ARTICLE IV
DISTRICTS & USES

Section 400: Establishment of Zoning

The Town of Wilmington is hereby divided into six (6) zoning districts as shown on the Official Zoning Map. Each district has a stated development purpose to guide state agencies, local agencies and public bodies in their work within each district – See Section 450 below. Every use must obtain a Permit unless otherwise exempt.

Districts:

- CON = Conservation
- VIL = Village
- RES = Residential
- R – RES = Resort - Residential
- COM/RES = Commercial/Residential
- R - COM/RES = Resort - Commercial/Residential

In addition to these districts, there are two zoning overlays:

- HDRD = Historic Design Review District (Article V)
- FLOOD = Flood Hazard Area Regulations (Article VI)

These zoning overlays are established through the use of maps and/or criteria referenced in this ordinance. These zoning overlays are further defined in Articles V & VI, with their boundaries and specific regulations.

Section 401: Interpretation of Zoning District Boundaries

When a parcel is located in two or more districts, the proposed structure or use must meet the regulations of the district in which it is physically located.

Where the boundary line between two zoning districts divides a lot and that lot is not owned by the same owner as any abutting lot, then the development provisions of either district may be extended by one hundred (100) feet. In extending the district line the overall effect of the development should, as much as practicable, retain the character and usability of each district.

Where the boundary line between two zoning districts divides a proposed structure, then the proposed structure or use must meet the regulations of the district in which more than fifty percent (50%) of the footprint of the structure is located. If a structure footprint is fifty percent (50%) in each district, then the more restrictive district requirements of the two districts shall apply.

Only uses, Permitted or Conditional, in each district and their Accessory Structures may be used on the portion of the property covered by the district. Accessory Uses may be allowed with a Permit in any district.

Section 410: Non-Zoned Land

Any area not presently zoned, through inadvertence or otherwise, shall be considered to be in the most restrictive district immediately adjoining it.

Section 420: Uses

Each district has defined "uses" which may be:

1. Allowed: Not requiring a zoning Permit
2. Permitted: Requiring a zoning Permit, unless specifically exempted
3. Conditional: Requiring Development Review Board approval and a zoning Permit
4. Secondary: An additional use to the Primary Use, requiring approval from the Development Review Board and a zoning Permit
5. Not Allowed: A prohibited use

Section 421: Uses and Structures Allowed without a Zoning Permit

Uses and structures allowed without a Permit or DRB approval include:

A. Agriculture or Silviculture as defined in 24 V.S.A. § 4413(d) (Primary or Accessory Structure/Use)
B. Small Structures of one hundred fifty (150) square feet or less
C. Bus Shelters
D. Home Occupations as defined in Section 460, 461, and 462
E. Recreation, Outdoor.

Section 422: Permitted Uses

A Permitted Use is, in any district, a use that is allowed only through issuance of a Permit by the Zoning Administrator.

Section 423: Conditional Uses

A Conditional Use is, in any district, a use that is allowed by approval of the Development Review Board followed by issuance of a zoning Permit by the Zoning Administrator.

Section 424: Secondary Uses

In order to provide for limited, sensible, mixed use of properties within the community, Secondary Uses are allowed as Conditional Uses in those zoning districts that allow only one principal building and one principal use on a lot. Home Business and Home Industry are considered Secondary Uses. In order for a use to be allowed as a Secondary Use, it must meet the Conditional Use approval standards of Article VII Sections 710, 720, 730, 731, 732, 740, 741 and 742, as well as the following standards:

A. The use must be allowed in the district as a Permitted Use, a Conditional Use, or a use Not Provided For in the list of uses.
B. The use must meet all requirements as specified in the district and this ordinance.
C. Where the standards for the Secondary Use are more restrictive than those for the Primary Use, the more restrictive standards shall be met.

D. Conditional Use approval must be obtained for the addition of any Secondary Use. The Development Review Board may review the use of the entire site when the Primary Use is also a Conditional Use.

Section 425: Uses Not Allowed

Except as protected by Vermont law as an Agricultural Use or an Accessory Agricultural Use licensed or Permitted under 10 VA 1021(f) and 1259(f) and 6 V.S.A. 4810, including but not limited to a Slaughterhouse, Agricultural:

In all districts the following uses are not allowed: machinery wrecking yards; smelters; blast furnaces; rendering plants; Slaughterhouse, Commercial; hide tanning or curing plants; concentrated animal feeding operations; manufacture or processing of products producing toxic environmental runoff or emissions, fertilizer (except for organic compost), rubber, asphalt, ammonia, chlorine; manufacture or refining of petroleum, gas, explosives; bulk storage of explosives; dumps, except municipally operated sanitary landfill or transfer stations.

Commercial wind energy generation facilities of any size are prohibited in all districts. (See Article VII, Section 732 (K) for Small Wind Turbine provisions.)

Section 426: Uses Not Provided For

Any legal use not listed or not defined herein that does not appear on the list of Uses Not Allowed (see Section 425 of this ordinance) may be approved as a Conditional Use upon a finding by the Development Review Board that such use is of the same general character as those Permitted or Conditional Uses within the district and will not be detrimental to other uses within the district or to the adjoining land uses.

