESTED PERSON:** In accordance with Section 4465(b) of the Act, an interested person means any one of the following:

- a. A person owning title to property, affected by these regulations, who alleges that the regulations impose on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
- b. Any municipality that adjoins the Town of Wardsboro.
- c. Any person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under these Regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the Town Plan or these Regulations
- d. Any ten persons who may be any combination of voters or real property owners within the Town of Wardsboro who, by signed petition to the Planning Commission or Zoning Board of Adjustment of the Town, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes or terms of the plan or bylaw of the Town of Wardsboro. This petition to the Planning Commission or Zoning Board of Adjustment must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
- e. Any department or administrative subdivision of this State owning property or any interest in property within the Town of Wardsboro and the Agency of Commerce and Community Development of the State.

**JUNKYARD:** See *AUTOMOBILE SALVAGE*.

**KENNEL:** An establishment in which more than six (6) dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for profit on a regular basis. No kennel, runway, or exercise pen shall be located within 300 feet of any lot line, unless otherwise approved by the Board of Adjustment.

**LANDFILL:** An area of land for the permanent deposit of topsoil, gravel, rocks, stones, and/or stumps transported to the site, unless specified otherwise in Section 124.

**LANDSCAPING:** The addition or retention of lawns, trees, plants, and other natural and decorative features to land.

**LAND DEVELOPMENT or DEVELOPMENT:** Includes all development activities listed in Section 123 of this Bylaw and in accordance with 24 VSA 4303(10). Activities identified in Section 124 do not require a Zoning Permit.

**LIGHT INDUSTRY:** Light industry uses are those that consist of the production, processing, assembly, cleaning, testing, or distribution of materials or goods and which meet the specific standards established in Section 417 of this Bylaw.

**LOT:** A designated parcel, tract, or area of land established by deed or plat of record in the town land records as of 25 January 2000 or plat approved by the Planning Commission pursuant to Section 154 of this Bylaw, to be used, developed or built upon as a unit. Lots need not be in a separate deed. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yard and other open spaces as are herein required. Such lot shall have frontage on an improved public road, or other means of access approved by the Planning Commission. In no case shall the division or combination of land result in the creation of a parcel that does not meet the requirements of this Bylaw, except as otherwise provided for in Section 340. See also *PLAT*.

**LOT AREA:** The total area within the property lines, excluding any part thereof lying within the boundaries of a right-of-way or a proposed right-of-way.

**LOT, CORNER:** A lot or parcel of land abutting upon two or more roads at their intersection, or upon two parts of the same road forming an interior angle of less than one hundred thirty-five degrees. The front lot line for corner lots shall be found from the line parallel to the front of the building or the road used to identify the lot.

**LOT COVERAGE:** See *COVERAGE*.

**MINI-STORAGE:** A one-story structure containing separate storage spaces leased or rented on an individual basis for the enclosed storage of such items including, but not limited to, inactive business records, household goods, recreation vehicles, and antique cars, and excluding the storage of hazardous, toxic, explosive or otherwise dangerous materials. Spaces shall not be used for any retail, assembly, or manufacturing uses.

**MOBILE HOME:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling and electrical systems, and is:

- Transportable in one or more sections; and
- At least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- Any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code 10 V.S.A. P6201(1).

**MOBILE HOME PARK:** A parcel of land under single or common ownership or control which contains or is designed, laid out or adapted to accommodate two or more mobile homes. See also Section 420.

**MODULAR (or Prefabricated) HOUSING:** A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**MOTOR VEHICLE SALES:** The use of any building, land area or other premises for the display and sale and/or rental of new or used automobiles, trucks, vans, trailers, farm machinery or recreational vehicles, and including any warranty repair work and other repair service conducted as a conditionally approved accessory use.

**MULTI-FAMILY DWELLING:** See *DWELLING, MULTI-FAMILY*.

**MULTI-USE BUILDING:** A building containing two or more distinct uses and meeting the requirements of Sections 231.6 and 250 of this Bylaw.

**MUNICIPAL FACILITY:** Any facility or combination of facilities owned and operated by the Town. This use does not include a *MUNICIPAL MAINTENANCE AND SERVICE FACILITY*.

