

# WEST RUTLAND ZONING REGULATION



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## ARTICLE I: ENACTMENT, OBJECTIVES AND PURPOSE

### Section 101: Enactment

In accordance with the Vermont Planning and Development Act, Chapter 117 of Title 24 of the Vermont Statutes Annotated, hereinafter referred to as the “Act”, there are hereby established Zoning Regulations for Town of West Rutland which shall be known and cited as the “Town of West Rutland Zoning Regulations”.

### Section 102: Purpose

These regulations promote the health, safety, and general welfare of the people of West Rutland. Specific objectives are to protect and enhance the value of property, prevent overcrowding of land and undue concentration of population, and to provide for orderly community growth.

### Section 103: Objectives and Intent

The objective of the Zoning Regulations is to establish standards and policies concerning development of land, which further the goals of the West Rutland Town Plan. It is intended that the standards and policies established by the Zoning Regulations reflect and express a sense of community values toward West Rutland’s environment including the value of appearance and congenial arrangement for the conduct of farming, trade, industry, residential and other uses of land necessary to the community’s well-being insofar as such values are related to the objectives of the adopted Town Plan.

## ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

### Section 201: Establishment of Zoning Districts

The Town of West Rutland hereby establishes the following seven (7) major Zoning Districts and three (3) overlay Zoning Districts. The permitted uses and conditional uses allowed in each district are as specified in Article III: Table of Uses. The minimum lot sizes, set back requirements, lot frontages requirements and height limitations for each district are as specified in Article V.

### **Village**

Description: The West Rutland village area is the school, civic and cultural center of the town. The pattern of densely settled, mixed-use, residential and commercial structures and various municipal buildings is similar to many traditional Vermont settlements. This area also contains a very high concentration of historic structures including the Marble Street Historic District, which is listed in the National Register of Historic Places.

Purpose: to maintain the economic vitality and compatible mix of residential and commercial uses at the center of the community as well as preserve the historic integrity of the village.

Flood Hazard Areas: There may be some land within this district that are within the Flood Hazard Overlay District. Please check the Official Zoning Map.

## **Industrial**

Description: There are two distinct areas that comprise this district. One is predominantly along the northern length of Marble Street beginning near Thrall Avenue and extending to where the name changes to True Blue Road. The remains of the marble operations, vacant buildings, machinery, and quarries make this a suitable location for industrial redevelopment. The other is the West Rutland Industrial Park, located on Sheldon Avenue.

Purpose: To allow for industrial and commercial development in order to expand the town's economic base.

Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map.

## **Commercial**

Description: Business Route 4 between the Village and the border with Rutland Town and the Parcel Lot Number (000442) – known as the Jagodzinski Farm.

Purpose: Maintain and extend the commercial character of this area.

Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map..

## **Residential I - Neighborhood Residential District**

Description: Medium density residential neighborhoods that surround the Village, most of which are served by municipal amenities such as water and sewer.

Purpose: To provide medium density residential development including subdivisions, multifamily structures, condo/townhouse units and single-family homes.

Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see Section 201.H.

## **Residential II - Farming/Agricultural and Rural Residential**

Description: Rural areas outside the village, with lower density residential use and mixed agricultural uses in certain designated areas.

Purpose: To provide land area for low-density residential development, farming, forestry, greenhouses, recreation and other rural land uses.

Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map.

## **Conservation I**

Description: Lands generally between the 800-foot and 1000 foot contours that are sensitive to development for a variety of reasons. They are generally characterized by significant natural resources such as dense forests, steep hills often with shallow soils,

wetland areas and stream banks, among others or areas of scenic, cultural or historical significance.

Purpose: To provide a buffer zone between the most restrictive zoning district and other districts. Preservation of natural features and wildlife habitat are a priority.

### **Conservation II**

Description: Lands above the 1,000-foot contour, or lands that are very steep, or lands that are in the floodplain. They are generally characterized by significant natural resources such as dense forests, steep hills often with shallow soils, wetland areas and stream banks, among others or areas of scenic, cultural or historical significance.

Purpose: The most restrictive of the zoning districts. To provide land area for low-impact recreational uses, such as nature and hiking trails and very limited residential development, farming, forestry, and recreation. Residential development above 1,000-foot contour should blend in with its surrounding area and minimize ecological impact

### **Flood Hazard Overlay**

Description: All lands in the Special Flood Hazard Areas in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

Purpose: It is the purpose of this district and its regulations to promote the public health, safety, and welfare, to control development of lands in areas of special flood hazard, and to minimize losses due to floods by:

Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood, or that cause excessive increase in flood heights or velocities;

Requiring that uses vulnerable to floods, including public facilities that serve such uses be protected at the time of initial construction, against flood damage;

Protecting individuals from buying lands that are unsuitable for their intended purposes because of flood hazard.

### **Ridgeline Overlay District**

Description: Lands above the 800 foot contours.

Purpose: To provide very limited residential development which blends in with it's surroundings and minimizes ecological impact. Also to provide land area for low impact recreational uses. All uses or structures listed as permitted or conditional in Article III Table of Uses, except agriculture, forestry and municipally owned parks in the underlying zoning district are treated as a conditional use.



In addition to the standards set forth in Sections 401-404, when reviewing applications for conditional uses within the Ridgeline Overlay District, the Zoning Board of Adjustment shall consider the following:

Placement of Structures Careful consideration shall be given to the location of proposed structures relative to site conditions, existing vegetation, and the location of fragile features (including but not limited to steep slopes, streams and identified habitat and natural areas). The Board may limit or restrict the location of structures to ensure that development:

Is minimally visible from public roads and properties, does not stand in contrast to surrounding landscape patterns and features, and does not serve as a visual focal point;

Is located down-grade of ridgelines and prominent knolls, is designed so that the height of any structures does not visually exceed the height of the adjacent tree canopy or ridgeline serving as the visual backdrop to the structure;

Will not adversely affect natural and scenic resources and fragile areas identified in the West Rutland Town Plan, including wetlands, streams, critical habitat, steep slopes, areas of unstable soils and/or soil types that are generally unsuitable for development and on-site septic disposal;

Clearing and Landscaping. On wooded sites, existing forest cover shall be maintained adjacent to proposed structures to interrupt the façade of buildings, provide a forested backdrop to structures, and/or soften the visual impact of new development as viewed from public roads and properties.

The Zoning Board of Adjustment shall consider the location of proposed structures relative to existing vegetation, and may require additional tree planting and/or limit the amount of clearing adjacent to proposed development to provide screening and maintain a forested backdrop. A plan for the maintenance of remaining and proposed trees may be required. Such a plan shall address specific measures to be taken to ensure the survival and if necessary, replacement of designated trees during or after site development and the installation of all site improvements.

Building Design. The Zoning Board of Adjustment shall consider the overall design of new structures (including the proposed scale, location and materials), and may impose conditions related to the overall design to minimize visual impacts, such as glare, contrasting colors and building material, as viewed from public roads and properties.

Erosion Control. Development shall minimize the removal of native vegetation and grading. Clearing may be limited to one or more portions of the property to prevent erosion and sedimentation of streams; buffer areas may be required to protect streams, wetlands and other fragile features.

Forest Management. Forest management activities shall comply with all applicable state regulations and shall, as a minimum standard, comply with *Acceptable Management*

*Practices for Maintaining Water Quality on Logging Jobs in Vermont*, as revised, published by the Vermont Department of Forests, Parks & Recreation.

Site Restoration. Forest management activities intended as site preparation prior to development of a site, including road and driveway construction, clearing and/or grading for house-sites and septic systems or related work, shall be reviewed by the Board under this bylaw. Where a landowner fails to submit such a plan for review, the Board may limit development to the non-impacted portion of the property and/or require the site to be restored or re-vegetated prior to development.

### **Source Water Protection Overlay District**

Purpose: The Purpose of the Source Water Protection Overlay District is to protect public health and safety by preserving and protecting the community's ground water source from incompatible uses and development. Zones within the overlay district are based on the findings of the West Rutland Fire District Wellhead Protection Area and Source Water Protection Plan

Zones: Zones within the Source Water protection Overlay District

#### Zone 1 - Isolation Zone

Zone 1 includes the source of West Rutland's drinking water and is defined on the attached map. All of the land in this zone is owned by the Town of West Rutland. Wherever possible, the area shall be free of potential sources of contamination.

The area shall remain free of any structures or uses not associated with the water source or recreation. No underground storage tanks are permitted in this area. No herbicides or pesticides may be used in this area.

No structure may be erected in Zone 1 without written approval by the West Rutland Water Department. The Zoning Board of Adjustment reserves the right to review any proposed structure according to the standards set forth in section 2.2(a).

#### Zones 2 and 2A - Secondary Zones

Description: Zones 2 and 2A include the area directly west and south of Zone 1 but within the approximate 6-month time-of-travel distance mapped around all the public water supply well(s).

Conditional Uses. The following uses are permitted only under the terms of a conditional use permit and must conform to provisions of the underlying zoning district and meet the performance standards outlined in section 3.1.

Expansion of existing nonconforming uses to the extent allowed by the underlying district. The applicant should consult Article III: Table of Uses to confirm nonconforming uses. The Zoning Board of Adjustment reserves the right to review all applications, with the Water Department as technical advisors, and shall not grant approval unless it finds such expansion does not pose greater potential contamination of groundwater than the existing use.

Uses that are permitted or conditional in the underlying zone district and which are not subject to section 2.2(b) below.

Prohibited Uses. The following uses are prohibited within Zones 2 and 2A. (Existing uses listed as “prohibited” below may continue and may be expanded pursuant to section 2.2(a) and 2.2(a))

Automobile body/repair shop;

Gas station;

Dry cleaner / Laundromat;

Electrical/electronic manufacturing facility;

Machine shop;

Metal plating/finishing/fabricating facility;

Chemical processing/storage facility;

Wood preserving/treating facility;

Junk/scrap/salvage yard;

Mines/gravel pit

Irrigated nursery/greenhouse stock

Confined animal feeding operations

On-site wastewater disposal systems;

Equipment maintenance/fueling areas;

Injection wells/dry wells/sumps - except for single-family residences directing gutter downspouts to a dry well. In all cases, sumps must be encased.

Underground storage tanks - except those under 300 gallon capacity, with spill, overflow, & corrosion protection requirements in place.

All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having potentially harmful impact on groundwater quality;

All uses not permitted in the underlying zone district.

Additional Requirements for Zone 2A. In addition to the requirements listed in sections 2.1 and 2.2 above, the following uses are prohibited in Zone 2A:

Underground storage tanks

Pesticides and herbicides

Zone 3 - Source water recharge area.

Zone 3 is defined as the area outside Zones 1, 2 and 2A, but deemed necessary to ensure adequate protection of public drinking water supplies.

Permitted Uses: All uses permitted in the underlying zoning districts provided that they can meet the Performance Standards outlined in section 3.1.

Conditional Uses: All uses listed as conditional in the underlying zoning district may be approved by the Zoning Board of Adjustment, with the Water Department as technical advisors, provided they can meet performance standards outlined for the Groundwater Protection Overlay District and the applicable provisions set forth in Article IV: Conditional Uses.

## Performance Standards

The following standards shall apply to all uses in the Source Water Protection Overlay District:

Any facility, other than single-two family housing, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes, unless granted a special exception either through permit or another ordinance, must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or release from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspect able sumps.

Open liquid waste ponds containing materials referred to above will not be permitted without a secondary containment system.

Storage of petroleum products in quantities less than 300 gallons at one locality must have spill, overflow, and corrosion protection requirements in place.

For all permitted facilities storing more than 300 gallons for petroleum products or other hazardous materials, an acceptable contingency plan must be prepared for preventing contamination should floods, fire, or other natural catastrophes, equipment failure, or releases occur:

For flood control, all underground facilities shall include but not be limited to a monitoring system and secondary standpipe above the 100-year flood control level, for monitoring and recovery. For above ground facilities, an impervious dike, above the 100-year flood level and capable of containing 100 percent of the largest volume of storage, will be provided with an overflow recovery catchment area (sump).

For fire control, plans shall include but not be limited to a safe fire fighting procedure, a fire retarding system, effective containment of any liquid runoff, and provide for dealing safely with any other health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are pipes, liquids, chemicals, or open flames in the immediate vicinity.

For equipment failures, plans shall include but not be limited to:

Below ground level, removal and replacement of leaking parts, a leak detection system with monitoring, and an overflow protection system.

Above ground level, liquid and leaching monitoring of primary containment systems, the replacement or repair and cleanup and/or repair of the impervious surface.

For any other release occurring, the owner and/or operator shall report all incidents involving liquid or chemical material to the groundwater protection coordinator designated by the Selectboard

Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all abandoned wells should be properly plugged according to local and state regulations.

## 1. LIABILITY

Nothing in this ordinance shall be construed to imply that the Selectboard has accepted any of an owner/developer's liability if a permitted facility or use contaminates groundwater in any aquifer.

## DEFINITIONS

For the purposes of this section, the following terms are defined below:

**AQUIFER.** A geological formation, group of formations or part of a formation composed of rock, sand or gravel capable of storing and yielding groundwater to wells and springs.

**CONTAMINATION.** An impairment of water quality by chemicals, radio nuclides, biologic organisms, or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

**DEVELOPMENT.** The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

**FACILITY.** Something that is built, installed, or established for a particular purpose.

**GREY WATER.** All domestic wastewater except toilet discharge water.

**HAZARDOUS MATERIAL.** A material, which is defined in one or more of the following categories:

**IGNITABLE:** A gas, liquid or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.

**CARCINOGENIC:** A gas, liquid, or solid which is normally considered to be cancer causing or mutagenic. Examples: PCB's in some waste oils.

**EXPLOSIVE:** A reactive gas, liquid or solid, which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.

**HIGHLY TOXIC:** A gas, liquid, or solid so dangerous to man as to afford an unusual hazard to life. Example: chlorine gas.

**MODERATELY TOXIC:** A gas, liquid or solid, which through repeated exposure or in a single large dose can be hazardous to man.

**CORROSIVE:** Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

**PRIMARY CONTAINMENT FACILITY.** A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

**RELEASE.** Any unplanned or improper discharge, leak, or spill of a potential contaminant including a hazardous material.

