Town of

Wilmington

TOWN OF WILMINGTON

ZONING ORDINANCE
&
DEVELOPMENT GUIDELINES

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ARTICLE I
ENACTMENT AND PURPOSE

Section 100: Enactment

In accordance with the Vermont Municipal and Regional Planning and Development Act, referred to in this document as the 24 V. S. A., Chapter 117, Subchapter 6, §4401 there is hereby established a zoning ordinance for the Town of Wilmington which is set forth in the zoning map and text which constitute this ordinance. The ordinance shall be known as the Wilmington zoning ordinance, hereinafter referred to as “this ordinance”.

This ordinance shall be interpreted, administered and enforced in conformity with the provisions of the Act as the same now exists or may hereafter be amended.

Section 110: Purpose

A. To guide the future growth and development of the Town in accordance with the duly adopted Town Plan.

B. To encourage land use that is in the best interest of the community through the classification of Uses in compatible venues and to segregate those Uses that are thought to be incompatible.

C. To protect and conserve the character of the community and to encourage the orderly social and economic development of the Town.

D. To assure that development takes into consideration and/or addresses the availability of present and future public facilities and services, schools, highways, police protection and other public requirements.

E. To prevent the pollution of watercourses and watersheds, safeguard water tables and avoid hazardous conditions and damage resulting from run-off.

F. To serve as a guide for the building of public and community needs and for private enterprise in building developments, making investments and other economic activity.

G. To conserve the Town's natural beauty and topography in such a way as to preserve the integrity, stability and value of land and buildings.

Section 120: Application of Regulations and Requirement for Zoning Permit

Maintenance and repair is encouraged and shall not require a Permit. No land development shall commence until a zoning Permit has been issued by the Zoning Administrator as provided for in § 4449(a). Land development is defined as the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other Structure, 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. Furthermore, all properties are subject to and must comply with the General and Specific Performance Standards as set forth in Article VII as well as such Article V Historic Design Review District, Article VI Flood Hazard Area, Article VIII Signs, and Article IX Telecommunications.

In the case of conflicting provisions, the more restrictive provision shall apply.

Section 130: Interpretation

Interpretation is in compliance with § 4413(c) of the Act. This ordinance is not intended to repeal, annul or in any way impair any regulations or Permits previously adopted or issued. These regulations may impose a greater restriction upon Use of a Structure or land than are required by any other statute, ordinance, rule, regulation, easement, or agreement. The application of these regulations shall not invalidate any regulation by another governing body having jurisdiction such as the state or a private owner's association.

Section 140: Severability

If any section or provision of this ordinance is adjudged to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the ordinance as a whole or of any party thereof other than the part so adjudicated.

Section 150: Official Zoning Map

The boundaries of zoning Districts shall be established and clearly indicated upon an Official Zoning Map (Map), titled "Zoning Districts, Town of Wilmington", adopted as part of this chapter. The Map shall be kept and maintained at the Wilmington Town Office. Any copies of the Map shall be for reference purposes only.

ARTICLE II
ADMINISTRATIVE PROCEDURES

Section 200: Purpose

The purpose of this Article is to:

A. Provide for the orderly, equitable, and fair administration of zoning regulations.

B. Encourage a collaborative and collegial approach between the public and town administrators in achieving compliance with zoning regulations.

C. Protect the rights and interests of the public and the town of Wilmington in compliance with state laws and regulations.

Section 210: Role of the Zoning Administrator

Section 211: The Role of the Administrative Officer, referred to in this document as "Zoning Administrator".

The provisions of this ordinance shall be administered and enforced by a Zoning Administrator appointed by the Selectboard. The Zoning Administrator shall administer this ordinance literally, and shall not have the power to Permit land development that is not in conformity with this ordinance. 24 V.S.A. § 4448(a)

Section 212: Land Development Zoning Permits Issued by the Zoning Administrator

Land development as defined herein, which is subject to these regulations, shall not be commenced until a zoning Permit has been issued by the Zoning Administrator, as provided for in 24 V.S.A. § 4449.