Section 430: Legal Nonconformities (See 24 V.S.A. § 4412 (7))

"Nonconforming Structure" means a Structure which does not comply with height, setback, coverage or other dimensional restrictions or requirements established by this ordinance or any amendment thereto, but which complied with the dimensional restrictions or regulations in existence at the time of the construction of the building or structure.

"Nonconforming Use" means any use, whether of a building, structure, lot, or tract of land, that does not conform to the Land Use regulations of this ordinance for the district in which such use is located, either on the effective date of this ordinance or as a result of subsequent amendments that may be made to this ordinance, but that did conform to the land use regulations in existence at the time the use was established.

"Nonconforming Lot" means a Lot which does not comply with lot area, lot dimension, lot coverage, lot improvement and maintenance requirements for parking, storage and display areas, or other restrictions or requirements of the land use regulations of this ordinance for the district in which such lot is located, either on the effective date of this ordinance or as a result of subsequent amendments that may be made to this ordinance, but that did conform to the lot restrictions or regulations in existence at the time of the creation of the Lot.

Any Structure, Lot, or use which does not comply with the requirements of this ordinance for any reason other than those stated above will be considered a non-legal nonconformity and subject to remedy consistent with the provisions of this ordinance (see Article II Section 215 & 216) regarding enforcement, violations, and penalties).

Section 431: Changes to Legal Nonconforming Structures, Lots, and Uses

Nonconforming Structures, Lots, and uses shall be allowed to exist indefinitely, in accordance with 24 V.S.A. § 4303(16) and § 4412(7).

A. Legal Nonconforming Structures

Any alteration, renovation or change for the purpose of compliance with environmental, safety, health, or energy codes will be allowed to increase the degree of nonconformity, but only to the extent necessary to achieve compliance.

A nonconforming Structure may be altered, renovated, or changed in any direction for any reason, including routine maintenance and repair, **so long as it will not increase the degree of nonconformity.** Changes to non-conforming structures are allowed to the extent that:

1. The change to the non-conforming element of the structure remains within the footprint of the original non-conforming element or feature, including any overhangs or cantilevering.
2. Evidence of the footprint of the original non-conforming structure must be clearly established and maintained by the property owner seeking to rebuild within the footprint of the original non-conforming structure. The burden of proof as to the location of the original structure remains with the property owner seeking a Permit for such a change.
3. The change shall not increase the degree of non-conformity or encroachment into a setback.
4. A change will be considered a further encroachment of the non-conforming feature or element when it comes closer to the property line, or encroaches further into a setback, or further exceeds a height limitation creating the non-conformity.
5. A change will not be considered an increase in the degree of non-conformity provided that the change does not come closer to the property line, or encroach further into a setback, or further exceeds a height limitation creating the non-conformity. For example, if a house encroaches ten (10) feet into a setback and an attached deck encroaches fifteen (15) feet into that same setback, the house and the deck could be increased in size to the extent that no part of the structure encroaches more than the greatest existing encroachment of fifteen (15) feet into the setback. The house could be expanded by up to five (5) feet, and the deck could be continued so long as it did not encroach more than fifteen (15) feet into the setback.
6. A non-conforming structure which is destroyed or demolished may be restored to its earlier state provided the reconstruction commences within two (2) years of the date of loss and with the written approval of the Zoning Administrator for Permitted Uses or the Development Review Board for Conditional Uses. The Zoning Administrator or Development Review Board shall review such applications to reconstruct a non-conforming structure using the standards and processes applicable to all other

Permitted Uses and Conditional Uses, as applicable, and to the extent that the reconstruction does not increase the degree of non-conformity.

A zoning Permit issued by the Zoning Administrator and approval by the Development Review Board, if necessary, is required prior to commencing any such changes.

Any Structure, Lot, or use approved for a nonconforming alteration, renovation, or change shall remain subject to all other provisions of this ordinance.

B: Legal Nonconforming Uses

A Nonconforming use may be altered or changed for any reason so long as, in the opinion of the Zoning Administrator, it will not increase the degree of nonconformity.

Any Nonconforming use which is not actively engaged in for a period of twelve (12) months shall be considered a discontinued use and the property will become subject to the requirements of this ordinance unless extension is granted by the Development Review Board.

C: Legal Nonconforming Existing Small Lots (See 24 V.S.A. § 4412(2))

1) Minimum Lot Size – Nonconforming Existing Small Lot
   Any undeveloped lot in existence on or before the date of adoption of this ordinance may be developed for the Permitted or Conditional Uses listed for the District in which it is located and in compliance with all regulations for that District, even though not conforming to minimum lot size requirements for that District, provided:
   a) The lot was legally created.
   b) The lot has, or will have, a water supply system and wastewater system that comply with the Wastewater System and Potable Water Supply Rules currently in effect.
   c) The lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet as defined in the property deed. In the event there is a question as to property boundary and whether a property satisfies these criteria, the applicant may be required to submit a survey of the lot by a Vermont licensed surveyor, and shall have said surveyor pin the lot.
2) Reduction of Setback – Nonconforming Existing Small Lot
   Development of Nonconforming Existing Small Lots meeting the criteria of Section 431 (C) above shall be eligible for reduced setback requirements as follows:
   a) The percentage by which the setback is reduced from the minimum setback required shall not exceed the percentage by which the lot size is less than the minimum lot size. For example, if the lot area is 77% of the minimum lot size, the required setback(s) shall be at least 77% of the minimum setback.
   b) Except in the Historic Design Review District that allows a zero (0) setback, under no circumstances shall any setbacks be less than 10 feet from abutting property lines or 20 feet from the public road limits.
3) Merger of Nonconforming Existing Small Lots
   It is the express intent of this ordinance that existing small lots, which subsequently come under common ownership with one or more contiguous lots, shall not be deemed merged and may be separately developed or conveyed.