**SECONDARY CONTAINMENT FACILITY.** A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required,

**SHALLOW/SURFICIAL AQUIFER.** An aquifer in which the permeable medial (sand and gravel) starts at the land surface or immediately below the soil profile.

**SPILL RESPONSE PLANS.** Detailed plans for control, recontainment, recovery, and clean up of hazardous material releases, such as during fires or equipment failures.

**STORMWATER TREATMENT PRACTICES (STPs).** Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing **point source** or nonpoint source pollution inputs to stormwater runoff and water bodies.

**TIME-OF-TRAVEL DISTANCE.** The distance that groundwater will travel in a specified time. This distance is generally a function of the permeability and slope of the aquifer.

#### Section 202: Zoning Map:

The location and boundaries of Zoning Districts are established as shown on the Official Zoning Map, which is hereby made a part of these zoning regulations. No changes shall be made to the Official Zoning Map except in accordance with the procedures for amending zoning regulations.

Where available, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps dated 9/1/89 shall be used to determine the relationship of a proposed development to the area of special flood hazard. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program (i.e., Zone A), base flood elevation and floodway information available from state or federal agencies or other sources shall be obtained and reasonably used.

Regardless of the existence of copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map shall be that located in the Town Clerk's office. It shall be the final authority as to the current zoning status of land and water areas.

#### Section 203: Interpretation of Zoning District Boundaries:

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

Boundaries, which approximately follow the centerlines of roads, streams, transportation and utility rights-of-way, shall be construed to follow such centerlines.

Boundaries which approximately follow lot lines shall be construed to follow such lot lines;

Boundaries that follow shorelines shall be construed as the low mean water level.

Boundaries, which are parallel to or extensions of features in A through C above, shall be so construed.

Where circumstances are not covered by 1 through 4 above, the Board of Adjustment shall interpret the district boundaries in consultation with the Planning Commission.

## Section 204: Planned Unit Development

### **204.1: General Intent:**

Planned Unit Development is intended to permit developments of larger parcels of land that will provide a desirable and stable environment in harmony with that of the surrounding area; to permit flexibility that will encourage a more creative approach in the development of land, will result in a more efficient, aesthetic and desirable use of open area, to permit flexibility in design, placement of buildings, use of open spaces, circulation facilities, and off-street parking areas; and to utilize the best potential of sites characterized by special features of geography, topography, size or shape.

### **204.2: Standards and Conditions**

So that new communities, innovations in design and layout, and more efficient use of land may be encouraged, a person may undertake land development in any district, upon approval of a Planned Unit Development as authorized by 24 V.S.A. Section 4407(12). To permit a Planned Unit Development, the Planning commission may modify these Zoning Regulations in accordance with that section subject to the following standards and conditions:

A site plan shall be submitted to the Planning Commission showing the location, height, spacing, uses, and architectural inter-relationships of all buildings, open spaces and their landscaping; utility lines, streets, driveways, and off street parking and unloading spaces, unique man-made features, and physical conditions of the site, accompanied by a statement setting forth the nature of all proposed modifications, changes or supplements to existing zoning regulations, and such other information as the Planning Commission may deem necessary.

A Planned Unit Development application shall also include both maps and a written statement and must show enough of the area surrounding the proposed PUD to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed.

The Planning Commission shall hold at least one public hearing, upon public notice, prior to approval.

Land Development may be commenced through a Planned Unit Development for those uses and under those requirements that are specified in Article III: Table of Uses as permitted in a PUD except Conservation II.

The minimum parcel area requirement for a PUD is 5 acres.

The Planning Commission may increase or decrease the setback requirements in any District if, in its judgment, the special circumstances of a proposed development would make such requirement inappropriate. Side and rear setback requirements, as listed the Tables of Section 235 and as used in this Section, shall be interpreted as the side and rear setback requirement required for the PUD as a whole and not as the setback requirements for each particular structure placed in such PUD.

The Planning Commission may allow some sections of a development to have a greater density of residential land use than usually allowed, to be offset by a lower density in other sections of the development.

The Planning Commission may issue Planned Unit Development approval for a proposed development for a specified period of time.

Where a PUD is to be located in more than one zoning district, the lot sizes and the number of allowable dwelling units must be separately calculated for each individual zone in the PUD.

Mixed commercial and residential uses shall be so arranged as to insure visual and acoustical privacy to residents in the development.

As well as meeting all applicable Town standards roadways, parking and unloading facilities, the PUD shall be designed and constructed so as not to cause unreasonable highway congestion or unsafe traffic conditions. The parking requirements of Section 602 shall apply in all Districts.

Water and utilities will conform to the Town of West Rutland water, sewer and on site septic standards. Telephone, electric and cable shall be run underground wherever possible.

Unique natural features of the site shall be preserved. in their natural context, to the greatest extent possible.

If a PUD application results in lands available for park, recreation, open space or other municipal purposes, the Planning Commission may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

The Planning Commission may attach such reasonable conditions and safeguards as may be necessary to implement the purposes of 24 V.S.A. Chapter 117 and these Regulations, in order to protect the public health, safety and welfare.

The Planning Commission may require from the owner, for the benefit of the Town, a performance bond with a good and sufficient surety, in an amount sufficient to cover the full



costs of public or private roadways and utility lines, in situations where buildings are to be constructed prior to the completion of such roadways or utility lines.

The Planning Commission shall also have the same powers in any Planned Unit Development application with respect to adequacy of traffic access, circulation and parking, landscaping and screening, and such other items as it has in a Site Plan Review procedure, to the extent not already provided for in this Section.

The issuance of PUD approval shall not relieve the applicant, or his successors or assigns, from the obligation to obtain a zoning permit under Section 1202 of these Regulations, and that permit shall only be issued if the proposed land development complies with all applicable provisions and conditions of the PUD approval and the applicable requirements of these Zoning Regulations not modified by the PUD approval. No land development approved in the PUD application shall be commenced until such zoning permit is obtained.

The PUD will be consistent with the Town Plan.

If the PUD contains units to be owned as condominiums, the applicant shall submit a copy of the proposed Condominium Declaration and By-Laws for the project.

The applicant shall submit a copy of any restrictive covenants proposed to run with ownership of the project or portions thereof.

#### **Section 205: Failure to begin a PUD:**

If no construction has begun or no use established in the PUD within twelve months from the issuance of the zoning permit, the zoning permit for the PUD shall become null and void. In its discretion, and for good cause, the Planning Commission may, upon request of the applicant, extend an additional six-month period for the beginning of construction or establishment of a use. If the PUD permit becomes null and void under the provisions of this section, the zoning regulations applicable before the PUD permit was issued shall be revived and in effect.

#### **Section 206: Failure to Complete a PUD.**

If any PUD or portion thereof, is not completed, the PUD permit for the project shall become null and void. In its discretion, and for good cause, the planning Commission may, upon request of the applicant, extend additional years which the PUD shall be completed. If the zoning permit becomes null and void under the provisions of this sections, the zoning regulations applicable before the zoning permit was issued shall be revived and in effect.

#### **Section 207: Amendments and Changes.**

Any and all amendments or changes to the PUD, as approved by the Planning Commission, shall require approval by the planning Commission and the issuance with the provisions set forth in this section.

ARTICLE III: TABLE OF USES

All uses are subject to the requirements of [Article IV: Conditional Use Permits \(Conditional Uses\)](#) as applicable.

P= Permitted Uses: C=Conditional Uses

Any Uses Not Specifically or Conditionally Permitted are Prohibited

Article III Table of Use	Village	Village	Village			Res	Res	Res.	Con	Con	Notes
	Res.	Comm. 1	Comm. 2	Comm.	Industria I	1	II	Ag. II	1	2	
Accessory Apartment	P	P	P	P	P	P	P	P	P	P	
<b>Accessory Uses &amp; Bldgs.</b>	P	P	P	P	P	P	P	P	P	P	
<b>Agriculture</b>								P	P	P	Ag Structures
Appliance											
- Retail Sales, Service & Rental			P	P	P						
- Wholesale Sales & Service					P						
Associations, Lodges & Clubs		C	C	C	C			C	C		
Automobiles											
- Auto Body				P	P						
- Car Wash			P	P	P						
- Parts & Supplies			P	P	P						
- Repair		P	P	P	P						
- Sales - New & Used				P	P						
- Service Stations			P	P	P						
- Storage				P	P						
Artists Studio											
- with Loft		P									
- w/out loft		P	P	P	P						
Bank			P	P	P						
Bed & Breakfast	P	P				P	P	P	P		
<b>Beer &amp; Wine Dist.</b>				P	P						

Article III Table of Uses (continued)

All uses are subject to the requirements of [Article IV: Conditional Use Permits \(Conditional Uses\)](#) as applicable.

P=Permitted: C=Conditional - Any Uses Not Specifically or Conditionally Permitted are Prohibited

Article III Table of Use	Village Res.	Village Comm.1	Village Comm.2	Comm.	Industrial	Res 1	Res II	Res. II Ag.	Con 1	Con 2	Notes
<b>Brewery/Winery</b>					P						
<b>Brew Pub/Microbrewery</b>		P	P	P	P						
<b>Bldg. Materials Sales/Storage</b>				P	P						
<b>Camp Grounds</b>							C	C	C	C	
<b>Cemetery</b>						P	P	P			
<b>Churches, Temples, Etc..</b>	P	P	P	P	P	P	P	P			
<b>Clinics, Medical</b>		P	P	P	P						
<b>Clothing – Retail</b>		P	P	P	P						
<b>Community Care Facilities(Group Homes)</b>	P	P				P	P	P	P	P	
<b>Computer Sales &amp; Service</b>		P	P	P	P						
<b>Concrete Product Sales</b>				P	P						
<b>Contractor Yards</b>					P						
<b>Convenience Store/Small Grocery</b>											
- With Gas Station				C	C						
- Without Gas Station		P	P	P	P	C	C	C			
<b>Cottage Industry</b>		C	C								
<b>Country Inn</b>		C				C	C	C	C		
<b>Dairies – Processing</b>					P						
<b>Day Care</b>	P	C	C			P	P	P	P		
<b>Drive-in Establishments</b>											
- Bank			P	P	P						
- Cleaners - non-processing			P	P	P						
- Photo			P	P	P						

Article III Table of Uses (continued)

All uses are subject to the requirements of [Article IV: Conditional Use Permits \(Conditional Uses\)](#) as applicable.

P=Permitted: C=Conditional - Any Uses Not Specifically or Conditionally Permitted are Prohibited

Article III Table of Use	Village Res.	Village Comm.1	Village Comm.2	Comm.	Industrial	Res 1	Res II	Res. II Ag.	Con 1	Con 2	Notes
- Restaurant			P	P	P						
Dwellings											
- Multiple Family (mixed use)	P	P	P			C					
- Single Family	P	P				P	P	P	P	P	
- Two Family	P					P	P	P	P		
Earth Resources Extraction					P						
<b>Electrical Power Co.</b>											
- Offices	P	P	P	P	P						
Electrical Supplies – Wholesale				P	P						
Electrical Supplies – Retail		P	P	P	P						
Fabric Retail Sales		P	P	P	P						
Fire Station	P	P	P	P	P						
Family Child Care(less than six children)	P					P	P	P	P	P	
Family Child Care(more than six children)	C					C	C	C	C	C	
Flooring- Retail Sales/Installation		P	P	P	P						
Forestry							P	P	P	P	
Funeral Home without Crematories	P	P	P	P	P						
Furniture & Home Furnishings											
- Retail Sales - New & Used		P	P	P	P						
- Upholstery	P	P	P	P	P						
- Wholesale & Storage					P						

Article III Table of Uses (continued)

All uses are subject to the requirements of [Article IV: Conditional Use Permits \(Conditional Uses\)](#) as applicable.

P=Permitted: C=Conditional - Any Uses Not Specifically or Conditionally Permitted are Prohibited

Article III Table of Use	Village Res.	Village Comm.1	Village Comm.2	Comm.	Industrial	Res 1	Res II	Res. II Ag.	Con 1	Con 2	Notes
Garden Center		P	P	P	P			p			
<b>Gas Station</b>			C	C	C						
<b>Gift Shops, Antique Shops, Crafts &amp; Art Galleries</b>		P	P	P	P						
<b>Galleries</b>											
<b>Glass Sales &amp; Repair</b>		P	P	P	P						
<b>Golf Courses</b>							C	C	C		
<b>Home Occupation</b>	P	P	P	P	P	P	P	P	P	P	
<b>Kennels</b>				C	C			C	C		
<b>Landscaping Contractor</b>		P	P	P	P			P			
<b>Laundromat</b>		P	P	P	P						
<b>Lumber Yard/Saw Mill</b>					P			C	C		
<b>Mall - Retail Sales</b>			P	P	P						
<b>Manufacturing, Light</b>		C	C	P	P						
<b>Motel/Hotel</b>			P	P	P						
<b>Municipal Facilities</b>		P									
<b>Music Instruments - Retail Sales &amp; Services</b>		P	P	P	P						
<b>Nature Preserves</b>					P	P	P	P	P		
<b>Nursing Homes</b>						C	C	C	C		
<b>Office Building</b>		P	P	P	P						
<b>Office Equipment - Retail Sales &amp; Service</b>		P	P	P	P						

Article III Table of Uses (continued)

All uses are subject to the requirements of [Article IV: Conditional Use Permits \(Conditional Uses\)](#) as applicable.

P=Permitted: C=Conditional - Any Uses Not Specifically or Conditionally Permitted are Prohibited

Article III Table of Use	Village Res.	Village Comm.1	Village Comm.2	Comm.	Industrial	Res 1	Res II	Res. II Ag.	Con 1	Con 2	Notes
<b>Parks, Municipally Owned</b>	P	P	P	P	P	P	P	P	P	P	
<b>Pet Shops</b>		P	P	P	P						
<b>Pharmacy</b>		P	P	P	P						
<b>Photo Processing - Wholesale</b>					P						
<b>Photo Processing - Retail</b>		P	P	P	P						
<b>Plumbing Fixtures - Supplies</b>											
- Display - Retail		P	P	P	P						
- Display - Wholesale					P						
Plumbing Service		P	P	P	P						
<b>Pool Equipment Sales</b>			P	P	P						
<b>Print Shop</b>		P	P	P	P						
<b>Professional Office</b>		P	P	P	P						
<b>Recreational Vehicles Sales &amp; Service</b>		P	P	P	P						
<b>Recycling Station</b>				C	C						
<b>Restaurant</b>		P	P	P	P		C	C			
<b>Schools</b>	C	P	P	P	C	C	C	C	C	C	
<b>Shoes</b>											
- Retail Sales		P	P	P	P						
- Repair Shops		P	P	P	P						
Small Engine Repair		P	P	P	P						
<b>Solid Waste Drop Off</b>				C	C						
<b>Sporting Goods &amp; Camping - Retail Sales</b>		P	P	P	P						
<b>Summer Camps</b>								C	C	C	

Article III Table of Uses (continued)

All uses are subject to the requirements of [Article IV: Conditional Use Permits \(Conditional Uses\)](#) as applicable.