**MUNICIPAL MAINTENANCE AND SERVICE FACILITY:** Facilities owned and operated by the Town for the purposes of road maintenance and/or waste disposal and related facilities and activities. These facilities may include town garage, storage facilities, earth/ mineral processing/ stockpile, municipal landfill, transfer station or any combination thereof.

**NON-AFFILIATED OWNERSHIP:** See, *SEPARATE AND NON-AFFILIATED OWNERSHIP*.

**NONCONFORMING LOT or PARCELS:** Lots or Parcels that do not conform to the present Bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present Bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S. A. 4303(13).

**NONCONFORMING STRUCTURE:** A structure or part of a structure that does not conform to the present Bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present Bylaws, including a structure improperly authorized as a result of error by the administrative officer. 24 V.S.A. 4303(14)

**NONCONFORMING USE :** Use of land that does not conform to the present Bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present Bylaws, including a use improperly authorized as a result of error by the administrative officer. 24 V.S.A. 4303(15)

**NURSERY SCHOOL:** See, *DAY CARE FACILITY*.

**OFFICE:** A room or group of rooms used for conducting the affairs of a single business, profession, service, industry, charitable organization, studio or governmental agency.

**OFFICE BUILDING:** A building used primarily for conducting the affairs of one or more businesses, professions, services, industries, charitable organizations, studios or governmental agencies.

**OPEN PORCH:** An unheated, uninsulated, roofed structure without exterior walls, attached to, but outside the main wall of the dwelling.

**PARKING:** An accessory use for a building or land for the temporary parking of registered operational vehicles. Parking not accessory to a use on a lot requires Conditional Use Approval. Parking shall be considered the sole use when no other use exists on the lot.

**PERMANENT STREAM:** A stream in which water flows continuously throughout the year.

**PERMITTED USE:** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**PERSONAL SERVICE:** Includes a barbershop, hairdresser, beauty parlor, shoe repair store, laundry, laundromat, dry cleaner, travel agency, upholsterer, caterer or other business providing similar services of a personal nature.

**PLAT:** A map or chart of a lot or lots with surveyed lot lines and dimensions. See also *LOT*.

**POND:** See *IMPOUNDMENT*.

**POST OFFICE:** A government operated facility for the receiving, distributing and transmitting of mail, selling postage stamps and related services.

**PRE-EXISTING NONCONFORMING USE:** See *NONCONFORMING USE*.

**PRIMARY USE:** The primary or predominant use of any lot.

**PRINCIPAL STRUCTURE:** A structure on a lot that is associated with the predominant use. The principal structure is not necessarily the largest structure on a lot.

**PRIVATE SCHOOL FACILITY:** See *PUBLIC ASSEMBLY FACILITY*.

**PRODUCE STAND:** A seasonally used stand for the retail sale of produce primarily not grown on the premises. A produce stand is not an agricultural use.

**PROFESSIONAL OFFICE:** The office of a member of a recognized profession maintained for the conduct of that profession. A Professional Office may include the skilled practice of an accountant, architect, dentist, doctor, engineer, insurance agent, lawyer, realtor or any other related or similar profession. A total of three people may work in the same professional office. More than one type of profession operating in a building shall constitute an office building and be treated as such.

**PUBLIC ASSEMBLY FACILITY:** Use or structure primarily for gatherings of groups of people for public and private education, trade schools, worship, or the care of individuals.

**PUBLIC UTILITY:** A business organization performing some public service and subject to governmental utility regulations.

**PUBLIC UTILITY FACILITY:** Structures used by utilities in the generation, distribution or collection of their products, including but not limited to electrical generating and transforming substations; satellite dish or antenna receivers and senders; water pumping facilities; gas tanks; and similar mechanisms. Poles, cables, pipes, mains and exchange boxes occupying no than fifteen (15) square feet are not included. Public Utility Facility does not include telecommunication tower and/or facility.

**RECONSTRUCTION:** The replacement of more than fifty (50) percent of a building or structure.

**RECREATION, INDOOR:** Includes an indoor bowling alley, movie theater, table tennis facility, pool hall, skating rink, gymnasium, swimming pool or similar place of indoor recreation.