Section 432: Changes in Ownership -Legal Nonconforming Structures, Lots, or Uses

A nonconforming structure, lot, or use that changes ownership will have the legal nonconforming status pass to the new owner, as a "Grandfathered" nonconforming structure, lot or use.

All "Grandfathered" nonconformities of properties changing ownership will be subject to all of the provisions of nonconforming structures, lots, and uses as defined in Sections 430 & 431.

Section 440: Districts and District Requirements

For the six districts of the town:

- Conservation
- Village
- Residential
- Resort - Residential
- Commercial/Residential
- Resort - Commercial/Residential

This section provides a description of:

A. The purpose of the district
B. Features of the district
C. Permitted Uses in the district (those requiring a zoning Permit)
D. Conditional Uses in the district (those requiring Development Review Board approval)
E. Allowed uses in the district (those not requiring a zoning Permit or Development Review Board approval)
F. Any special development incentives in the district
G. A chart outlining development requirements of the district for:
    1. Density limits (how many structures are allowed based on lot acreage)
    2. Structures or uses per lot
    3. Maximum number of principle structures or uses allowed
    4. Minimum Lot Size (how big the lot must be)
    5. Minimum Frontage (how many feet of the lot must "front" a legal source of access)
    6. Minimum Depth (how many feet the sides of the lot must be "deep" from the front.
    7. Structure Height Maximum (how tall a structure may be)
    8. Setback – Front (how many feet a structure must be from the access road or right-of-way
    9. Setback – Side/Rear (how many feet a structure must be from a side or rear property line

Section 441: Height Limitations

Structures shall not exceed the height limitations set forth in the District requirements of section 450.

Any structure exceeding twenty four (24) feet at the eave line is subject to the approval of the Development Review Board. Adequate fire protection and safety shall be addressed by the Board in all structures approvals exceeding twenty four (24) feet at the eave line.

Explanation of the need for a Height Limitation:
According to the Wilmington Fire Chief, as of 03/23/15 Wilmington Fire Department has a 35' ladder that can reach up to 24 feet on a building. With an eave line height of 24 feet they can then get on the roof with other equipment to fight a fire, regardless of the overall roof peak height. In some cases a fire may break out in a manner such that the fire department may access a building from a window within 24 feet of the ground and access the roof from the interior. This may not be possible in some cases. In the interest of protecting Wilmington property owners, all properties should provide fire access to the roof within 24 feet of the ground level.

Section 442: Height Limitation Exceptions – Review Option

The Development Review board may approve structures exceeding this limit if the structure is found to be justified based on one of the following criteria:

A. Lot characteristics, topographical conditions or other natural features, allowing the additional height to meet the safety and aesthetic intent of this ordinance, or
B. The added height benefits the town and contributes to the character, historical, and scenic value of the neighborhood, town, and region.

All exceptions to exceed the height limitation, except as defined in Section 443 below, shall require evidence of written approval from the Wilmington, VT Fire Department.

All applications for a Height Limitation Exception under this provision Section 442 shall be required to demonstrate a 2 week visual indication of how high the structure shall be. The demonstration may be by placing, in the proposed location at the proposed maximum height, a pole with a colorful flag, floating large colorful balloons, or by some other easily visible indication. Notice of such height limitation exception visual demonstration shall be provided to the public through normal hearing notice channels.

Section 443: Height Limitation Exceptions – Excluded Structures

Exceptions to height limits are rooftop gardens, terraces, and similar features, ornamental and symbolic features of buildings and structures, including chimneys, turrets, spires, steeples, cupolas, belfries and domes, where such features are not used for human occupancy or commercial identification. The feature will cover no more than 10% of the footprint of the building. In no case shall the height of any structure exceed the limit Permitted by federal and state regulations regarding flight paths of aircraft.

Section 444: Calculation of Lot Dimensions and Setbacks

All lot dimensions including lot size and structure setbacks shall be calculated from the edge of any applicable road or right-of-way. In the case of a property line that may include a road or right-of-way, that portion of the property within the road or right-of-way shall not be considered in any dimensional calculations.

Section 445: Exceptions to Front Setback Requirements for Private Roads & Rights-of-Way

Front setbacks from private roads and rights-of-way serving more than one house or commercial locations shall be a minimum of 20 feet from the edge of the right-of-way. (Note: A right-of-way line is not necessarily the edge of the traveled portion of the road.)

Section 446: Exception to Setback Requirements - Small Structures

Small Structures as defined in Appendix III (see Structure, Small) have a zero setback and do not require a zoning Permit.

Section 447: Agricultural Exceptions

Agricultural (Farm) Structures for an Agricultural Use or Accessory Agricultural Use licensed or Permitted by the State of Vermont under 10 VA 1021(f) and 1259(f) and 6 V.S.A. § 4810 and meeting the criteria outlined in 24 VSA § 4413 (d) (1) do not require a Permit. While no Permit is required the applicant shall notify the Zoning Administrator of intent to build a qualified Agricultural Structure by submitting a plot plan showing property lines, all structures on the lot, setbacks and dimensions (pursuant to 24 VSA § 4413 (d) (1)).