P=Permitted: C=Conditional - Any Uses Not Specifically or Conditionally Permitted are Prohibited

Article III Table of Use	Village Res.	Village Comm.1	Village Comm.2	Comm.	Industrial	Res 1	Res II	Res. II Ag.	Con 1	Con 2	Notes
<b>Telecommunication/Facilities</b>				C	C			C	C	C	
<b>Theater</b>		P	P	P	P						
<b>Trailer Sales - Rental &amp; Leasing</b>			P	P	P						
<b>Transportation Terminal</b>		C	C	C	C						
<b>Tree Maintenance Service</b>			P	P	P						
<b>Truck - Painting Repair, Sales, Rent, Leasing</b>				P	P						
<b>Trucking</b>					P						
<b>Veterinary Hospitals</b>				P	P			P			
<b>LIMITATIONS</b>											
<b>Warehouse</b>					P						
<b>Welding Shop</b>			P	P	P						
<b>Well Drilling Contractor</b>					P						
<b>Windmills</b>	C	C	C	C	C	C	C	C	C	C	
<b>Wood Manufacturing</b>					P						
<b>Wood Working Shop</b>		P	P	P	P						

ARTICLE IV: CONDITIONAL USE PERMITS (CONDITIONAL USES)

Section 401: USES PERMITTED SUBJECT TO CONDITIONS

A zoning permit shall be issued by the Zoning Administrative Officer for any use or structure that requires conditional use approval only after the Board of Adjustment grants such approval taking into consideration the appropriate conditions of Section IV.

In considering its action, the Board shall make findings that the proposed conditional : use does not result in an undue adverse effect on:

The capacity of existing or planned community facilities;

The character of the area affected as defined by the purposes of the zoning district within which the project is located and specifically stated policies and standards of the Town Plan.”

Traffic on roads and highways in the vicinity;

Utilization of renewable energy resources.

The Board of Adjustment shall also consider, except for one and two family structures, the following:

Adequacy of traffic access:

The proposed use must provide for maximum safety of pedestrian and vehicular circulation between the site and the street network including location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distance improvements, shared access with adjoining properties, and location of sidewalks and/or other walkways. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.

Pedestrian Circulation

The Board of Adjustment may require pedestrian walkways to facilitate pedestrian movements. In all districts, the Board of Adjustment may require provision for pedestrian trails and walkways along waterways or other natural features to connect with similar present or anticipated trails on adjacent properties.

Access

The Board of Adjustment may require service roads connecting to public roads, with provision for connection to similar service roads on adjacent property where it feels that limiting the number of intersections to the public road is in the interest of the health and safety of the community.

All roads, regardless of whether they are to be provided or taken over by the Town, shall be constructed to meet the current Town of West Rutland specifications.

Adequacy of parking and loading facilities:

This will include adequacy of on-site circulation, parking, and loading facilities, with particular attention to safety including aisle widths to accommodate emergency vehicles, traffic



movement patterns and location of parking areas to prevent conflicts with entering and exiting traffic onto a public street, location of loading docks and number and size of parking spaces. Particular consideration shall be given to the effect of noise, glare, or odors on adjoining properties.

Refuse and service areas shall be included. Provisions for snow removal shall also be made.

Adequacy of landscaping and screening.

The objective is to achieve maximum compatibility and protection to adjacent property. Particular consideration should be given to the preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties, and the adequacy of landscaping materials to meet seasonal conditions, soil conditions, and light on the site.

Landscaping – General:

- a. In determining the amount of planting to be required, the Board of Adjustment shall take into account:
- b. Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.
- c. Visibility of incompatible or unsightly areas from roads and/or adjoining properties.
- d. The need to effectively screen all parking areas from roads and adjacent properties.
- e. Proximity of lots used for residential purposes.

Specific Landscaping Requirements.

All parking lots shall be screened by a strip not less than 15-feet in width with suitable plants, screening or landforms.

All plants, when initially installed, are to be of a size and shape approved by the Board of Adjustment. If the Board of Adjustment determined that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plants to accomplish the screening or buffering goals, the Board of Adjustment may require that fencing be installed during the interim.

If the Board of Adjustment determines that plants are not appropriate, it may approve suitable fence.

The remainder of the required yard space shall be landscaped and maintained in good appearance.

Where commercial uses are located adjacent to residential buildings, there shall, to the extent practicable, be plants or attractive solid fencing to screen outdoor lighting, as much as feasible from the view of the ground floor of the adjacent residential buildings.

All landscaping shall be completed and maintained in accordance with the site plan as approved by the Board of Adjustment. Any dead or diseased planting shall be replaced as soon as seasonally feasible.

Protection of renewable energy resources. Particular consideration shall be given to the appropriate siting of buildings in order to maximize access for solar gain to the property and adjacent properties.

In granting conditional use approval, the Board may attach such reasonable conditions in addition to those outlined, as it deems necessary.

## Section 402: Applications for Conditional Use

Waiver of Application Requirements Any of the following information can be waived at the discretion of the Board of Adjustment.

A request for a waiver shall be submitted to the Board of Adjustment. The waiver request shall specify which portions are requested for waiver. The applicant shall include a preliminary site plan providing sufficient information upon which the Board of Adjustment can make a decision.

The Board of Adjustment may request additional information.

A request for a waiver shall not be considered an application for purposes of timing requirements relating to action on applications.

- B. The owner and/or applicant shall submit nine (9) sets of a site plan and supporting data to the Zoning Board of Adjustment, which shall include the following information, presented in drawn form and accompanied by written text.
- C. Name and address of the owner of record of this and adjoining lands; name and address of applicant - if different than owner; name and address of person or firm preparing the plan; description of the property giving location; scale of map, north point, and date.
- D. Survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if any, and the location of proposed structures with distance from lot lines indicated.
- E. Site plan showing locations of proposed structure(s), and land use areas; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed, including placement of poles; and including water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks, transformers, etc.
- F. Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
- G. The location and size of proposed signs.
- H. Certification that the applicant has notified all adjoining property owners of the application.

## Section 403: Bond

The applicant may be required to provide a suitable performance bond or other form of security

to secure compliance with any conditions.

#### Section 404: Conditional Uses

##### Auto Service Stations and/or Petroleum Products

Any motor vehicle service station or motor vehicle sales establishment providing sales, mechanical or metal repair and or combustible petroleum products to the general public shall, in addition to all other applicable standards, comply with the following:

The lot on which such activity is located or proposed shall not be located within 300 feet of any lot occupied by a school, hospital, library or religious institution.

Pumps, lubricating and other service facilities shall be located at least 30 feet from all property lines.

Lot frontage shall be at least 150 feet.

Lot depth shall be at least 200 feet

Lot size shall be at least 30,000 square feet.

All above ground fuel, oil, or other combustible liquid, or explosive, compressed or liquefied gas storage shall be at least 60 feet from the front lot line and 40 feet from all other lot lines.

All below ground fuel and oil storage shall be located at least 20 feet from all property lines.

All parts and dismantled vehicles are to be stored within the building.

No repair work is to be performed outside a building.

There shall be no more than two access driveways from public roadways. The maximum permitted width of any access drive shall be forty feet.

##### Camp Grounds:

Campfires will be maintained in fireproof receptacles, no RV hookups, 25 maximum camping and or RV sites, an engineered plan, minimizing ground water runoff will be submitted and reviewed by the Towns engineer at the applicants cost.

Community Care Facility: A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap; or disability as defined in 9 V.S.A. section 4501.. Convenience Store without gasoline: There will be no side of the street parking, single access on each street frontage, and 800-sqft maximum patron area, off street delivery only.

##### Cottage Industry:

A Cottage Industry is permitted in accordance with the following:

The use does not change the character of the area and, the dwelling, accessory buildings, and the lot maintains a residential appearance at all times.

The cottage industry is clearly secondary to the use of the site for residential purposes.

The use is conducted within a portion of the dwelling or a building accessory thereto by the bona fide year-round resident of the dwelling.

No more than two (2) employees, in addition to the principle owner, shall be permitted.

The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.

Storage of equipment related to the cottage industry shall be within an enclosed structure or properly screened from adjacent residential uses.

Country Inn: No more than 40 persons seated for meals. No more than 12 guest rooms.

Fuel Distributor: A Fuel Distributor may stock oil, Diesel, heating fuel, gasoline and kerosene. No bulk storage of propane or other gases.

Kennels:

Minimum lot size is 4 acres. There will be no nighttime outdoor kenneling of dogs. Kennels will be insulated and sound proofed. Out door runs will be fenced so the dogs will not be able to escape.

Nursing Homes: No more than 25 beds.

Restaurant: Restaurants shall have a maximum seating of 100patrons.

Windmills:

Windmills will be painted in neutral non-glare colors.

Maximum design output for a facility within 1 lot will be 30 KW.

The maximum height for any freestanding windmill facility shall be 50 feet for half-acre lots and 80 feet for lot over 1 acre.

Windmills built on existing structures will be no more than 20 feet above the roof ridgeline.

No wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an inter-connected customer-owned generator.

Off-grid systems shall be exempt from this requirement.

Wind energy systems shall not exceed sound levels of 60 d.b.a. as measured at the nearest neighboring property boundary. The level, however, may be exceeded during short-term events such as utility outages and/or sever windstorms.

A Certificate from a Vermont Structural Engineer verifying stability of the tower will be submitted with the permit application.

Multi-Family Dwellings

When served by a municipally operated water and sewage disposal system, the minimum lot size shall be 10,000 square feet per dwelling unit.

Set backs will be: 40- foot front setback,25-foot side setback. 40-foot rear setback.

Vegetative screening will be planted around the perimeter of the property and shall consist of hedge type plantings.

Plantings will be 3 feet in height at the time of planting.

Plantings will be maintained and any plant that dies will be replaced immediately.

ARTICLE V: LOT SIZE, SETBACKS, YARDS, HEIGHT LIMITATIONS

The following requirements apply to all uses shown as Permitted (P) in Article III, Table of Uses. Conditional Uses shall meet the requirements of Article IV unless Article V imposes requirements that are more restrictive.

District	MINIMUM LOT SIZE Measured in Square Feet	Setback s Measured In feet			Min Lot depth	MINIMUM LOT FRONTAGE	Max Building Height	Max Total Coverage	Max bldg. Coverage
		Front	Side	Rear					
VILLAGE Residential	10,000 ft <sup>2</sup>	25'	15'	15'	120'	70'	35'	35'	25%
Village Comm	6,600 ft <sup>2</sup>	25'	25'	25'	110'	60'	35'	75'	50%
Village Comm II	6,600 ft <sup>2</sup>	25'	25'	25'	110'	60'	35'	75'	50%
INDUST.	20,000 ft <sup>2</sup> 30,000 ft <sup>2</sup> w/o town s/w	50'	none	none	100'	100'	40'	50%	50%
COMM	6,600 ft <sup>2</sup> 30,000 ft <sup>2</sup> w/o town s/w	25'	25'	25'	110'	60'	35'	75%	50%
RES I	20,000 ft <sup>2</sup> 30,000 ft <sup>2</sup> w/o town s/w	25'	15'	15'	120'	70'	35'	35%	25%
RES II	30,000 ft <sup>2</sup> 50,000 ft <sup>2</sup> w/o town s/w	40'	25'	30'	200'	100'	35'	20%	10%
Res II A	2 Acres	40'	25'	25'	140'	90'	35'	15%	
CON I	2 Acres	40'	25'	25'	140'	100'	35'	15%	

CON II	10 Acres 2 Acres Boardman Hill Area	50,	50'	50		500'	35'	10%	
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(1) **See definition in Article X**

## ARTICLE VI: PARKING AND LOADING

### Section 601: Off-Street Parking Space General Requirements:

The dimension of a parking space shall be at least 9' X 20'.

Parking spaces will not be permitted directly in front of entrances or exits to buildings. These areas shall be designated as loading areas (passenger or other).

Driveways serving multi-family residential uses and all non-residential uses shall be so arranged that vehicles are not required to back onto a public road on entering or leaving.

In residential districts required parking may not be located in the front setback, unless on a driveway on a permitted curb cut. Pavement shall not replace lawns or planted areas in the front setback, exclusive of driveways.

Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Shielded fixtures shall be used.

All open off-street parking areas containing more than four (4) parking spaces and all off-street loading areas shall be screened on each side adjoining or fronting on any property in a residential district, by a wall, fence, or densely planted hedge not less than three (3) feet nor more than five (5) feet in height.

Parking space shall be located on the same lot as the principle use except as otherwise provided.

Parking spaces for any number of separate uses may be combined in one parking lot.

Parking space, access drives, entrances, and exits as required by this section for business buildings, for multi-family dwellings and for dwelling groups shall be adequately paved with macadam, bituminous or concrete and designed so as not to drain onto a public highway or adjacent properties.

All parking and loading areas shall be paved with asphalt or concrete surfacing except that a porous surface may be approved by the Commission where it is deemed desirable to control water runoff problems. Permanent bumper guards or wheel bumpers shall be required in those locations of the parking and loading area where a matter of safety is involved. Provision shall be made to prevent vehicles from overhanging any sidewalk area.

Except for driveways and other entrances, parking and loading areas shall properly protect adjacent areas against headlight glare by means of a fence, wall, or densely planted hedge having a maintained height of not less than three (3) feet; nor more than five (5) feet. On the side of the lot adjoining a residential zone the area between the property line of the lot and such fence, wall or hedge shall be planted with lawn, shrubs, or flowers and continuously maintained in good condition.