Changes in Use as defined herein, shall not commence until a zoning Permit has been issued by the Zoning Administrator, and in the case of Conditional Uses, the Development Review Board. A Change of Use occurs when a Use within a Structure or property changes to another Use of the Structure or property. Changes in Use where the new Use is substantially similar to the prior Use will not be considered a Change in Use for the purposes of this Zoning Ordinance. Any Change in Use that is not substantial similar to the prior Use, even if within the same category of Use must obtain any written decision and approval and/or permit as defined in this ordinance.

Any proposed development not in strict conformity with the requirements of this zoning ordinance or where the applicability and intent of the provisions of this zoning ordinance as relates to the proposed development are unclear shall be referred to the Development Review Board. No zoning permit shall be issued on such a proposed development prior to receiving the written decision and approval from the Development Review Board.

A new Permit may not be issued by the Zoning Administrator for any property on which a Notice of Violation has been issued, except to cure the Violation.

A. Issuance of Zoning Permit: A zoning Permit may not be issued by the Zoning Administrator except in conformity with this ordinance and in accordance with 24 V.S.A. § 4449 and the following provisions:

1. **Within thirty (30) days of receipt** of a complete application, including all application materials and fees, the Zoning Administrator shall act to either issue or deny a zoning Permit in writing, or to refer the application to the Development Review Board. In accordance with 24 V.S.A. § 4448 and § 4449, if the Zoning Administrator fails to act within the thirty (30) day period, a Permit shall be deemed issued on the thirty-first (31st) day.
2. A zoning Permit shall not be issued by the Zoning Administrator for any Use or Structure that requires a written decision and approval of the Development Review Board, until such written decision and approval has been obtained.
3. A zoning Permit shall include a statement of the time within which Appeals may be taken under 24 V.S.A. § 4465, and shall require posting of a notice of Permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for Appeal has expired, pursuant to 24 V.S.A. § 4449(b).
4. **Within three (3) business days of the date of issuance** the Zoning Administrator shall deliver a copy of the zoning Permit to the Listers and shall post a copy of the Permit in the municipal offices **for a period of fifteen (15)** days from the date of issuance. For Permits for new construction, substantial Structure change, or occupancy, the Zoning Administrator shall also deliver a copy to:
   i. the chief of the fire department, and
   ii. the chief of police.
5. If public notice has been issued by the Selectboard for their first Public Hearing on a proposed amendment to these regulations, **for a period of one hundred fifty (150) days** following that notice the Zoning Administrator 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 one hundred fifty (150) day period, or if the proposed bylaw or amendment is rejected, the Permit shall be reviewed under all applicable provisions of this bylaw, pursuant to 24 V.S.A. § 4449(d).

B. Effective Date of Zoning Permit: A zoning Permit issued pursuant to this Section **shall not take effect until the time for Appeal has passed, which is the 15th day following the issuance of said Permi**t [24 V.S.A. § 4465], or in the event that a notice of Appeal is properly filed, such Permit shall not take effect until the final adjudication of such Appeal.

C. Duration: A zoning **Permit shall be valid for a period of twenty-four (24) months** from the date of issuance. If all authorized activities are not substantially completed within twenty-four (24) months, the zoning Permit shall expire and a new zoning Permit or an extension of the existing Permit shall be required.

D. Notice of Expiration: The Zoning Administrator will **notify the Permittee in writing 60 days prior to the expiration** of the Permit if notice of completion has not been received by the Zoning Administrator. The Zoning Administrator shall, within 30 days of notice

of completion or expiration of the Permit, whichever comes first, visit the site to assess compliance with Permit requirements and the provisions of the zoning ordinance.

E. Extensions: The Zoning Administrator may grant one extension to a zoning Permit when any of the following circumstances exist:

1. Weather conditions interfere with work.
2. Inability of the applicant to obtain all necessary State or Federal Permits in time to meet the expiration date.
3. Contractual or Permit obligations or pending litigation cause a delay.