Section 448: Community Facility Development Exceptions

All Community Facility development is subject to the terms of this ordinance including the application, approval and Permitting of the Zoning Administrator and Development Review Board, with the exception that, pursuant to 24 V.S.A. § 4413:

A. Zoning restrictions may not interfere with the municipality's intended functional use, and
B. Only those zoning restrictions of the following types may be applied: location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening. Zoning provisions for other than these types of restrictions may not be applied to municipal projects.

Community Facility includes all development, including sidewalks, for the following uses:

1) State or Community-owned and operated institutions and facilities.
2) Public and private schools and other educational institutions certified by the state department of education.
3) Churches and other places of worship, convents, and parish houses.
4) Public and private hospitals.
5) Regional solid waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 248.

Section 450: District Purposes and Descriptions

A. Conservation District (CON)

1. Purpose: To protect the undeveloped nature of those forest lands that provide scenic and recreational opportunities, public water supply, watershed protection, flood storage, fish and wildlife habitat, and timber production.

2. Description: These lands are primarily publicly-owned lands including the Green Mountain National Forest and privately owned utility lands with conservation easements pursuant to the Federal Energy Regulatory Commission (FERC) settlement agreement, except for those lands located within the Village District boundary.

3. Permitted Uses, Conservation District:
(Requiring a zoning Permit)

    - Accessory Use
    - Boundary Line Adjustment
    - Subdivision of Land, five or fewer lots
    - Temporary Retail Stand
    - Utility Facility
    - Wildlife Refuge

4. Conditional Uses, Conservation District:
(Requiring Development Review Board approval and a zoning Permit)

    - Agritourism
    - Camp, Recreational
    - Community Facility
    - Dwelling, One-Family
    - Dwelling, Seasonal
    - Parking Lot
    - Recreation Facility, Outdoor
    - Snowmaking Facility
    - Subdivision of land, more than five lots

For profit lodging with any number of guest rooms is prohibited in the Conservation District.

See Section 421 for uses and Structures Allowed without a zoning Permit.

5. Site Criteria – Conservation District:

Density Limits	Maximum of: 1 Camp or 1 Dwelling, One-Family per 25 acres Each Camp, Dwelling, One-Family is allowed one Accessory Structure. Fences are not counted toward density limits.
Structures / Uses per lot	Maximum of: 1 Principal Structure and 1 Principal use per lot Home Business & Home Industry are not considered Principal uses. Fences are not counted toward structure limits.
Dimensional Requirements - New Lots	
Minimum Lot Size:	5 Acres
Minimum Lot Frontage:	500 ft
Minimum Lot Depth:	500 ft
Structure Height (Max):	35 ft to the eave line from average grade All structures over 24 feet from average grade to the eave line are subject to Development Review Board approval. *
Setback-Front (Min):	40 ft Measured from edge of the actual or proposed road right-of-way
Setback-Side/Rear (Min):	25 ft Measured from the property line

6. Zoning District Incentives – Conservation District: None

While Home Occupations are allowed in the Conservation District, Home Businesses and Home Industry are not allowed in the Conservation District. (See Sections 460 – 463)

*See Section 441 regarding the safety need for a Structure Height Maximum.

B. Village District (VIL)

1. Purpose: To retain the character of the existing village, provide for future residential and commercial development through historically appropriate structures and business types at appropriate densities, and promote residential and tourist quality of life by preserving and developing a clustered village reflecting a visibly vibrant and energized community.

   Development and reconstruction shall reflect the character and ambiance of the historic village. Businesses shall promote economic stability and sustainability of the town through contributing substantially to the economic viability of the community. Businesses shall provide a substantially unique retail and service experience to attract visitors and meet the needs of residents. Businesses shall reflect the special character and ambiance of the town. Business sizes will be small in scale, consistent with the clustered downtown of the historic village.

   The village district will encourage development which creates a visible sense of excitement and activity, drawing people to stop and participate. Examples of desired activities include village strolls, street fairs, retail markets, art displays, outdoor dining, street-front dining, public seating areas, performance art venues, street performance and clustered communal areas. Building structures will be reflective of the historic nature of the town. Outdoor spaces will reflect the rural and bucolic nature of the area.

   The Historic Design Review District, as defined in Article V, is included in this district. Some of the parcels in the village are also subject to the Historic Design Review District Guidelines in Article V.

2. Description: These parcels fall within the Village District boundary on the Zoning Map. The Village District boundary was derived from the proposed land use Village District boundary in the 2015 Wilmington Town Plan.