Lot line setbacks for parking areas in all commercial districts shall be 15' from front lot line and 5' from side lot lines

Section 602: Parking Space Requirements

Off Street Parking Spaces

Residential	Two (2) spaces per dwelling unit
Multi-family dwellings	One (1) per dwelling unit plus one half (½) per additional bedroom
Home Occupation	Two (2) spaces in addition to the requirements for the dwelling
Resident professional person	2 plus residential requirement
Setbacks Parking Requirements - all residential uses	Front: 15 feet / Side and Rear: 10 feet
Setbacks Parking Requirements - all other uses	Front: 15 feet / Side and Rear: 5 feet or setback buffer, whichever is greater
Auto Service Station: including automotive repair shops, garages and gas stations with repair facilities	5 spaces for first bay and 2 spaces for each additional bay or vehicle work station
Auto Service Stations without repair facilities	1 space per 4 pump stations
Auto dealers (In addition to space for display vehicles)	1 space per employee plus one space per vehicle work station plus 5 spaces for customer parking
Hotel, motel, lodge, bed and breakfast facility, including home occupation lodging facility	1 space per employees plus guest room
Light Industry, manufacturing, wholesale, warehouse storage, freight, trucking or laboratory uses	1 space per 1.5 employees during the largest daily work shift
Nightclubs, bars and lounges where the serving of alcoholic beverages is the primary area activity, with or without entertainment	1 space per 30 square feet of patron floor area
Office, including business and professional offices, banks and other financial institutions Medical offices and clinics	1 space per 250 square feet of gross floor area
Meeting rooms, convention facilities or other places of assembly without fixed seating	1 space per 50 square feet of patron floor area
Other Uses	In order to maintain the purpose and intent of these regulations, the Planning Commission shall determine the number of parking spaces to be provided for uses not included in this section to the end that there shall be adequate off- street parking for such uses.

MARBLE STREET NOTE: For commercial uses along Marble Street each 20' of unrestricted road frontage shall count as one space towards required off street parking spaces. Also: required parking for commercial uses along Marble St. may

be off-site and off-street parking areas with the Planning Commission's approval.

#### Section 603: Commercial Loading Areas

One (1) off-street loading space not smaller than fifteen (15) feet wide, twenty-five (25) feet long and fifteen (15) feet high (if covered) shall be provided for every non-residential building.

One (1) additional loading space shall be provided for each twenty thousand (20,000) square feet of floor area, or part thereof, for any floor area exceeding twenty thousand (20,000) square feet.

Loading surfaces shall be paved.

Loading facilities shall be located in the rear or sides yards, unless otherwise permitted, and not encroach on required buffer areas.

Curbside parking, adjacent to the property, will be counted towards the parking requirements in the Village Commercial District.

### ARTICLE VII:

#### NONCONFORMING USES AND NOCONFORMING STRUCTURES

##### Section 701: Construction Approved Prior to Adoption or Amendment of Regulations

Nothing contained in these Regulations shall require any change in a nonconforming structure or a nonconforming use where such use or structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations.

##### Section 702: Scope

A use of land or a use of a structure which is not permitted or conditionally permitted for the district in which it is located, but which was allowed by all applicable laws, ordinances, and regulations in force prior to the enactment of these regulations, is hereby declared to be a nonconforming use, and not in violation of these Regulations at their date of enactment. However, a nonconforming use shall be subject to the provisions of Sections 703-705 below.

##### Section 703: Change of Nonconforming Use .

A nonconforming use may be changed to another nonconforming use only with the approval of the Board of Adjustment and then only to a use, which in the judgment of the Board is of a lesser, or no more, nonconforming nature and providing that no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use, it shall not be changed back to a nonconforming use.

##### Section 704: Extension of a Nonconforming Use.

A nonconforming use may be extended throughout the building, provided no structural alterations or changes are made therein, except those required by law or ordinance or as may be required for safety or necessary to secure or insure the continued advantageous use of the building during its lifetime.

#### Section 705: Enlargement of a Nonconforming Use.

A nonconforming use may be enlarged on the same lot provided that:

All provisions of these Regulations, except type of use, are complied with;

The Board of Adjustment determines that the character of the neighborhood will not be changed substantially by this enlargement;

Only one such extension is made, and

The total enlargement does not exceed fifty (50%) percent of the area of the nonconforming use in existence at the time of the adoption of these Regulation.

#### Section 706: Restoration of a Nonconforming Use Section 706: Restoration of a Nonconforming Use

Any nonconforming use which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a two year period, to the same nonconforming use as existed before such damage

#### Section 707: Discontinuance of Nonconforming Use

Any nonconforming use of land or building, which has ceased by discontinuance, or abandonment for a period of one year, shall thereafter conform to the provisions of these Regulations. Intent to resume a nonconforming use shall not confer the right to do so unless actual resumption occurs within the specified time period.

#### Section 708: Non-Conforming Structure

A structure or part thereof not in conformance with the zoning where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations except regulations covering building bulk, dimensions, height, area, yards, density or off-street parking or loading requirements

#### Section 709: Maintenance of a Non-Conforming Structure.

A nonconforming structure may be normally maintained and repaired provided that such action does not increase the degree of non-compliance.

#### Section 710: Expansion of a Non-Conforming Structure.

The Board of Adjustment may approve the relocation or replacement of a nonconforming structure provided that the structure does not increase its nonconformance with any dimensional requirement.

#### Section 711: Restoration of a Non-Conforming Structure.

Any nonconforming structure that has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a two-year period, to the same non-complying structure as existed before such damage.

#### Section 712: Development on a Nonconforming Lot or Parcel

An existing nonconforming lot or parcel may be normally developed provided that all provisions of these regulations are met, except those that create the

nonconformity, are complied with.

**Section 713: Alteration of a Nonconforming Lot or Parcel**

The boundaries of a nonconforming lot or parcel may be altered only in a manner that decreases, or does not increase, its degree of nonconformity.

ARTICLE VIII: SIGNS

Section 801: Sign Requirements: A permit is required for approval of all signs.

Residential Districts. The following signs are permitted; all other signs are expressly prohibited.

	<b>MAXIMUM SIZE</b>	<b>MAXIMUM NUMBER</b>	<b>LOCATION</b>	<b>PERMIT REQUIRED</b>
Signs giving the name of the property and/or occupant	2 sq. ft.	1 per lot	Within property boundaries	No
Signs pertaining to a profession or occupant permitted as an accessory use on the lot	3 sq. ft.	1 per/lot	Within property boundaries	Yes
Signs pertaining to the sale, lease or rental of property on which they are located	6 sq. ft.	1 per each street frontage	Within property boundaries	No
Signs offering lots for sale within approved subdivisions on the premises	12 sq. ft.	1 per each street on which subdivision or development has frontage	Within property boundaries	Yes
Directional signs as may be required by the planning commission under site plan review	3 sq. ft.	No limit	Within property boundaries	No
Temporary contractor's identifying signs during course of construction or repair only - for residential buildings	10 sq. ft.	1 per each street	Within property boundaries	No
Temporary identifying sign for project-or event nonresidential buildings	20 sq. ft.	1 per each	Within property boundaries	No
Temporary civic and nonprofit organization signs on the premises (30 day limit)	no limit	no limit	Within property boundaries	No
Temporary holiday decorations	no limit	no limit	Within property boundaries	No

**Village and Industrial Districts.** The following signs are permitted; all other signs are expressly prohibited:

Any sign that is permitted in Residential Districts.

Any sign advertising the use of the land and building for the sale of goods or services on the same premises, or the name or location of the proprietor, as follows:

Total area of all signs on the lot excluding window and door signs shall not exceed 2-sq. ft. for each linear foot of building frontage.

One free standing sign which shall not exceed 25 sq. ft. in area shall be permitted, provided the area of such sign is included within the above total, and provided further, that no portion of the building is located less than 35 feet from the street curb line. When no portion of the building is located less than 65 feet from the street curb line, such freestanding sign shall not exceed 40 sq. ft. in area. In the event that a building has frontage on more than one street, the distance from the street curb line shall apply only to the side where a freestanding sign is proposed to be located.

Signs must be located on the exterior wall of building except freestanding signs must be back of the lot line.

Rear entrance signs facing parking areas shall be permitted subject to the following:

They do not exceed 1 sq. ft. for each foot of building fronting on a public or a private parking area to which the owner has right of access.

They are located on the exterior wall of the building except that one freestanding sign is permitted back of lot line but not exceeding 6-sq. ft. in area.

In the absence of all other signs as permitted under paragraphs (2) and (3) above, one freestanding sign facing each street to which the building has access may be permitted. The total area of such sign(s) shall not exceed presently allowed maximum size. The overall height of such sign(s) shall not be more than 10 feet above the surface of the ground to which the sign is affixed. The sign shall be located back of the lot line.

**Permanent windows and door signs:**

SIZE: In addition to the above but not to exceed 15% of each window surface to which applied. Such sign shall be confined to lettering and insignia only.

LOCATION: Applied to Window

PERMIT REQUIRED: No

**Temporary window signs - up to 7 days**

SIZE: In addition to the above but not to exceed 1/3 of each of no more than two window surfaces to which applied adjacent to the main building entrance; not permitted on same window as permanent window sign.

LOCATION: Applied to Window

PERMIT REQUIRED: No

**Signs giving the name and insignia of one or more occupants of a permitted office.**

SIZE: 15 square feet.

LOCATION: 1 per each public entrance back of lot line

PERMIT REQUIRED: Yes

**Section 802: Measurement of Sign Area**

The area of a sign shall be considered to include all lettering, wording and accompanying designs or symbols together with any background different from the building whether painted or applied when it is designed as an integral part of and obviously related to the sign, and when the sign consists of individual letters or symbols attached to, or painted on, a building wall or window, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters or symbols.

In the case of a free-standing sign, or a sign that can be seen from both sides, the area shall be determined by multiplying the outside dimensions of the sign not including the vertical, horizontal or diagonal supports which affix the sign to the ground, unless such supports are evidently designed to be part of the sign.

**Section 803: Location of Sign**

No sign shall be located on the roof of any building or on any exterior wall so as to project above the top of the exterior wall at the location of the sign. No sign shall face any lot line or any immediately adjoining lot in a residential zone within a forty- (40) foot distance.

All signs on the property shall be so located that they will not interfere with the vision of a driver entering or leaving the property or interfere with visibility at an intersection or traffic light.

Wall and window signs shall be affixed only to that point of a building or structure wall that encloses the use to which the sign pertains.

**Section 804: Height Restrictions**

Freestanding signs, including posts, shall not exceed a height of fifteen (15) feet overall above the surface of the ground where located. There shall be a clear space underneath a freestanding sign located within the required front or street-side yard in non-residential zones so that the sign will not interfere with the vision of a driver approaching a street intersection. The clear space shall be at least seven (7) feet four (4) inches, measured above the centerline of the intersecting street to the bottom of the sign.

Window and wall signs shall not exceed four (4) feet in height measured from top to bottom.

**Section 805: Illuminated Signs**

A sign may be illuminated if illumination is confined to, or directed to, the surface of the sign.

No flashing, rotating or intermittent illumination shall be permitted.

The sign shall be so designed and shielded that the light sources cannot be seen

from any adjacent residential zone or from the street.

Variable message signs are not permitted in any district.

#### Section 806: Removal of Signs

It shall be the responsibility of the property owner to remove or cause to be removed all business signs within three (3) months from the time the premises are vacated.

#### Section 807: Replacement, Alteration or Relocation

No sign shall be replaced, altered or relocated without conforming to the existing requirements of this Article at the time of such replacement, alteration or relocation.

#### Section 808: Portable Signs

Portable signs and wind signs (i.e. cold air balloons) may be erected on the premises of an establishment having a grand opening or special event provided that such signs do not interfere with visibility or traffic safety and displayed for a period not to exceed fourteen (14) calendar days within any three (3) month period.

### ARTICLE IX: SITE PLAN APPROVAL

#### Section 901: Scope

The Planning Commission grants site plan approval **except** in the following cases, which are approved by the Zoning Administrative Officer or the Board of Adjustment:

1. One and two family dwellings and accessory uses and buildings;
2. Any use or structure requiring a conditional use permit; and, signs.
3. 30 yards of fill in 1 calendar year are exempt. Up to 100 yards of fill. Over 100 yards of fill requires site plan approval from the Planning Commission.

#### Section 902: Submission of Site Plan and Supporting Data

The applicant shall include a preliminary site plan providing sufficient information upon which the Planning Commission can make a decision. Five (5) sets of the site plan and supporting data shall be submitted to the Planning Commission. Each plan set shall include the information presented in drawn form and accompanied by written text.

Name and address of the owner of record of this and adjoining lands; name and address of applicant - if different than owner; name and address of person or firm preparing the plan; description of the property giving location; scale of map, north point, and date.

Survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if



any, and the location of proposed structures with distance from lot lines indicated.

Site plan showing proposed structure(s), locations and zoning district; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed, including placement of poles; and including water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks, transformers, etc.

Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

The location and size of proposed signs.

Requirements defined in 902.A can be waived at the discretion of the Planning Commission. A request for a waiver shall be submitted to the Planning Commission and shall specify which portions of Sections 902B are requested for waiver. The Planning Commission may request additional information. A request for a waiver shall not be considered as submission of a site plan in relation to Section 909.

#### Section 903: Site Plan Review Considerations

The Planning Commission shall consider and may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and to protect the use of renewable energy resources. The Commission shall review the site plan map and supporting data taking into consideration the following:

**Adequacy of traffic access:** The proposed use must provide for maximum safety of pedestrian and vehicular circulation between the site and the street network including location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distance improvements, shared access with adjoining properties, and location of sidewalks and/or other walkways. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.

#### **Pedestrian Circulation**

The Planning Commission may require pedestrian walkways to facilitate pedestrian movements.

In all districts, the Planning Commission may require provision for pedestrian trails and walkways along waterways or other natural features to connect with similar present or anticipated trails on adjacent properties.

### **Access Requirements**

The Planning Commission may require service roads connecting to public roads, with provision for connection to similar service roads on adjacent property where it feels that limiting the number of intersections to the public road is in the interest of the health and safety of the community.

All roads, regardless of whether they are to be provided or taken over by the Town, shall be constructed to meet the current Town of West Rutland specifications.

**Wastewater:** The construction of any building requiring the installation of on-site potable water supply and/or wastewater disposal systems shall not commence until such time that a potable water supply and/or wastewater system permit has been issued by the State of Vermont under 10 V.S.A. chapter 64.