The Zoning Administrator shall not grant an extension if the Zoning Bylaw has been subsequently amended and the amendment relates in any manner to the application, or if a Site Plan written decision and approval from the Development Review Board required for issuance of the zoning Permit has expired.

F. Posting of Permit Notice: Pursuant to 24 V.S.A. § 4449(b) the **Permittee must post the Permit Notice "within view from the public right-of-way most nearly adjacent to the subject property until the time for Appeal has passed, which is the 15th day following the issuance of said Permi**t [24 V.S.A. § 4465]**.**" (Refer to Section 275 of this Article for Appeal procedures.)

Section 213: Sign Permits Issued by the Zoning Administrator

A Sign Permit shall be secured from the Zoning Administrator based on Permit requirements outlined in Article VIII Sections 840, 841, 842, 843, and 844.

Section 214: Administrative Waivers Granted by the Zoning Administrator

Waivers may be granted by the Zoning Administrator (Development Review Board written decision and approval is not required) for relief from dimensional requirements for existing buildings under the following conditions:

A. To improve access for disabled persons, except in the Historic Design Review District, which must be reviewed by the Development Review Board
B. To improve fire safety
C. To construct an entryway with a footprint of not more than 25 square feet
D. To construct an exterior stairway
E. To install weather proofing and exterior insulation
F. To allow for non-substantial alteration, extension, or other change (as determined by the Zoning Administrator) to a Development Review Board decision. Substantial alteration includes substantial site plan change, design change, or other change to a Conditional Use that will affect one or more of the Conditional Use standards or other criteria of the zoning ordinance.

Waiver Criteria: Waivers meeting these criteria may be granted by the Zoning Administrator if the waiver is:

A. For the minimum size necessary to serve its intended function.
B. No front setback is reduced to less than two (2) feet, except in the Historic Design Review District where it may be zero (0).
C. The waiver is not to the detriment of the public welfare, including the safety and maintenance of the Town and State highways.

Section 215: Enforcement & Assessment of Penalties by the Zoning Administrator

The Zoning Administrator is responsible for the enforcement of the zoning ordinance and for assessing penalties for violations. The commencement or continuation of any land development or construction, or the erection, alteration or enlargement of a sign, without a Permit, that does not meet the requirements of these regulations, shall constitute a violation. All violations shall be pursued in accordance with 24 V.S.A. § 4451 and § 4452.

The Zoning Administrator shall enforce conformity with this ordinance.
Pursuant to 24 V.S.A. § 4451, no such action will be taken until seven (7) days after the violator has received written notice of violation by certified mail stating the nature of the violation and the opportunity to correct the violation without penalty. No seven (7) day advance notice is required for repeat offenses or violations.

Section 216: Penalties for Violations

Pursuant to 24 V.S.A. § 4451(a), penalties are enforceable under this zoning ordinance for up to a maximum of $200 for each offense, as defined in the table below. As required by 24 V.S.A. § 4451(a) **each day of violation without taking action to correct the violation is a new offense.**

The Zoning Administrator may suspend the imposition of a Penalty, for that time period when the violator is actively and expeditiously working toward resolution of the violation. At any time the violator is not working actively and expeditiously toward resolution, the violation will be reinstated and Penalties applied.

Penalties on any violation with a current Appeal action will be suspended during the Appeal process. Any violation not rectified through the Appeal process will have Penalties reinstated.

Tickets, enforceable through the Environmental Courts, will be issued for Penalties as defined below. Failure to pay an applicable fine within 30 days will result in doubling of the amount of the fine. Fines are payable to the Town of Wilmington.