3. Permitted Uses, Village District:
   (Requiring a zoning Permit)

   - Accessory Apartment
   - Accessory Use
   - Boundary Line Adjustment
   - Dwelling, One Family
   - Dwelling, Two-Family or Duplex
   - Family Child Care Home
   - Group Home, 1-8 residents
   - Office
   - Registered Family Child Care Home
   - Subdivision of land, five or fewer lots
   - Temporary Retail Stand

4. Conditional Uses, Village District:
(Requiring Development Review Board approval and a zoning Permit)

- Affordable Housing Development
- Agritourism
- Automotive Service Station & Repair Garage
- Automotive Services
- Bank
- Bar or Lounge
- Child Care Facility
- Community Facility
- Dwelling, Seasonal
- Dwelling, Multiple Family
- Educational or Institutional Facility
- Entertainment/Cultural Facility
- Food Stand
- Group Home, more than 8 residents
- Health Care Facility
- Home Industry
- Lodging - more than 2 guest rooms
- Maintenance Facility
- Manufacturing
- Mixed-use
- Multi Business Center
- Municipal Utility or Safety Related Facility
- Nursing Home /Assisted Living Facility
- Parking Lot
- Place of Worship
- Planned Unit Development (see Definitions)
- Private Club
- Recreation, Indoor
- Recreation Facility, Outdoor
- Restaurant
- Retail Business
- Service Business
- Subdivision of land, more than five lots
- Transportation Center
- Utility Facility
- Wholesale Business

Home Business (See Sections 460 – 463) and Lodging with less than or equal to two (2) guest bedrooms are allowed without a zoning Permit in the Village District.

See Section 421 for additional uses and structures Allowed without a zoning Permit.

5.a Site Criteria – Village District inside the Historic Design Review District:

Density Limits	Unlimited
Structures/Uses Per Lot	Unlimited
Dimensional Requirements - New Lots	
Minimum Lot Size:	1/8 acre
Minimum Lot Frontage:	40 ft
Structure Height (Max):	35 ft to the eave line from average grade Measured from average grade to the highest point of the roof line. All structures over 24 feet to from the average grade to the eave line are subject to Development Review Board approval. *
Setback-Front (Min):	0 ft Measured from edge of the actual or proposed road right-of-way to the dripline for 0 setback
Setback-Side/Rear (Min):	0 ft Measured from the dripline.

5.b Site Criteria – Village District outside of Historic Design Review District:

Density Limits:	Maximum of: 2 Dwelling units per acre. See Zoning District Incentive below. Fences are not counted toward density limits.
Structures/Uses Per Lot:	Maximum of: 2 Principal Structures and 2 Principal uses Home Business and Home Industry are not considered Principal uses. Fences are not counted toward structures limits.
Dimensional Requirements – New Lots	
Minimum Lot Size:	1/8 acre
Minimum Lot Frontage:	150 ft
Structure Height (Max):	35 ft to the eave line from average grade All structures over 24 feet from average grade to the eave line are subject to Development Review Board approval.*
Setback-Front (Min):	20 ft Measured from edge of the actual or proposed road right-of-way
Setback-Side/Rear (Min):	20 ft Measured from the property line

6. Zoning District Incentives – Village District:

Increased Density Option - Village District outside of Historic Design Review District:
Affordable housing may be allowed an increase in the density at a rate of an additional two (2) dwelling units per ½ acre.

*See Section 441 regarding the safety need for a Structure Height Maximum.

C. Residential District (RES)

1. Purpose: To provide areas for dwellings and low impact uses with consideration being given to historic settlement patterns, aesthetics, natural resources, and economic vitality.

2. Description: Lands in this District are already committed to residential development and comprise the remainder of land in Town not designated in any other district.

3. Permitted Uses, Residential District:
(Requiring a zoning Permit)

- Accessory Apartment
- Accessory Use
- Boundary Line Adjustment
- Dwelling, One Family
- Dwelling, Two-Family or Duplex
- Dwelling, Seasonal
- Family Child Care Home
- Group Home, 1-8 residents
- Subdivision of land, five or fewer lots
- Temporary Retail Stand

4. Conditional Uses, Residential District:
(Requiring Development Review Board approval and a zoning Permit)

- Affordable Housing Development
- Agritourism
- Camp, Recreational
- Campground/Recreational Vehicle Park
- Cemetery
- Child Care Facility
- Community Facility
- Dwelling, Multiple-Family
- Educational or Institutional Facility
- Golf Course
- Home Business
- Home Industry
- Mobile Home Park (a type of Planned Unit Development)
- Municipal Transfer Station
- Municipal Utility or Safety Related Facility
- Office
- Parking Lot
- Place of Worship
- Planned Unit Development (see Definitions)
- Quarry Operation - extraction of Earth Resources
- Recreation Facility, Outdoor
- Subdivision of land, more than five lots
- Utility Facility
- Wildlife Refuge

Lodging with less than or equal to two (2) guest bedrooms are Allowed without a zoning Permit in the Residential District.

See Section 421 for additional uses and structures Allowed without a zoning Permit.

5. Site Criteria - Residential District:

Density Limits	Maximum of 25% Lot Coverage: 1 dwelling unit plus an Accessory Apartment or 1 two-unit dwelling per acre. Fences are not counted toward density limits.
Structures/Uses Per Lot	Maximum of : 1 Principal Structure and 1 Principal use. Home Business and Home Industry are not considered Principal uses. A second dwelling in a separate Principal Structure may be constructed on any lot with more than three acres. Fences are not counted toward structures limits.
Dimensional Requirements – New Lots	
Minimum Lot Size:	1 Acre
Minimum Lot Frontage:	150 ft
Minimum Lot Depth:	150 ft
Structure Height (Max):	35 ft to eave line from average grade All structures over 24 feet from average grade to the eave line are subject to Development Review Board approval. *
Setback-Front (Min):	40 ft Measured from edge of the actual or proposed road right-of-way
Setback-Side/Rear (Min):	20 ft Measured from the property line

*See Section 441 regarding the safety need for a Structure Height Maximum.