**Adequacy of parking and loading facilities.** Adequacy of on-site circulation, parking, and loading facilities, with particular attention to safety including aisle widths to accommodate emergency vehicles, traffic movement patterns and location of parking areas to prevent conflicts with entering and exiting traffic onto a public street, location of loading docks and number and size of parking spaces. Particular consideration shall be given to the effect of noise, glare, or odors on adjoining properties. Refuse and service areas shall be included. Provisions for snow removal shall also be made.

**Adequacy of landscaping and screening.** The objective is to achieve maximum compatibility and protection to adjacent property. Particular consideration should be given to the preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties, and the adequacy of landscaping materials to meet seasonal conditions, soil conditions, and light on the site.

In determining the amount of planting to be required, the Planning Commission shall take into account:

Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.

Visibility of incompatible or unsightly areas from roads and/or adjoining properties.

The need to effectively screen all parking areas from roads and adjacent properties.

Proximity of lots used for residential purposes.

Specific Landscaping Requirements.

All parking lots shall be screened by a strip not less than 15 feet in width with suitable plants, screening or land forms.

All plants, when initially installed, are to be of a size and shape approved by the Planning Commission. If the Planning Commission determined that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plants to accomplish the screening or buffering goals, the Planning Commission may require that fencing be installed during the interim.

If the Planning Commission determines that plants are not appropriate, it may approve suitable fence.

The remainder of the required yard space shall be landscaped and maintained in good appearance.

Where commercial uses are located adjacent to residential buildings, there shall, to the extent practicable, be plants or attractive solid fencing to screen out, as much as feasible, outdoor lighting from the view of the ground floor of the adjacent residential buildings.

All landscaping shall be completed and maintained in accordance with the site plan as approved by the Planning Commission. Any dead or diseased planting shall be replaced as soon as seasonally feasible.

All plant species will be suitable to the property they are planted in.

Protection of renewable energy resources. Particular consideration shall be given to the appropriate siting of buildings in order to maximize access for solar gain to the property and adjacent properties.

Section 904: Bond:

The applicant may be required to provide a suitable performance bond or other form of security to secure compliance with any conditions.

Section 905: Amendments:

Amendments to approved site plans may be made after submitting an application to amend for review and approval by the Planning Commission.

## IN ADMIN & ENFORCEMENT

### ARTICLE X. GENERAL REGULATION

#### Section 1001: Compliance with Regulations

No land, building, or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure, shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with this Regulation.

No lot shall have an area, width, or a front, side or rear yard, less than that set forth unless otherwise provided for in this Regulation.

No building or buildings shall occupy in the aggregate a greater percentage of lot area than set forth unless otherwise provided for in this Regulation.

#### Section 1002: Existing Small Lots

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 any bylaw, including interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw unless:

The lot is less than one-eighth acre in area.

The lot has a width of depth dimension of less than 40 feet.

If an existing small lot 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 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 supply as defined in 10 V.S.A. chapter 64.

#### Section 1003: Required Frontage on, or access to, Public Roads or Public Waters

Land development may be permitted only on lots which either have frontage on a public road or public waters or, with the approval of the Planning Commission, as part of the subdivision approval process, access to such a road or waters by a permanent easement or right-of-way. The Select board or their designee must approve the design of access to Town roads. Refer to Vt. AOT B 71.

#### Section 1004: Protection of Home Occupations

Nothing in this Regulation may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character thereof.

#### Section 1005: Group Home and Day Care Facilities

24 V.S.A. 4409 (d) provides that a licensed or registered residential care home or group home, serving not more than eight people who are developmentally disabled or physically handicapped must be considered a permitted single family residential use of property. Note. However, the statute provides that such home shall not be located within 1,000 feet of another such home. As with day cares, the town should require such facilities to register with the zoning administrator so that the administrator may determine whether it properly comes within the statutory exemption.

A family childcare home serving six or fewer children is considered to constitute a permitted single-family residential use of property. A family childcare facility serving more than six full-time and for part-time children is a permitted or conditional use depending on the zoning district, and requires site plan review.

#### Section 1006: Lot Limitations

In all districts, only one principal building shall be placed on a lot. This requirement shall not apply to working farms where one additional residential structure is permitted for use by a farm employee and farm structures are also permitted.

#### Section 1007: Lots in More than One Zoning District

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

#### Section 1008: Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these Regulations shall be smaller than prescribed for the district in which the lot is located.

The provisions of this section shall not apply when part of a lot is taken or acquired for a public purpose.

#### Section 1009: Required Area or Yards

Space required under these regulations to satisfy area, yard or other open space requirements in relation to one (1) building shall not be counted as a part of a required open space for any other building.

#### Section 1010: Temporary Structures

Temporary permits may be issued by the Zoning Administrative Officer for a period not exceeding one (1) year, for temporary structure incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one (1) year.

#### Section 1011: Destroyed or Demolished Structures

Within ninety (90) days after a permanent or temporary building or structure has been destroyed or demolished, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the owner.

#### Section 1012: Trailers/Motor homes

Parking a camping trailer, travel trailer, pickup coach or motor home on any public or private property, is permitted only in accordance with the following regulations:

1. It is not used as a permanent living quarters; and
2. If more than ten (10) feet in length it is parked so as to comply with the setback requirements of the district and,
3. It is not occupied for more than 120 days in any 12-month period.

#### Section 1013: Height of Structures

No structure shall exceed a height applicable to the district. This limit shall not apply to spires, cupolas, chimneys, ventilators, tanks, or similar parts of building, occupying in the aggregate not more than 10 percent of the area of such building. This limit shall not apply to television aerials, communication towers or to windmills with blades less than 20 feet in diameter or to rooftop solar collectors

less than 10 feet high which are mounted on complying structures.

#### Section 1014: Approval of Plats

No proposed plat of a new subdivision or resubdivision shall be approved unless the lots within such plat equal or exceed the dimensional requirements set forth in the districts in which the lots are located and adequate drainage is provided [see Section V].

#### Section 1015: Ponds Requiring Permits

A zoning permit shall be required for the construction of any pond over one-quarter (1/4) acre.

#### Section 1016: Site Development

Any site development including bringing in fill or removing earth which has the effect of making a parcel developable or build able where it was not previously shall be done only after the issuance of a zoning permit.

#### Section 1017: Accessory Buildings and Apartments

Each residential use in a residential district may have not more than three detached outbuildings, garages, carports, storage sheds, greenhouses or similar accessory use buildings on a lot. All such outbuildings shall comply with the dimensional requirements of the district in which they are located. Total sum of all accessory buildings will not exceed 1,250 square feet. All other uses in a residential district may not have more than one accessory use building, which must be attached to the main building.

Accessory Apartments are a permitted use in any district in which single family dwellings are a permitted use.

#### **The following restrictions apply to accessory apartments:**

Floor space shall not exceed thirty percent (30%) of the floor space of the existing living area of the single family residence or four hundred (400) square feet whichever is greater; and,

The primary single-family residence is occupied by the owner.

The maximum number of units permitted under this provision is one (1)

The unit is constructed within or attached to a primary single-family residence located in a District in which single-family residences are a permitted or conditional use.

The property must have sufficient wastewater capacity.

#### Section 1018: A.D.A. Accessibility

When an A.D.A. structure is built, that does not meet the front setback requirement, as long as the structure does not impede the sidewalk plow, the structure may be built. Scaled drawings will be submitted to the Zoning Officer for review.

### Section 1019: Prohibited Uses

All uses not specifically allowed according to the provisions of this Ordinance shall be considered prohibited in all Districts. To further the purposes of this Ordinance, and to further clarify other sections and provisions contained in this ordinance, the following uses are expressly prohibited in the Town of West Rutland:

Dumping, storing, burying, reducing, disposing or burning garbage, refuse, scrape metal, rubber, offal or dead animals, except such as result from the approved and permitted use of the premises, and except Municipally approved collection sites.

Junkyards, automobile graveyards, or places for the collection of scrap metal, paper, rags, glass or junk for storage purposes. ( NOTE) Excludes approved recycling facility.

Use of the basement of an uncompleted structure, wholly or partially below grade of the lot upon which it is located, for dwelling purposes.

Crematories.

Business from cars, trucks, trailers and temporary retail stands except for temporary stands for the sale of farm products on, or adjacent to, the property on which such products are grown or produced or with property owner's permission. The sale of food from a catering van.

Occupancy of travel trailers or other recreational vehicles or structures for dwelling purposes except as allowed in Section 1012.

### Section 1020: Vegetative Buffer Strips Removal of vegetation along Clarendon and Castleton rivers

In order to provide a filter for nutrients and sediments, as well as a visual break, cutting and removal of vegetation in the area parallel to the river banks of the Castleton and Clarendon rivers, and extending 50 feet inland, is not permitted, except as follows:

Recuperation cuts when the goal is to revitalize an ecosystem which is in decline or has been damaged by fire, wind, disease, or other natural disasters

Removal of dangerous dead or dying trees

A path no more than six (6) feet wide, perpendicular to the river, for access

Removal of vegetation on working agricultural properties in keeping with Accepted Agricultural Practices.

### Section 1021: Removal of vegetation along all other rivers and streams

Landowners are strongly encouraged to leave vegetation untouched within an area of at least 50 feet parallel to all river and stream banks not listed in Section 1221.

### Section 1022: Golf Courses and Driving Ranges Applicability.

New golf courses and driving ranges, or the expansion of existing golf courses and ranges, may be allowed in designated zoning districts subject to conditional use review by the Board of Adjustment under the following standards. Miniature

golf courses (included under the definition of "outdoor recreation") are specifically exempted from the requirements of this section.

#### Application Requirements.

In addition to the application information required under Section 402; applicants for a golf course or driving range shall also submit the following:

A site development plan showing:

- A. golf course or range layout including the location of existing and proposed tees, greens, fairways, traps, practice ranges, buildings, roads, cart paths and parking areas;
- B. existing elevation contours and land cover;
- C. field located site features (surface waters, wetlands, floodplains, natural areas, wildlife habitat),
- D. proposed site modifications, and
- E. the location of existing and proposed wells and water quality monitoring stations.
- F. Information regarding anticipated ball trajectories (directions, distances) in relation to adjoining properties and public rights-of-way, and associated landscaping, screening and/or other protective barriers;
- G. A course management plan, including operation and monitoring protocols.

Minimum dimensional requirements:

Minimum Setback from Rights-of Way, Property Lines

Golf Course 100 feet

Driving Range 100 feet

General Design Standards. Golf courses shall be designed to:

Best preserve and enhance the ecological function of existing natural features, including but not limited to surface waters, wetlands, and critical wildlife habitats and corridors within and adjacent to the site;

Incorporate natural terrain to the extent feasible, to minimize the amount of site modification (clear cutting, grading and filling) required and to avoid areas of steep slope;

Minimize the number and length of stream crossings;

Preserve and/or re-establish riparian habitat within required buffer areas; and

minimize the use of fertilizers and pesticides and associated impacts to water quality through the selection of disease resistant turf grass, integrated pest management, resource efficient irrigation and drainage systems, biofilters, and other similar management practices.



Groundwater Separation. Greens and tees shall be located in areas where the depth to bedrock or maximum high water table is greater than four feet below the surface, as determined by field tests. Under drain systems for greens and tees must also maintain four feet of soil separation between subsurface leaching systems and bedrock and/or high water tables.

Pesticides. Golf courses and driving ranges must meet all applicable state and federal regulations for the storage, application and disposal of pesticides, including pesticide application on golf courses as regulated by the Vermont Agency of Agriculture, Food and Markets. Pesticides and other hazardous materials shall be stored in an enclosed, secured building.

Monitoring. The Board may require the establishment of preconstruction (baseline) surface and ground water quality conditions, and the subsequent monitoring of surface and ground waters to determine the effects of golf course development and operation on water quality.

### Section 1023 Fences

Fences may be built in front, side and rear yards provided the fence does not exceed six (6) feet in height when measured from the ground up, and are maintained in a proper state of repair with the finished side of such fence facing the adjacent properties. Fence setbacks on side and rear yards shall be 3 feet.

Such a fence shall be set back a minimum of 5 feet from a town sidewalk except in Zoning District Village Residential and Village Commercial 1 where the distance from the sidewalk will be 3 feet., 8 feet from the edge of the pavement. In Zoning Districts Residential 1, Residential 2, Village Districts, Commercial and Industrial Districts. Fences in Residential 2A, Conservation 1, and Conservation 2 shall be set back 10 feet from the edge of pavement.

If a property line fence is proposed the applicant must get written permission from the adjoining property owner and submit the permission with the fence application.

### SECTION 1024: MINERAL AND EARTH RESOURCE EXTRACTION

#### Mineral and earth resource Extraction

In addition to all other application standards, any use which involves the extraction of mineral or earth resources shall comply with the following:

1. The owner –operator or lessee-operator shall submit a site reclamation plan showing how a site will be improved to a safe and attractively landscaped condition upon cessation of operations.
2. Prior to the issuance of a Zoning Permit for a new use or extension of an existing use a performance bond shall be filed with the Town in an amount sufficient to ensure the restoration of a site to a safe and attractively landscaped condition upon cessation of extractions from the site.

3. The creation of pits or steep slopes shall not be permitted unless provisions are made to refill each pit or cut the sides of steep slopes in a manner which will ensure public safety and prevent erosion. Earth slopes greater than 2-horizontal/1 vertical shall not be allowed to remain.
4. Excavation and open pit extraction sites shall be graded, fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation to prevent erosion. Such work shall be inspected and approved by the Zoning Administrator prior to the release of any bond.
5. There shall be no excavation within 50 feet of a property located in a residential zone or within 25 feet of any other property line.
6. An adequate surface storm water, and water discharge drainage system for the entire area shall be provided. The 25-year storm event shall be the basis for the design of storm water measures. Plans to handle storm water or water discharge, including determinations as to the adequacy of existing and future facilities both upstream and downstream, shall be provided by the subdivider's professional engineer and must be approved by the Town Engineer (or other professional designated by the Town). In most cases, the applicant will be required by the Commission to carry away by pipe or open ditch any spring, surface water or water discharge from a Mineral and Earth Resource extraction Site that may exist either previous to or as a result of the applicants activities. Any culverts or other drainage facilities shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the applicants work site. Where it is anticipated that additional run-off incidental to the development of the work site will overload an existing downstream drainage facility so that there will be drainage to private property or an increase in the expenditure of public funds, the Commission shall not approve the application until provision has been made for the improvement of said condition. Where a Mineral and Earth Resource Extraction Site is traversed by a water course or drainage way or contains a storm water management facility, there shall be provided a storm water drainage easement of such width as to encompass the 25-year flood area of such water course or facility, which easement shall be indicated on the site plan. The applicants engineer must show how erosion debris and other loose material will not be allowed to enter any drainage course, street or private property.