**RECREATION, OUTDOOR:** Includes, golf course, swimming pool, amusement park, outdoor concert area, tennis court, ball field, outdoor skating, skiing facility or similar place of outdoor recreation. *LIMITED OUTDOOR RECREATION* includes such facilities as cross-country skiing centers, hiking, picnicking and other similar, low-intensity recreational uses.

**RECREATIONAL VEHICLE /TRAVEL TRAILER:** A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and is designed primarily as temporary living accommodation for recreational, camping and travel use. It includes but is not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. See also *DWELLING UNIT*, *CAMPGROUND* and Section 413.1.

**RELIGIOUS INSTITUTION:** Includes a church, temple, parish house or convent. See *PUBLIC ASSEMBLY FACILITY*.

**REPAIR SERVICE:** Activities concerned with the repair and/or maintenance and/or rental of small equipment, such as residential lawn mowers, television sets, appliances and other similar items.

**RESIDENCE:** A home, abode or place where an individual permanently resides or intends to permanently reside.

**RESIDENTIAL CARE or GROUP HOME FACILITY:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to (3) or more adults unrelated to the home manager. Personal care is defined as assistance with meals, dressing, movement, bathing, grooming or other activities of daily living, or general supervision of physical well-being including nursing overview, supervision and administration of medication but not full time nursing care. Pursuant to Section 4412(1)(G) of Chapter 117, 24 VSA, a Residential Care Facility serving not more than eight (8) persons shall be considered by right to constitute a permitted single-family residential use of property. See also *GROUP HOME FACILITY* and Sections 316 and 414.

**RESIDENTIAL CHILD CARE FACILITY:** A residential child care facility is a place, however named, which provides a planned program aimed at behavioral change, administered by qualified staff, for children in a 24-hour residential setting, and licensed by the Vermont Department of Social and Rehabilitation Services. This definition does not include family foster homes, or summer camping programs. . See also Sections 316 and 414.

**RESIDENTIAL USE:** A one-family, two-family or Multi-Family dwelling.

**RESOURCE INDUSTRY:** An activity involved in the primary processing of forestry products, including commercial saw mills and commercial cord wood operations.

**RESTAURANT (With or Without Lounge):** A structure for public eating in which the primary business is the preparation and serving of food for consumption on the premises. A restaurant may include take-out service.

**RESTAURANT (DRIVE-IN FACILITY):** A place for the preparation and/or serving of food and beverages for consumption primarily outside the building. A drive-in-facility may include take-out service.

**RESTAURANT (TAKE-OUT FACILITY):** A use of a building for the preparation and retail sale of prepared food, not for consumption on the premises.

**RETAIL USE:** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Generally, these establishments buy and receive as well as sell merchandise.

**RIGHT-OF-WAY:** The right to pass over someone else's land. The path or area over which such passage is made.

**ROAD (STREET):** A public traveled way including the land between road lines, whether improved or not, the right-of-way of which is dedicated by a deed or record.

**ROOMING HOUSE:** See *BOARDING HOUSE*.

**SCHOOL FACILITY (BOARDING):** Public or private educational facility that provides on-campus housing.

**SEASONAL STREAMS:** A stream that does not have a continuous flow of water throughout the year.

**SECONDARY USE:** A use permitted in the district that is conducted on the same premises as a primary use. These uses are not necessarily customary or incidental to the primary use, as are accessory uses and accessory structures. An example of a secondary use is the renting of the second floor of a primarily retail use building for dwelling purposes. See Sections 231.5 and 260.

**SELECTBOARD:** The legislative and executive body of the Town, Board of Selectmen.

**SEPARATE AND NON-AFFILIATED OWNERSHIP:** A situation wherein the owners of property do not also hold contiguous property in affiliated ownership. See *AFFILIATED*.

**SETBACK:** A line established by this Bylaw which determines the minimum horizontal distance that a structure shall be located from a public or private road right-of-way, an adjoining property line, or watercourse. No setback shall be required from any easement grant for the purpose of non-vehicular use. See *YARD, FRONT, REAR AND SIDE*. See also Section 232.