D. Resort - Residential District (R – RES)

1. Purpose: To provide areas for dwellings with consideration being given to historic settlement patterns, aesthetics, natural resources, and economic vitality.

2. Description: The Resort/Residential district is as shown on the Zoning Map and corresponds to parcel boundaries shown. It is primarily some or all of the areas designated in the 1970 Haystack Master Plan as the "Golf Course Tract" and the "East Tract." It is to be applied to those areas of the town covered by the "Agreement: Haystack Mountain Ski Area, Inc. to Town of Wilmington" dated Feb 5, 1970 and amended from time to time by the DRB.

3. Permitted Uses, Resort - Residential:
(Requiring a zoning Permit)

- Accessory Apartment
- Accessory Use
- Boundary Line Adjustment
- Dwelling, One Family
- Dwelling, Two-Family or Duplex
- Dwelling, Seasonal
- Family Child Care Home
- Group Home, 1-8 residents
- Subdivision of land, five or fewer lots
- Temporary Retail Stand

4. Conditional Uses, Resort-Residential:
(Requiring Development Review Board approval and a zoning Permit)

- Affordable Housing Development
- Agritourism
- Airport runway
- Airport hangers
- Airport terminal facility
- Camp, Recreational
- Campground/Recreational Vehicle Park
- Cemetery
- Child Care Facility
- Community Facility
- Dwelling, Multiple-Family
- Educational or Institutional Facility
- Golf Course
- Home Business
- Home Industry
- Mobile Home Park (a Planned Unit Development)
- Municipal Transfer Station
- Municipal Utility or Safety Related Facility
- Office
- Parking Lot
- Place of Worship
- Planned Unit Development (see Definitions)
- Quarry Operation -Extraction of Earth Resources
- Recreation Facility, Outdoor
- Subdivision of land, more than five lots
- Utility Facility
- Wildlife Refuge

Lodging with less than or equal to two (2) guest bedrooms are Allowed without a zoning Permit in the Resort – Residential District.

See Section 421 for additional uses and structures Allowed without a zoning Permit.

5. Site Criteria: Resort - Residential District:

Density Limits	Maximum of: 25% Lot Coverage. 1 dwelling unit plus an Accessory Apartment or 1 two-unit dwelling per acre. Fences are not counted toward density limits.
Structures/Uses Per Lot	Maximum of: 1 Principal Structure and 1 Principal use Home Business and Home Industry are not considered Principal uses. A second dwelling in a separate Principal Structure may be constructed on any lot with more than three acres. Fences are not counted toward structure limits.
Dimensional Requirements – New Lots	
Minimum Lot Size:	1 Acre
Minimum Lot Frontage:	150 ft
Minimum Lot Depth:	150 ft
Structure Height (Max):	35 ft to the eave line from average grade All structures over 24 feet from average grade to the eave line are subject to Development Review Board approval. *
Setback-Front (Min):	40 ft Measured from edge of the actual or proposed road or right-of-way
Setback-Side/Rear (Min):	20 ft Measured from the property line

*See Section 441 regarding the safety need for a Structure Height Maximum.

E. Commercial/Residential District (COM/RES)

1. Purpose: The purpose of this district is to: encourage clustered economic development while preserving designated open spaces and historic village settlement patterns thus preventing sprawl and roadside strip development. PUDs are encouraged within the Commercial District and such types of development must meet the PUD requirements as well as consider physical and environmental limitations, such as flood hazard areas, wildlife habitat, steep slopes and traffic volume and flow.

2. Description: The Commercial/Residential districts are as shown on the Zoning Map and correspond to parcel boundaries shown.

3. Permitted Uses, Commercial/Residential:
(Requiring a zoning Permit)

- Accessory Apartment
- Accessory Use
- Boundary Line Adjustment
- Dwelling, One-Family
- Dwelling, Two-Family or Duplex
- Dwelling, Seasonal
- Family Child Care Home
- Group Home, 1-8 Residents
- Office
- Subdivision of land, five or fewer lots
- Temporary Retail Stand
- Wildlife Refuge

4. Conditional Uses, Commercial/Residential:
(Requiring Development Review Board approval and a zoning Permit)

- Affordable Housing Development
- Agritourism
- Automotive Service Station & Repair Garage
- Automotive Services
- Bank
- Bar or Lounge
- Camp, Recreational
- Campground/Recreational Vehicle Park
- Cemetery
- Child Care Facility
- Community Facility
- Dwelling, Multiple-Family
- Educational or Institutional Facility
- Entertainment/Cultural Facility
- Food Stand
- Golf Course
- Group Home (more than 8 residents)
- Health Care Facility
- Home Industry
- Kennel
- Lodging – more than 2 guest rooms
- Maintenance Facility
- Manufacturing
- Mini-Storage Facility
- Mixed-use
- Mobile Home Park (a Planned Unit Development)
- Multi-Business Center
- Municipal Transfer Station
- Municipal Utility or Safety Related Facility
- Nursing Home/Assisted Living Facility
- Parking Lot
- Place of Worship
- Planned Unit Development (see Definitions)
- Private Club
- Quarry Operations - Extraction of Earth Resources
- Recreation, Indoor
- Recreation Facility, Outdoor
- Restaurant
- Retail Business
- Service Business
- Slaughterhouse, Custom Processor
- Snowmaking Facility
- Storage Facility
- Subdivision of land, more than five lots
- Transportation Center
- Utility Facility
- Warehouse
- Wholesale Business

Home Business (See Sections 460 – 463) and Lodging with less than or equal to two (2) guest bedrooms are Allowed without a zoning Permit in the Commercial/Residential District

See Section 421 for additional uses and structures Allowed without a zoning Permit.