#### SECTION 1025 OPEN STORAGE IN RESIDENTIAL DISTRICTS

In any residential district the following must be stored in an enclosed/fully-screened area (fencing or screening as approved by the Planning Commission shall be 6 feet high Maximum).

Vans and trucks of more than twelve ton carrying capacity that are used for commercial purposes.

Cars for the purposes of competitive racing.

Building material or salvage of any sort.

Additionally, no more than 1 motor vehicle may be openly stored or parked that is not currently inspected and registered.

## **ARTICLE XI: ADMINISTRATION AND ENFORCEMENT**

### Section 1101: Zoning Administrative Officer

The Selectboard shall appoint a Zoning Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with the Act [§4448]. The Selectboard may remove a Zoning Administrative Officer for cause at any time after consultation with the Planning Commission.

An acting Zoning Administrative Officer may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Zoning Administrative Officer in the Administrative Officer's absence. In the event an acting Zoning Administrative Officer is appointed, the Selectboard shall establish clear policies regarding the authority of the Zoning Administrative Officer relative to the authority of the acting Zoning Administrative Officer.

The Administrative Officer shall literally administer this Regulation and shall not have the power to permit any land development that is not in conformance with this regulation. In so doing the Administrative Officer shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these Regulations.

The Zoning Administrative Officer should inform any person applying for municipal permits or authorizations that the person should contact the Regional Permit Specialist in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

### Section 1102: Zoning Permits

Land development may be commenced in the Town of West Rutland only after the Administrative Officer issues a permit.

Hereafter the division of a parcel into two (2) or more parcels, the construction, conversion, structural alteration, relocation or enlargement of any building(s) or other structure(s), or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land shall commence only in compliance with all regulations in this bylaw for the district in which such building or land is located.

A permit shall not be required for interior or exterior changes that do not change the permitted use or footprint of a structure or modify any conditions that may have been set by the Board of Adjustment or the Planning Commission.

The Zoning Administrative Officer should assist applicants, to extent possible, with local permits and requirements of these regulations. If other local permits or

authorizations are required, the Administrative Officer should coordinate a unified effort on the behalf of the Town in administering its development review programs.

### **Section 1103 Exemptions**

Note: These exemptions may not apply in the Special Flood Hazard Area  
No zoning permit shall be required for the following activities:

Accepted agricultural (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)]. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].

Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.

Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities [or other use].

Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.

Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.

Residential entry stairs (excluding decks and porches), handicap access ramps, walkways.

Minor grading and excavation associated with road and driveway maintenance and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 1024\_.

Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.  
Garage sales, yard sales, auctions, or similar activities that do not exceed three

(3) consecutive days, nor more than twelve (12) total days in any calendar year.

A fence no higher than 3 feet that is 10 feet off the front property line and 3 feet off the side and rear lot lines.

#### Section 1104: Zoning Applications, Permits, Issuance

All applications shall be submitted to the Zoning Administrative Officer on forms furnished by him/her and shall be accompanied by three (3) copies [number of copies is optional] of a sketch plan, drawn to scale, showing the dimensions of the lot to be built on, location of the building and accessory buildings to be erected, a surveyor's plot plan of the property, if available, and such other information as may be necessary to determine and provide for the enforcement of this Regulation.

An application for any permit shall be accepted by the Zoning Administrative Officer only if it is complete and is accompanied by payment in cash, check or money order made out to the municipality for the amount of the specified fee that shall be established and reviewed by the Select board from time to time.

Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Planning Commission, Board of Adjustment, and/or state for consideration.

If the Administrative Officer fails to act with regard to a completed application for a permit within thirty (30) days, a permit shall be deemed issued on the 31<sup>st</sup> day.

No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Planning Commission or Board of Adjustment until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.

If public notice has been issued by the Legislative Body for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Administrative Officer shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [24 VSA §4449(d)].

Each zoning permit issued under this Section shall contain a statement of the period of time within which an appeal may be taken.

Within three (3) days following the issuance of a Zoning Permit, the Zoning Administrative Officer shall:

The issuance of a zoning permit does not relieve the applicant of any responsibility for obtaining other required local, state, or federal permits or approvals as necessary.

#### Section 1105: Effective Date

If a zoning permit is issued, it shall not take effect until the expiration of a fifteen-(15) day appeal period. In the event that notice of appeal is properly filed, such permit shall not take effect until the final adjudication of said appeal. No site work or building shall occur until the effective date of the permit.

#### Section 1106: Certificates of Occupancy

Occupancy of any land or structure or part thereof created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure shall be permitted only after a certificate of occupancy is issued by the Administrative Officer stating that the proposed use of the structure or land conforms to the requirements of the zoning regulation. After the applicant has received a zoning permit and completed the project described in the application, the applicant must contact the zoning administrator and arrange a time for the certificate of occupancy inspection.

#### Section 1107: Completion

All activities as authorized by the issuance of the permit shall be commenced within 6 months of the effective date of the permit and shall be completed within two (2) years of the effective date or the permit shall become null and void. The applicant must reapply and obtain another zoning permit to complete the activities as initiated under the original permit.

#### Section 1108: Violations and Enforcement

The commencement or continuation of any land development [or subdivision] that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the the Town of West Rutland, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

#### Section 1109 Notice of Violation

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality under Section 1406. The notice shall state

that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

### **Limitations on Enforcement**

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Section 1406.

#### Section 1110: Exclusivity of Remedy

The exclusive remedy of an interested person with respect to any decision or act of the Administrative Officer, or any failure to act with respect to any one or more of the provisions of this regulation shall be the appeal to the board of adjustment. (See 24 VSA 117, Section 4472 for exact language).

#### Section 1111: Special Duties Relating to Flood District Permits

The Zoning Administrative Officer shall, to the extent possible, submit to the Federal Emergency Management Administration the information required by the Federal Emergency Management Administration Report Form with respect to the administration and enforcement of the flood hazard area sections of this bylaw. A copy of the Report shall be submitted to the State-coordinating agency.

The Administrative Officer shall maintain a record of:

All variance actions, including justification for their issuance;

All permits issued for development in areas of special flood hazard;

The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;

The elevation, in relation to mean sea level, to which buildings have been flood proofed; and,

All flood-proofing certifications required under this regulation.

## **ARTICLE XII: BOARD OF ADJUSTMENT**

### Section 1200: Creation of Board of Adjustment

There shall be a Board of Adjustment for the Town of West Rutland.

### Section 1201: Appointment and Term of the Board

#### Members:

The Board of Adjustment shall consist of three (3) members unless otherwise determined by the Select board.

#### Appointment.

Members of such Board shall be appointed and any vacancy filled by the Select board. The terms of each member shall be for three (3) years unless otherwise determined by the Select board. Members may be re-appointed to successive terms.

The Select board may appoint alternates to serve on the Board.

Any member of the Board of Adjustment may be removed for cause by the Select board upon written charges and after public hearing.

#### Appropriations.

The Town may make such appropriations in its annual budget as are sufficient to afford the Board of Adjustment the technical and material assistance necessary to the fulfillment of its duties as outlined herein.

### Section 1202: Officers of the Board

The Board of Adjustment shall annually elect its own officers: Chair and Vice Chair. The officers of the Board may administer oaths and compel the attendance of witnesses and the production of material pertinent to any issue under appeal.

### Section 1203: Meetings

Meetings of the Board shall be held at the call of the Chair and at such times as the Board may determine. All such meetings shall be publicly warned, except as otherwise provided by law.

### Section 1204: Rules of Procedure

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law.

### Section 1205: Minutes and Findings

The Board shall keep minutes of its proceedings, indicating the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the clerk of the municipality as a public record.



## **Section 1206: Quorum and Votes**

For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the Board and any action thereof shall be taken by the concurrence of a majority of the members of the Board.

Section 1207: General Powers and Duties of the Board

General Powers: The Board of Adjustment is a body with limited powers.

Except as specifically provided herein and in accordance with the provisions of 24 VSA, Chapter 117, the Board of Adjustment may not amend, alter, invalidate or affect any plan or bylaw of the Town or the implementation or enforcement thereof, or allow any use not permitted by the Zoning Regulations or any other bylaw.

General Duties:

The Board of Adjustment shall be charged with the proper interpretation of the Zoning Regulations and their consequent application within the town, and with the administration of the procedures allocated to it by the Zoning Regulation including the following: To hear and rule on appeals of any order, requirement, decision or determination made by the Administrative Officer in the administration and enforcement of the Zoning Regulations.

To hear and grant or deny a request for a variance in the application of provisions of the Zoning Regulations in accordance with Sections 1208, 1209, 1210, and 1211.

To approve a request for a conditional use within any zoning district if, within forty-five (45) days after the date of the final public hearing, the Board determines that the proposed use conforms to the standards as designated in the Regulations.

To approve the repair, relocation, replacement, or enlargement of a nonconforming structure within the Flood Hazard District.

To hear, review and decide, after due public notice and hearing, all matters referred to it or upon which it is required to pass according to the Zoning Regulation.

Applications: Every request to the Board of Adjustment shall be filed with the Zoning Administrator in accordance with the appropriate provisions of the zoning regulations of the municipality.

Section 1208: Variances - General

The Board of Adjustment shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Section 1213. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a

variance and render a decision in favor of the appellant only if *all* of the following facts are found, and the findings are specified in its written decision:

That as a result of such physical problems, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

That such unnecessary hardship has not been created by the appellant.

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, and

That such variance, if authorized, represents the minimum that will afford relief and provide the least modification possible of the Zoning Regulations and of the comprehensive plan.

#### Section 1209: Variances - Flood Hazard District

On an appeal where a variance from the provisions of the Zoning Regulation is requested for the repair, relocation, replacement or enlargement of a nonconforming structure within a regulated flood hazard area, the Board of Adjustment may grant such variances, and render a decision in favor of the appellant, in accordance with the provision of Section VII of Attachment – West Rutland Flood Hazard Area Regulations.

#### Section 1210: Variances - Renewable Energy Resource Structure

On an appeal where a variance from the provisions of the Zoning Regulation is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variances, and render a decision in favor of the appellant if all of the following facts are found and the finding is specified in its decision.

It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the regulations; and

That the hardship was not created by the appellant; and 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, nor be detrimental to the public welfare; and

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

In rendering a decision in favor of an appellant under this Section, the Board of Adjustment may attach such conditions to the variance as it considers necessary and appropriate under the circumstances to implement the various purposes of these Regulations and the town plan then in effect.

#### Section 1211: Conditional Uses - Flood Hazard District

In all flood hazard areas (i.e., numbered and unnumbered A Zones), the Board of Adjustment shall require, as a condition of approval that:

All development meets the requirements of Attachment A - West Rutland Flood Hazard Regulations

#### Section 1212: Notifications - Flood Hazard District

For approved variances and noncomplying uses, the Secretary of the Board of Adjustment shall notify the applicant and include on the permit a notation that:

The structure is located below the base flood elevation will result in increased premium rates for flood insurance and increases the risk of life and property; and,

The structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner.

A copy of the permit shall be affixed to the copy of the deed of the concerned property on file in the municipal clerk's office.

See also Attachment A, Sections VII and VIII.

#### Section 1213: Appeals to the Board

##### Time for Filing

An interested person as defined under the Act [§4465] may appeal a decision or act of the Administrative Officer, by filing a notice of appeal with the secretary of the board of adjustment or with the clerk of the Town if no such secretary has been elected. Such notice of appeal must be filed within fifteen (15) days of the date of such decision or act, and a copy of the notice shall be filed with such officer.

An appeal may be rejected by the Board without a hearing if the Board considers that the issues raised were decided in an earlier appeal or that the facts are materially or substantially the same facts by or on behalf of the appellant. A decision shall be made within ten (10) days of the filing of the notice and include findings of fact (see Section 1212). For the purposes of Section 1215, this decision shall constitute a decision of the Board.

##### Interested Persons

The definition of an interested person under the Act [§4465(b)] includes the following:

- (1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;

- (2) The Town of West Rutland or any adjoining municipality;

- (3) A person owning or occupying property in the immediate neighborhood of a property which is the subject of a 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 plan or bylaw of that municipality;
- (4) Any ten (10) voters or property owners within the municipality who, by signed petition to the Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
- (5) Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

#### Notice of Appeal

Any notice of appeal, of a decision of the Administrative Officer, shall be filed in writing with the Secretary of the Board on forms provided by her/him, which shall include:

1. The name and address of the appellant;
2. A brief description of the property with respect to which the appeal is made;
3. A reference to the regulatory provisions applicable to that appeal;
4. The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations;
5. The alleged grounds why such requested relief is believed appropriate under the circumstances;

#### Hearing on Appeals

The Board of Adjustment shall hold a public hearing on a notice of appeal under these Regulations, which shall be within sixty (60) days of the filing of the notice of such appeal in accordance with Section 1213(1).

The Board shall give public notice of the hearing as described in Section 1413, and shall mail to the appellant a copy of such notice at least fifteen (15) days prior to the hearing date.

Any interested person as defined in 1214 C may appear and be heard in person or be represented by an agent or attorney at such hearing.

Any hearing held under this Section may be adjourned by the Board from time to time, provided however, that the date and place of the adjourned hearing shall be announced at that time.

All hearings held under this Section shall be open to the public and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 VSA Section 10.

#### Decisions on Appeals.

The Board of Adjustment shall render its decisions on each appeal, which shall include written findings of fact, within forty-five (45) days after completing the final hearing and, within that period, send to the appellant, by certified mail, a copy of the decision.

Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the clerk of the municipality as a part of the public records.

Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.