**SIGN:** Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

**SILVICULTURE:** See *FORESTRY*.

**SITE PLAN:** The plan for the development, including change in use, of one or more lots. Site plans shall be drawn in accordance with the requirements of this Bylaw. See also Section 151.

**STORAGE FACILITY:** A building or structure, or part thereof, used for the storage of vehicles, equipment and other personal belongings of a non-hazardous and non-commercial nature. The use as a storage facility must be low frequency and all storage must be entirely enclosed and secured.

**STORAGE FACILITY, COMMERCIAL:** A building or structure, or part thereof, used for the storage of commercial vehicles, equipment and other materials of a non-hazardous nature. All storage must be entirely enclosed and secured.

**STORAGE FACILITY, LIMITED COMMERCIAL:** A building or structure, or part thereof, and/or yard used for the storage of commercial vehicles, equipment and other materials of a non-hazardous nature. The use as a storage facility must be low frequency. No traffic shall be generated in substantially greater volumes than would normally be expected in the neighborhood, nor shall the character of the neighborhood be affected.

**STORAGE YARD:** The exterior storage of commercial equipment and materials of a non-hazardous nature.

**STRUCTURE:** Anything constructed or erected for occupancy or use, including but not limited to a building, mobile home, trailer, satellite dish antennae over forty (40) inches, transmitter tower, in ground swimming pool, or signs listed in Section 360 of this Bylaw. Structure does not include: retaining walls; fences or brick or stone walls six (6) feet or less in height; any agricultural fence on an operating farm; mailboxes; dog houses; clotheslines; and lamp posts. Structures outlined in Section 124 do not require a Zoning Permit.

**STRUCTURE HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs. See also Section 236.

**STUDIO:** A building or portion of a building used as a place of work for an artist, photographer, musician, dancer or similar artisan. The application of this use follows all the requirements for offices except if it is a home occupation or home business/industry.

**SUBDIVISION:** Division of any parcel of land for the purpose of conveyance, transfer of ownership, lease, improvement, building, development or sale, whereby two (2) or more lots, blocks or parcels are created. The term "subdivision" includes resubdivision.

**TAKE OUT FACILITY:** See *RESTAURANT (TAKE-OUT FACILITY)*.

**TELECOMMUNICATION TOWER and/or FACILITY:** All structures and equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. See Article VI.

**TRAVEL TRAILER:** See *RECREATIONAL VEHICLE*.

**USE:** The purpose for which land, premises, or a structure thereon, is designed, arranged, intended and for which it is (or may be) occupied or maintained.

**VENDORS' MARKETS:** A place, primarily but not exclusively, in the out-of-doors where merchants buy, sell, or barter merchandise on property for a consideration paid to the owner or operator of the property for seasonal use. Vendors' markets include regular, seasonal commercial flea markets, farmers' markets, and the like, which are located on a permanent site (property) which is not normally used for other purposes. Vendors' markets shall not include occasional craft fairs, bazaars, street fairs, or other similar activities, or occasional private tag sales.

**VETERINARY CLINIC:** The use of buildings and the property on which they are located for the care of animals, including boarding, major surgery and all other veterinary services.

**VETERINARY OFFICE:** The use of a building for the ambulatory needs of animals such as examinations, shots, minor surgery and tests. No boarding of animals may take place in a veterinary office.

**WAREHOUSE:** Facilities for handling freight and/or goods for daily use or storage, with or without maintenance facilities.

**WATERCOURSE:** Any stream, river, or waterway in which water flows continuously in a definite direction or course, and has a definite channel, bed and banks; such stream, river, or waterway having a drainage area exceeding one (1) square mile. (Watercourses are indicated on the Town Land Use Map and the Wardsboro Zoning Map.)

**WHOLESALE BUSINESS:** An establishment for the sale of goods and merchandise in wholesale lots to other businesses for their use or for resale to the public.

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

**YARD, FRONT:** A space extending across the full width of the lot between any building and the road (front lot) line.

**YARD, REAR:** A space extending across the full width of the lot between any building and the rear lot line.

**YARD, SIDE:** A space extending from the front yard to the rear yard between any building and the side lot line.