5. Site Criteria – Commercial/Residential District:

	Commercial Uses	Residential Uses
Density Limits	Maximum of : 25% Lot Coverage. Fences are not counted toward density limits.	Maximum of : 25% Lot Coverage. 1 dwelling unit plus an Accessory Apartment or 1 two-unit dwelling per acre. Fences are not counted toward density limits.
Structures/Uses Per Lot	Unlimited.	Maximum of: 1 Principal Structure and 1 Principal use. Home Business and Home Industry are not considered Principal uses. A second dwelling in a separate Principal Structure may be constructed on any lot with more than three acres. Fences are not counted toward structures limits.
Dimensional Requirements:	Commercial and Residential uses	
Minimum Lot Size:	1 Acre	
Minimum Lot Frontage:	150 ft	
Minimum Lot Depth:	150 ft	
Structure Height (Max):	35 feet to the eave line from average grade All structures over 24 feet from average grade to the eave line are subject to Development Review Board approval. *	
Setback-Front (Min):	40 ft Measured from edge of the actual or proposed road right-of-way	
Setback-Side/Rear (Min):	20 ft Measured from the property line	

6. Zoning District Incentives – Commercial/Residential District:

Lot Coverage Increase Option: If lot coverage consists of two (2) or more buildings, lot coverage may be increased from twenty-five (25%) percent to thirty (30%) percent.

*See Section 441 regarding the safety need for a Structure Height Maximum.

F. Resort - Commercial/Residential District (R - COM/RES)

1. Purpose: The purpose of this district is to: encourage clustered economic development while preserving designated open spaces and historic village settlement patterns thus preventing sprawl and roadside strip development. PUDs are encouraged within the Resort/Commercial District and such types of development must meet the PUD requirements as well as consider physical and environmental limitations, such as flood hazard areas, wildlife habitat, steep slopes and traffic volume and flow.

2. Description: The Resort-Commercial/Residential district is as shown on the Zoning Map and corresponds to parcel boundaries shown. It is primarily some or all of the area designated in the 1970 Haystack Master Plan as the "Base Tract." It is to be applied to those areas of the town covered by the "Agreement: Haystack Mountain Ski Area, Inc. to Town of Wilmington" dated Feb 5, 1970 and amended from time to time by the DRB

3. Permitted Uses, Resort - Commercial/Residential:
(Requiring a zoning Permit)

   - Accessory Apartment
   - Accessory Use
   - Boundary Line Adjustment
   - Dwelling, One-Family
   - Dwelling, Two-Family or Duplex
   - Dwelling, Seasonal
   - Family Child Care Home
   - Group Home, 1-8 Residents
   - Office
   - Subdivision of land, five or fewer lots
   - Temporary Retail Stand
   - Wildlife Refuge

4. Conditional Uses, Resort - Commercial/Residential:
(Requiring Development Review Board approval and a zoning Permit)

- Affordable Housing Development
- Agritourism
- Automotive Service Station & Repair Garage
- Automotive Services
- Bank
- Bar or Lounge
- Camp, Recreational
- Campground/Recreational Vehicle Park
- Cemetery
- Child Care Facility
- Community Facility
- Dwelling, Multiple-Family
- Educational or Institutional Facility
- Entertainment/Cultural Facility
- Food Stand
- Golf Course
- Group Home (more than 8 residents)
- Health Care Facility
- Home Industry
- Kennel
- Lodging – more than 2 guest rooms
- Maintenance Facility
- Manufacturing
- Mini-Storage Facility
- Mixed-use
- Mobile Home Park (a Planned Unit Development)
- Multi-Business Center
- Municipal Transfer Station
- Municipal Utility or Safety Related Facility
- Nursing Home/Assisted Living Facility
- Parking Lot
- Place of Worship
- Planned Unit Development (see Definitions)
- Private Club
- Quarry Operations -Extraction of Earth Resources
- Recreation, Indoor
- Recreation Facility, Outdoor
- Restaurant
- Retail Business
- Service Business
- Snowmaking Facility
- Storage Facility
- Subdivision of land, more than five lots
- Transportation Center
- Utility Facility
- Warehouse
- Wholesale Business

Home Business (See Sections 460 – 463) and Lodging of less than or equal to two (2) guest bedrooms are Allowed without a zoning Permit in the Resort - Commercial/ Residential District.

See Section 421 for additional uses and structures Allowed without a zoning Permit.