#### Section 1214: Appeals from Decisions of the Board

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the Planning Commission or Board of Adjustment may appeal a decision rendered by the Planning Commission or Board of Adjustment, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

- (1) "Participation" in a Planning Commission or Board of Adjustment proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Municipal Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

### **ARTICLE XIII: PLANNING COMMISSION**

#### Section 1301: Continuation of the Planning Commission

There shall be a Planning Commission for the municipality. The Planning

Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Legislative Body in accordance with the Act [ §§4321–4323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Legislative Body.

#### Section 1302: General Review of the Zoning Regulation

The Planning Commission shall carry on a continuous review of the zoning regulation and initiate proposals for amendment as required. As part of the accomplishment of its duties, the Planning Commission shall maintain complete records of its proceedings, studies and recommendations, as well as keep the Select board informed on the current status of the Zoning Regulations and their effectiveness within the Town.

#### Section 1303: Review of Zoning Amendments

The Planning Commission shall receive and evaluate proposals for amendment of the Zoning Regulations, hold public hearings on such amendments after due public notice as required in Section 1405, and make recommendations to the Select board with respect to such amendments.

#### Section 1304: Site Plan Review

The Planning Commission shall carry out site plan review for any use or structure, except for one-family and two-family dwellings, accessory structures, signs, land filling that uses over 100 yards of imported fill and uses subject to conditions.

#### Section 1305: Advisory Counsel to Other Agencies

Upon request, the Planning Commission shall serve as guide and counsel to the Select board of the Town, the Administrative Officer, the Board of Adjustment, and other public offices in matters relative to the Zoning Regulations.

#### Section 1306: General Rules of Procedure

No meeting or hearing in any way affecting the zoning ordinance may be held by the Planning Commission without the attendance of a majority of the Commission members; neither may any official action be taken with respect to the Zoning Regulations without the concurrence of a majority of the Commission members.

The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [ §4461(a)] and Vermont’s Open Meeting Law.

### ARTICLE XIV: OTHER PROVISIONS

#### Section 1401: Penalties for Violation

Any person who violates these Zoning Regulations shall be fined not more than one hundred dollars (100) per day for each offense after seven days warning notice by certified mail in accordance with the provisions of Section 4451 of the Act.

## Section 1402: Interpretation of Regulation

The provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except as provided to the contrary in the Act or these regulations, it is not intended by these regulations to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of these regulations shall control.

## Section 1403: Notice of Public Hearings

In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review, appeals of decisions of the administrative officer and variances and final subdivision review. 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:

- (1) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- (2) 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;
- (3) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, 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; and
- (4) For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

Public notice for site plan review shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum the following:

Posting of the date, place, and purpose of the hearing in three or more public places within the municipality, and;

Written notification to the applicant and to the owners of all properties adjoining the property subject to development, without regard to right-of-way. The notification shall include a description of the proposed project and shall be accompanied by 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.

The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the Planning Commission or Board of Adjustment where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Board of Adjustment or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

#### Section 1404 Hearings

In accordance with the Act [§4461], all meetings and hearings of the Planning Commission and Board of Adjustment, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Planning Commission and Board of Adjustment. The Planning Commission and Board of Adjustment, in conjunction with any hearing under this bylaw, may:

- (1) Examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
- (2) Require the attendance of any person having knowledge in the premises;
- (3) Take testimony and require proof material for its information; and
- (4) Administer oaths or take acknowledgement in respect of those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 1213 are met. The Planning Commission and Board of Adjustment shall keep a record of the name, address, and participation of each of these persons.

In accordance with the Act [§§4464(b), 4468], the Planning Commission or Zoning Board of Adjustment may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

#### Section 1405 Decisions

Any action or decision of the Planning Commission / Board of Adjustment shall be taken by the concurrence of a majority of the members of the



Commission/Board. In accordance with the Act [§4464(b)], the Planning Commission / Board of Adjustment shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46<sup>th</sup> day. In addition:

All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section \_\_. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

In rendering a decision in favor of the applicant, the Planning Commission / Board of Adjustment may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:

the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the West Rutland Legislative Body, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or

a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

All decisions of an Planning Commission / Board of Adjustment shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

#### Section 1406 Recording Requirements

Within 30 days of the issuance of a municipal land use permit or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the land records of the municipality generally as provided in 24 V.S.A. §1154(c), and file a copy in the Municipal Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.

#### Section 1407: Fees

Fees are to be established by the Select board for the costs of the Administrative Officer, the Board of Adjustment and the Planning Commission.

#### Section 1408: Amendments

Any provision of this Regulation, as well as the boundaries of the various zoning districts established herein, may be amended or repealed subject to the provisions of Sections 4441 and 4442 of Chapter 117 of Title 24 of the Vermont Statutes Annotated which are summarized below.

An amendment may be prepared by the planning commission or by any other person or body.

A proposed amendment prepared by someone other than the planning commission shall be submitted in writing along with any supporting documents to the planning commission. The planning commission may then proceed as if they had prepared the amendment or repeal. However, if the proposed amendment or repeal of a bylaw is supported by a petition signed by not less than five (5) percent of the voters of the municipality, the commission shall correct any technical deficiency and shall, without otherwise changing the amendment or repeal, promptly proceed as if it had been prepared by the Commission.

When considering an amendment the Planning Commission shall prepare a written report on the proposal. The report shall cover the issues detailed in 24 VSA 4441(c)

The planning commission shall hold at least one (1) public hearing within the town after public notice.

At least fifteen (15) days prior to the first hearing, a copy of the proposed amendment and the written report shall be delivered with proof of receipt, or mailed by certified mail, return receipt requested, to:

The chair of the planning commission of each abutting municipality, or in the absence of any planning commission in a municipality, to the clerk of that abutting municipality;

The executive director of the Rutland Regional Planning Commission; and  
The Department of Housing and Community Affairs within the Agency of Commerce and Community Development.

Any of the foregoing, or their representatives, may submit comments on the proposed amendment to the Planning Commission, or may appear and be heard in any proceeding with respect to the adoption of the proposed amendment.

The Planning Commission may make revisions to a proposed amendment and to the written report, and shall submit the proposed amendment and the written report to the Select board.

However, if requested by the Select board or if a proposed amendment was supported by a petition, the Planning Commission shall promptly submit the amendment, with changes only to correct technical deficiencies, to the Select board together with any recommendation or option it considers appropriate. Simultaneously with the submission, the Planning Commission shall file with the Clerk of the municipality a copy of the proposed amendment for public review. Not less than fifteen (15) nor more than one hundred twenty (120) days after a proposed amendment is submitted to the Select board they shall hold the first of

one or more public hearings, after public notice, on the proposed amendment and shall make copies of the proposal and any written report of the Planning Commission available to the public upon request. Failure to hold a hearing within the one hundred twenty (120) days shall not invalidate the adoption of the amendment.

The Selectboard may make minor changes to the proposed bylaw, amendment, or repeal, but shall not do so less than 14 days prior to the final public hearing. If the Selectboard at any time makes substantial changes in the concept, meaning, or extent of the proposed bylaw, amendment, or repeal, it shall warn a new public hearing or hearings. If any part of the proposal is changed, the legislative body at least 10 days prior to the hearing shall file a copy of the changed proposal with the clerk of the municipality and with the planning commission. The planning commission shall amend the report prepared pursuant to subsection 4441(c) of this title to reflect the changes made by the legislative body and shall submit that amended report to the legislative body at or prior to the public hearing.

A proposed bylaw or amendment shall be adopted or rejected by the vote of the town Select Board at the next regular or special meeting duly warned and held after the final public hearing. The adoption or rejection shall be effective 21 days after adoption.

Notwithstanding subsection 10 of this section, a vote by the legislative body on a bylaw, amendment, or repeal shall not take effect if five percent of the voters of the municipality petition for a meeting of the municipality to consider the bylaw, amendment, or repeal, and the petition is filed within 20 days of the vote. In that case, a meeting of the municipality shall be duly warned for the purpose of acting by Australian ballot upon the bylaw, amendment, or repeal.

If the proposed amendment is not approved or rejected within one (1) year of the date of the final hearing of the Planning Commission, it shall be considered disapproved unless five (5) percent of the voters of the municipality petition for a meeting of the town to consider the amendment, and the petition is filed within sixty (60) days of the end of that year. In that case, a meeting of the town shall be duly warned for the purpose of acting upon the amendment by Australian ballot.

#### Section 1409 Severability

If any provision of this regulation is held invalid, the invalidity does not affect other provisions or applications of this regulation, which can be given effect without the invalid provision or application.

#### Section 1410: Effective Date

This Regulation shall take effect upon approval in accordance with the voting and other procedures contained in Section 4442 of 24 VSA 117.

#### Section 1411 Precedence of Regulation

The provisions of this regulation shall take precedence over any conflicting and less restrictive local laws.

This Regulation amends all preceding Zoning Regulations for the Town of West Rutland.

## ARTICLE XVI: DEFINITIONS

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

**Accessory Building.** A building or structure subordinate to and customarily incidental to a permitted principal building or structure located on the same lot or on an adjoining lot under the same ownership or Planned Unit Development designation.

**Accessory Apartment.** (See Section 1017.) Unit constructed within or attached to a primary single family residence located in a District in which single-family residences are a permitted or conditional use

**Accessory Use.** A use of land, buildings or structures subordinate to and customarily incidental to a permitted principal use located on the same lot, or on an adjoining lot under the same ownership or Planned Unit Development designation.

**Artist Studio.** Place used as both a dwelling place and a place of work by an artisan, or craftsman, including persons engaged in the practice, application, teaching, or performance of fine arts such as but not limited to drawing, vocal or instrumental music, painting sculpture and writing.

**Agricultural Use.** Land which is used for raising livestock, agricultural or forest products, including farm structures and storage of agricultural equipment. This definition includes the sale of agricultural products raised on the same property.

**Agricultural Structure.** A structure used for accepted agricultural practices as defined by the State of Vermont.

**Alteration.** Any exterior structural change which results in the changing the front, side or rear setbacks; any interior structural change for the purpose of changing use; any change of location of, or addition to, a building other than repairs or modification to a building or equipment.

**Associations/Lodges and Clubs.** An organization of persons having common interests, purposes etc.

**Attic.** The part of a building directly under the roof with a headroom of less than 5.5 ft. over three quarters of the floor area. The headroom shall be measured vertically from the top of the floor or floor beams to the bottom or underside of the roof or roof rafters. The floor area shall be measured horizontally from the inside of the exterior walls or underside of the roof or roof rafters at the floor level. The attic generally would not have a finished floor, windows, skylights and/or

permanent staircase and would not be occupied or used.

**Auto Service Station.** Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

**Basement.** Any area of the building having its floor sub grade (below ground level) on all sides.

**Bed and Breakfast.** A private home that has overnight lodging facilities for temporary and weekend guests. Where the only meal served to guests is breakfast.

**Board of Adjustment.** A body appointed by the Select Board to decide cases involving variances, conditional uses, appeals, and other matters as set forth in these regulations.

**Building.** Structure having a roof (including an awning or other similar covering, whether or not permanent in nature) supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel.

**Building Area.** Total of areas taken on a horizontal plane at the finished grade levels of the principal building and all accessory buildings.

**Building Height.** Vertical distance measured from the highest elevation of the proposed finished grade at the front of the building. Building height provisions shall not apply to agriculture structures.

**Business Office.** An office that specifically designates the activities of those engaged in the purchase or sale of commodities or in related financial transactions.

**Camp.** A building suitable for seasonal or temporary living purposes and never occupied for more than six (6) months in any twelve (12) month period and without indoor plumbing facilities.

**Camping Trailer Park.** A park with electrical, water and sewer hookups for the temporary use of travel trailers and recreational vehicles.

**Change in Use.** The change from one use listed in the Table of Uses, to another use listed in the Table of Uses.

**Clinic, Medical.** An office building used by members of the medical and dental profession for the diagnosis and outpatient treatment of human ailments.

**Community Center.** A public or private meeting hall, place of assembly, museum, art gallery, library, educational facility, or church.

**Conditional Use.** A use that has been determined to meet the general standards for conditional uses [24 VSA 4407 (2) A -E] for the District in which it is proposed to be located and for which specific standards have been developed and detailed

in Article IV.

**Condominium.** Real property consisting of units of individual ownership combined with ownership of common elements by the individual unit owners.

**Cottage Industry.** An activity, carried out in a dwelling or accessory structure, such as home offices, repair services, business and personal services, and goods produced or manufactured on site and which meets the conditions of Section 404. Cottage industries also include a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

**Country Inn.** A dwelling home converted to or to be converted to a lodging facility for temporary guests where all meals may be served.

**Coverage.** See lot coverage.

**Coverage, Building.** The percentage of a lot or development site occupied or intended to be occupied by all buildings and structures. Building coverage shall include the building area, but not more than 20% of the land covered by water bodies, watercourses, wetlands, and land having slopes of 25% or greater shall be included in the lot area used for computing the maximum allowable building coverage.

**Coverage, Total.** The percentage of a lot or development site occupied or intended to be occupied by all buildings, structures, parking areas, driveways, walks and similar improvements. Patios and terraces, as defined herein, shall be excluded. Total coverage shall include the building area and 50% of the surface area of tennis courts, but no more than 20% of the land covered by water bodies, watercourses, wetlands, and land having slopes of 25% or greater shall be included in the lot area used for computing the maximum allowable total coverage.

**Craft Shop.** A building or portion thereof where hand-crafted articles are produced and/or sold.

**Crawl Space.** That portion of a building located below the first floor of the building and which is less than 5 feet in height from floor to under beam.

**Development.** The division of a parcel into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building(s) or other structure(s), or any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

**District.** A specific portion of the town as established by the provisions of this ordinance and the zoning map.

**Dormitory Room.** Any room or space in a hotel, motel, lodge or bed-and-breakfast residence which contains beds offered to the public for compensation for transient occupancy and which has furnishing designed to accommodate

more than four (4) people per room.

**Drive-In Food or Other Self Service Restaurant.** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach with stacking or parking spaces for motor vehicles so as to either provide service to patrons while in a motor vehicle or intended to permit consumption outside of the building. A drive-in food service restaurant shall include self-service restaurants where food is generally served in disposable containers or plates and primarily over the counter.

**Dump.** Land or any area where trash, garbage, sewage, refuse of any nature, junk, discarded machinery, vehicles or parts thereof are collected, stored or deposited.