5. Site Criteria – Resort - Commercial/Residential District:

	Commercial Uses	Residential Uses
Density Limits	Maximum of: 25% Lot Coverage. Fences are not counted toward density limits.	Maximum of: 25% Lot Coverage. 1 dwelling unit plus an Accessory Apartment or 1 two-unit dwelling per acre. Fences are not counted toward density limits.
Structures/Uses Per Lot	Unlimited	Maximum of: 1 Principal Structure and 1 Principal use. Home Business and Home Industry are not considered Principal uses. A second dwelling in a separate Principal Structure may be constructed on any lot with more than three acres. Fences are not counted toward structure limits.
Dimensional Requirements:	Commercial and Residential uses	
Minimum Lot Size:	1 Acre	
Minimum Lot Frontage:	150 ft	
Minimum Lot Depth:	150 ft	
Structure Height (Max):	35 feet to the eave line from average grade All structures over 24 feet from average grade to the eave line are subject to Development Review Board approval. *	
Setback-Front (Min):	40 ft Measured from edge of the actual or proposed road right-of-way	
Setback-Side/Rear (Min):	20 ft Measured from the property line	

6. Zoning District Incentives – Resort - Commercial/Residential District:

Lot Coverage Increase Option – Resort - Commercial/Residential District:
If lot coverage consists of two (2) or more buildings, lot coverage may be increased from twenty-five (25%) percent to thirty (30%) percent.

*See Section 441 regarding the safety need for a Structure Height Maximum.

Section 460: Business Uses within a Dwelling or Accessory Structure

Some businesses within a dwelling or Accessory Structure are allowed, meaning they do not require a Permit. Those not defined to be allowed will require a Permit and/or approval of the Development Review Board as a Conditional Use. These sections define which business uses in a dwelling or Accessory Structure are allowed and which require a Permit as a Conditional Use.

Section 461: Criteria for Business Uses within a Dwelling or Accessory Structure

There are three (3) categories of business use within a dwelling or Accessory Structure: Home Occupation, Home Business, and Home Industry. All three (3) types of business use within a dwelling or Accessory Structure shall meet the following criteria:

A. The business use must be primarily carried out by the resident and their family members who share the residence.
B. The business has no more than three (3) full-time equivalent non-family member, non-resident employees.
C. The use is clearly incidental and secondary to the use of the dwelling for residential purposes. The use may take place in no more than 25% of the dwelling space or one thousand (1000) square feet, whichever is greater.
D. The use may also be carried out in all or in part of an Accessory Structure, up to a maximum of one thousand (1000) square feet.
E. The use may not change the external character of the dwelling.
F. Any retail sales must be the business' own products and services or ancillary support products.
G. For Home Business and Home Industry there must be adequate parking for client visits. On premises parking should be to the side and rear of the building if feasible. (See Section 462 below for Business uses within a Home allowing for client visits.) Home Occupations, by definition, do not allow client visits with the exception of Open Studios as allowed below. As such, no additional parking is required for a Home Occupation.

Section 462: Determining the Type of Business Use within a Dwelling or Accessory Structure

State Protection of Home Occupations: Vermont law protects the right of residents to "use a minor portion of a dwelling unit for **an occupation that is customary in residential areas** and **that does not have an undue adverse impact upon the character of the residential area** in which the dwelling is located." 24 V.S.A. § 4412(4)). Home Occupations are an allowed use. There is no need to obtain a Permit. Further clarification of what is considered a Home Occupation follows.

Home Occupation: In compliance with state law 24 V.S.A. § 4412(4) Home Occupations not requiring a Permit will be conducted in a fashion that is invisible to the character, quality, and nature of the community and the neighborhood.

A business that is not customary to residential areas is not considered a Home Occupation.

Businesses drawing customers, clients, or deliveries in excess of one (1) visit per day to the home are not considered a Home Occupation under this ordinance.

In addition to the vehicular visits, a Home Occupation is allowed up to two (2) Open Studio events of up to three (3) days each per year.

Home Businesses and Home Industries: are those business uses within a dwelling or Accessory Structure that remain small in scale, using a minor portion of the dwelling or Accessory Structure, but may have impact on the residential area in which the dwelling and/or Accessory Structure is located. They differ in the size of their impact on the residential area in which the dwelling and/or Accessory Structure is located and the type of business being conducted. Both provide products and services created within the dwelling or Accessory Structure.

Client Visits and Type of Business for Home Business and Home Industry

	Home Business	**Home Industry**
Expected daily client and/or vehicular visits	Less than 5 daily client and/or vehicular visits	Less than 10 daily client and/or vehicular visits
Type of Business	Customary to a residential area	Manufacturing or other business not customary to a residential area

Businesses meeting one or more criteria of a category will be considered to be within that class of Business within a home. A business need not meet both criteria.

Businesses within a Dwelling Requiring Development Review Board Approval: All business use in a dwelling or Accessory Structure not falling within these three (3) categories or not meeting the criteria of Section 461 above will be a Conditional Use subject to Development Review Board approval.

Section 463: Districts Allowing Business Use within a Dwelling

District	Home Occupation	Home Business	Home Industry
Conservation	No Permit Required	Not Allowed	Not Allowed
Village	No Permit Required	No Permit Required	Conditional Use
Residential	No Permit Required	Conditional Use	Conditional Use
Resort - Residential	No Permit Required	Conditional Use	Conditional Use
Commercial/ Residential	No Permit Required	No Permit Required	Conditional Use
Resort - Commercial/ Residential	No Permit Required	No Permit Required	Conditional Use

Conditional Uses require approval of the Development Review Board