**Dwelling Unit.** Building or part thereof used as a living quarters for one family. The terms “dwelling”, “one-family dwelling”, “two-family dwelling”, “multi-family dwelling”, or “dwelling group” shall not include a motel, hotel, boarding house, bed and breakfast lodging, or similar structure but shall include mobile home.

**Dwelling, One-Family.** Detached building (including a mobile home) used as living quarters by one family. A state licensed or registered residential care home or group home serving not more than six persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single family residential use except that no such home shall be so considered if it locates within 1,000 feet of another such home.

**Dwelling, Multi-family.** Building used as living quarters by three or more families, living independently of each other.

**Dwelling, Two-family.** Building used as living quarters by two families, living independently of each other.

**Enclosed Storage.** A storage area that is surrounded by fencing, screening and/or other means which conceals the material to be stored from all abutting properties.

**Family.** One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage or adoption, no such single housekeeping unit shall contain more than five members.

**Family Child Care Home or Facility.** A home or facility where the owner or operator is licensed or registered by the state for child care.

**Floor Area (Gross).** Sum of the gross horizontal area of the floors of a building, all dimensions shall be measured between interior wall faces. Gross Floor Area shall include the area of basements, cellars, and half stories but not attics or crawl spaces as defined herein. Gross floor area shall exclude stairwells, elevator shafts, atriums and other similar holes in a floor above the lowest floor level.

**Floor Area (Patron).** All floor space accessible to customers, including foyers and hallways but excluding bathrooms and coatrooms.

Front Line, Building. The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

Gasoline Station. See Auto Service station.

Golf Course. A golf course shall consist of at least nine holes where regulation play is permitted as well as par three and pitch and putt courses.

Grade, Finished. Completed surfaces of ground, lawns, walks, paved areas, and roads brought to grades as shown on plans relating thereto.

Group Home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. section 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Guest Room. Any room or space in a hotel, motel, lodge or bed-and-breakfast residence offered to the public for compensation for transient occupancy and which has furnishings designed to accommodate not more than four (4) people per room.

Historic Site. An area deemed worthy of preservation for historical reasons. The area may be so classified by federal, state or local authority.

Historic Structure. Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of 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;

By an approved state program as determined by the Secretary of the Interior or

Directly by the Secretary of the Interior in states without approved programs.

Home Occupation. Any use conducted entirely within a minor portion of a one- or two-family dwelling, or the use of an accessory building on the same lot as such dwelling, carried on by the occupants thereof, which use is clearly incidental



and secondary to the use of the dwelling for living purposes and does not change the residential character thereof. See Section 1104.

Hotel or Lodge. A building or portion thereof kept, used, maintained, advertised, or held out to the public to provide overnight accommodations to said public for compensation, by the renting of rooms or a bed with a room.

Indoor Sports Recreational Facility. A fully enclosed building or area containing facilities for the practice of one or more recreational sports.

Industry (District I). Primarily basic industrial activities, many of which characteristically store bulk quantities of raw or scrap material for processing or manufacture to semi-finished projects. Major manufacturing and related industrial activities are also included. Production performance of the manufacturing industries consists primarily of receiving or storing semi-finished products or, in some cases, raw agricultural food products (other than livestock) for further processing, refining or assembling into finished or more finished products. The district is generally related to rail transportation for delivery of the heaviest bulk products.

Junk Yard. Any land, buildings or structure, excepting a licensed recycling facility, used for collecting or storage of discarded material; or for the collecting, wrecking, dismantling, storage, salvaging or sale of machinery parts or vehicles; or the storage of any unlicensed or non-operative vehicles not enclosed in a building.

Kennels. An establishment housing dogs, cats, or other domestic pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Land Development. See development.

Light Industrial/ Light Processing (District LI) – Those industries which are primarily for lighter manufacturing and related activities which characteristically produces a finished product from semi-finished materials, or in some cases from raw food products, but requires little or no outside material storage. The district may have less specific relation to fixed transportation routes and may rely primarily upon truck or air cargo deliveries for lighter bulk items.

Loading Space. Space logically and conveniently located for pickups and deliveries, on the same lot as the principal use. It should be scaled to the delivery vehicles expected to be used but not less than 15 feet by 25 feet with a minimum 15-foot height clearance. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

Lot. Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the minimum area, width, and depth required for a lot in the district in which such land is situated, and having frontage on the street, or other means of access.

Lot Area. Total contiguous area within the property line as shown on the property boundary maps.

Lot, Corner. A lot abutting on and at the intersection of two or more streets.

Lot Depth. Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the street line.

Lot Frontage. Each division line between any land and a public highway right of way or a private vehicular right of way existing or proposed. . *Also, the length of such line.*

Lot Line. Property lines bounding a lot.

Lot Width. Width measured at right angles to its lot depth, at the required lot frontage.

Manufactured Home. A factory built, single-family structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with a permanent foundation when connected to the required utilities as a place of human habitation but which is not constructed for transport other than to permit delivery to a permanent site.

Manufacturing, Light. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Medical Center. A facility for diagnosis and treatment of patients.

Mobile Home. A factory-built, single family structure, transportable in a single section on a permanent chassis and axle, designed to be used on a temporary foundation, and remain transportable or be set on a permanent foundation.

Mobile Home Park. A parcel of land under single or common ownership or control that contains, or is designed, laid out or adapted to accommodate two or more mobile homes.

Motel. Building containing rooms, which are rented as a series of sleeping units with outside entrances. For automobile transients, each sleeping unit consisting of at least a bedroom and bathroom.

Motor coach. A mobile vehicle designed for short-term occupancy, overnight lodging, or camping purposes, capable of being towed or self-propelled.

Motor Vehicle Sales Dealership. Land and/or buildings used for the display, sale and service of new or used mles, trailers, mobile homes, snowmobiles, motorcycles, all-terrain vehicles, boats, farm equipment or similar vehicles.

Neighborhood Commercial Facility. A commercial enterprise which primarily provides convenience goods and services, or basic necessities. This definition excludes bars, lounges and those commercial activities that have been specifically designated to non-residential districts by the Zoning Ordinance.

Nightclub. A place of business whose primary function is the serving of alcoholic beverages and providing entertainment.

Non-commercial. An activity or facility run by non-profit and/or available to the

general public without a fee.

**Nonconforming Lots 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.

**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 structure improperly authorized as a result of error by the administrative officer.

**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.

**Nonresidential Structure or Use.** All uses of buildings, structures, or land except one, two, and multi-family dwellings.

**Nursing Home.** A place, other than a hospital which maintains and operates facilities, for profit or otherwise, accommodating two or more persons unrelated to the home operator, who are suffering from illness, disease, injury or deformity and require nursing care. Nursing Home shall include Intensive Care, Skilled Care, Intermediate Care, Minimum Nursing Care, and Pediatric Convalescent facilities.

**Official Zoning Map.** The one true copy of the Town Zoning Map located in the office of the Town Clerk.

**Open Storage.** The keeping in an unroofed area, of any goods, materials, merchandise, or vehicles in the same place for more than 24 hours.

**Outdoor Recreation.** Outdoor sports and activities such as skiing, hiking, tennis, golf, horseback riding, fishing, hunting, swimming, and similar activities, and structures necessary to and incidental to the actual carrying on of such activities.

**Park, Municipal.** Any park or recreation area or facility owned by the Town of West Rutland.

**Parking Space.** A defined space, which is at least nine (9) feet wide and twenty (20) feet long, located outside of the right of way, parking aisle, or driveway, used for the parking of one motor vehicle, with practical access to the road or right of way, and graveled sufficiently to permit year round use.

**Permitted Use.** Use specifically allowed in a district (see Article III) excluding illegal uses, conditional uses and nonconforming uses; permits are required for each permitted use.

**Personal Services.** Includes barber, hairdresser, beauty parlor, shoe repair, shoeshine, laundry, dry cleaner, photographic studio, and businesses providing

similar services of a personal nature.

**Planned Unit Development.** An area of land, controlled by a landowner or landowners, to be developed as a unified project and single entity for a number of dwelling units and/or commercial and industrial uses, the proposal for which does not correspond to the requirements of uses listed in Section under “Not in PUD” in any one or more districts created in these Zoning regulations, with respect to setbacks, coverage, lot size, density, required open space, and/or uses. Specific requirements and uses for a PUD are contained within Section 204

**Principal Building.** A building in which is conducted the main or principal use of the lot on which said building is located. Attached garages or carports, open at the sides but roofed, are part of the principal building.

**Private Club.** A building or portion of a building, or use open to club members and their guests, and not to the general public, and not operated for profit.

**Professional Residence-Office.** Residence in which the occupant has a professional office of an architect, accountant, chiropractor, dentist, doctor of medicine, landscape architect, land surveyor, lawyer, optometrist, osteopath, physiotherapist, consultant, podiatrist, engineer, or psychologist, which does not change the residential character thereof.

**Public Water, Public Sewer.** Water supply and sewage disposal systems approved by the legislative body for municipal operation.

**Recreation, Private.** Recreation uses privately owned and operated, including picnic grounds, archery ranges, hiking and riding trails, hunting and fishing areas, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites, golf driving range, golf pitch and putt course, par three golf courses, skating rinks, swimming pools, parks, beaches, tennis courts, indoor bowling alley, theater, table tennis and pool hall, gymnasium, health club, hobby workshop, riding stables.

**Recycling Collection Point.** A use incidental to the principal use that serves as a local drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi public areas such as churches and schools.

**Rear Lot Line.** A lot line opposite and most distant from any lot frontage.

**Religious Institution.** Includes but not limited to church, temple, parsonage, rectory, parish house, convent, seminary, retreat house, and associated buildings.

**Renewable Energy Resources.** Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat, and geothermal sources. Includes any structures necessary for the collection or conversion of such energy.

Repair Shop. Facility for the repairing of small items or appliances.

Residential Care Home : A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board, and personal care to three or more residents unrelated to the home operator.

Residential Use. One-family, two-family or multi-family dwellings.

Restaurant. A public eating-place where seats and/or counters are provided for patrons. This definition shall not include a drive in food service or other self-service restaurant.

Retail Store. Includes shop and store for the sale of retail goods, personal service shops, department stores, commercial schools, and shall exclude any drive-up services, free-standing retail stands, auto service stations, motor vehicle repair service shops and motor vehicle sales dealerships.

Road Frontage. See Street Frontage.

Rooming or Boarding House. A residence used, but not specifically designed for, the accommodation of more than eight non-family members sheltered for profit.

Salvage Yard. An open area where wastes or used or second-hand materials are bought, sold, or exchanged, stored, processed or handled. Materials shall include, but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles.

Satellite Dishes. A device used to transmit and/or receive radio or electromagnetic waves to or from platforms.

School. Includes parochial, private, or public nursery schools, elementary schools, high schools, colleges, universities, and associated accessory uses.

Setback. The distance from a property line to a building or structure, excepting fences, signs, and stone walls, measured to its nearest wall, porch or deck, but not to steps or normal roof overhang.

Front Setback: Distance between a building or structure and any front lot line.

Rear Setback: Distance between a building or structure and a rear lot line.

Side Setback: Distance between a building or structure and a property line other than front lot line or rear lot line.

Shopping Center. A retail shopping area containing three (3) or more retail tenants in one or more buildings all situated on one lot.

Sign. Sign means any structure, display, device or representation which is designed or used to advertise or call attention to or direct a person to any business, association, profession, commodity, product, institution, service, entertainment, person, place, thing, or activity of any kind whatsoever, and is intended to be visible from a public thoroughfare. Whenever dimensions or areas of signs are specified, they shall include all panels, frames, and supporting structures excluding the building to which a sign may be attached.

Sign, Illuminated Internally. A sign usually constructed of plastic material that is

illuminated from an electrical source behind the sign face, referred to as backlighting.

Site Plan. A plan, to scale, showing uses and structures proposed for a parcel of land as required by these regulations. It includes lot lines, streets, building sites, open space, buildings, major landscape features, and proposed utility lines, if any. See Article IX for further criteria.

Story. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling above the floor of such story.

Street or Road. Public way for vehicular traffic, which affords the principal means of access to abutting properties.

Street Frontage. The length of a lot which abuts a public street, measured at the street from one lot line to the opposite lot line. Street frontage and lot frontage are not synonymous.

Street Grade. Officially established grade of the street upon which a lot fronts. If there is not officially established grade, the existing grade of the street shall be taken as the street grade.

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

Structure. An assembly of materials for occupancy or use including, but not limited to, a building, mobile home or trailer, swimming pool, tennis court, sign, water impoundments, wall or fence, except a wall or fence on an operating farm and small sheds typically used for storage and not exceeding 80 square feet.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

Before the improvement or repair is started; or

If the structure has been damaged, and is being restored, before the damage occurred.

The term does not, however, include:

Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

Any alteration of a structure listed on the National Register of Historic Places, or

a State Inventory of Historic Places.

Temporary. Unless otherwise defined, shall mean up to 90 days.

Terrace or Patio. An improved or graded area located on the ground with no structural supports other than subsurface base materials and/or retaining walls. A terrace or patio shall not be deemed a structure.

Trailer. Includes any camping trailer, travel trailer, pickup coach or motor home and/or any other vehicle used as sleeping or camping or living quarters mounted on wheels; or a camper body usually mounted on a truck and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, or boats; or is used as a temporary office.

Truck/Bus Terminal. A transportation facility from which trucks and or buses are dispatched and where vehicles are stored and/or maintained.

Utility, Public. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing to the public under state or municipal regulations to the public, electricity, gas, communications, or transportation.

Warehouse. A building or structure where wares or goods are stored before distribution to jobbers, retailers, or the general public. This definition includes bulk storage and bulk sale outlets.

Water Supply (Approved). A potable water supply approved by a state certified testing lab.

Well Head Protection Area. To be developed.

Wetland. An area that is inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Wholesale Establishment. Any firm doing business on a restricted customer basis and not available to the general retail public.

Zoning Administrative Officer. Refers to the Town's Zoning Administrator or the person appointed to administer the zoning regulations.

Zoning District. A section of the Town designated in the zoning ordinance text and delineated on the Official Zoning Map, in which requirements for the use of land, and building and development standards are prescribed.

Zoning Permit. The official permit applied for through and issued by the Zoning Administrative Officer for any land development or change of use within the Town of West Rutland.