Table of Penalties:

Article II- Administrative Procedures	**First Day of Offense**	**Each Subsequent Day of Offense**
Erection of a Large Structure without obtaining necessary Permit and/or a written decision and approval (over 150 sq ft in area, 10 ft high)	$200	$200
Use of a property or Structure without obtaining necessary Permit and/or written decision and approval	$50	$100
Article VII – Standards (see also Articles V, VI & IX)	**First Day of Offense**	**Each Subsequent Day of Offense**
Failure to comply with Standards	$50	$50
Article VIII - Signs	**First Day of Offense**	**Each Subsequent Day of Offense**
Erection of a sign without obtaining necessary Permit or written decision and approval	$20	$20
Failure to maintain signs in good repair	$20	$20
Failure to remove signs within 90 days of discontinuing business	$20	$20
Failure to comply with Sign Standards	$20	$20

A. No penalty will be assessed until seven (7) days after the violator has received written notice of the violation by certified mail stating the nature of the violation and the opportunity to correct the violation without penalty within the seven (7) days as provided for in 24 V.S.A. § 4451(a).
B. No seven (7) day advance notification is required for each new offense or each repeat violation within a twelve (12) month period as provided for in 24 V.S.A. § 4451(a).
C. A court action under this Section may be initiated in the environmental division or, as appropriate, before the judicial bureau, as provided in 24 V.S.A. § 4452.
D. The environmental division shall have the authority to revoke any Permit if it determines that the Permittee violated the terms of the Permit or obtained the Permit based on misrepresentation of material facts, as provided for in 24 V.S.A. § 4455.
E. Actions, injunctions, or other enforcement proceedings related to failure to comply with the terms and conditions of this zoning ordinance must be instituted within fifteen (15) years of the date of the first violation, except in the case of abating or removing public health risk or hazards; as provided for in 24 V.S.A. § 4454.
F. Housing provisions of this zoning ordinance may be challenged to the Attorney General as provided for in 24 V.S.A. § 4453.

Section 217: Zoning Administrator Maintains an Activity Log

The Zoning Administrator shall keep a daily Activity Log in the Administrative Office and available to the public. The Activity Log shall include a full and accurate record of activity including Permittee information and actions taken, including but not limited to:

1) Type of Permit issued: Structure, Use, Sign
2) Development Review Board written decision and approval Required Y/N
3) Incomplete applications
4) Permits denied
5) Administrative Waivers granted
6) Administrative Extensions granted
7) Complaints received
8) Violations identified
9) Notices of Violation issued
10) Violations rectified
11) Penalties levied
12) Penalties collected

A copy of the monthly Activity Log will be provided to the Selectboard, the Planning Commission, and the Development Review Board as of the first of each month. Inactive Activity Logs will be archived as a permanent record of the Town of Wilmington.

The Zoning Administrator shall record all violations in the Land Record for the Town of Wilmington pursuant to 24 V.S.A. § 4449(c).

Section 218: Zoning Administrator Maintains a Database of Signs

The Zoning Administrator is encouraged to establish and maintain a log of all Signs in the Town of Wilmington, VT, including but not limited to 1) the date or approximate date the sign was erected (if available), and 2) whether the sign a) predated zoning, b) obtained a Permit, c) is in conformity with all applicable zoning regulations.

Section 219: Zoning Administrator Maintains a Database of New Construction

The Zoning Administrator shall establish and maintain a log of all new construction in the town of Wilmington, Vermont taking place on or after the effective date of this Article revision. For each construction the Zoning Administrator shall establish and record information, including not limited to 1) the date or approximate date the construction was started, 2) whether the construction was Permitted, 3) and whether the construction was completed in conformity with all applicable zoning regulations.

Section 220: The Development Review Board

Section 221: The Role of the Development Review Board

The Development Review Board is governed by 24 V.S.A. § 4303(3) and § 4460 addressing Appropriate Municipal Panels (AMPs). The Development Review Board as an AMP is defined as follows:

A. The Selectboard shall appoint a Development Review Board as provided by law. [24 V.S.A. § 4460 and § 4461]
B. The Development Review Board shall consist of at least five (5) persons and up to three (3) alternates.
C. The Development Review 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 and Vermont's Open Meeting Law.
D. The Development Review Board shall hold hearings as provided for in 24 V.S.A. §§ 4460-4470. Pursuant to 24 V.S.A. § 4464(b)(1), after closing a hearing the Development Review Board approves or disapproves the applicant's development plan.

Section 222: Land Development and Uses Requiring Development Review Board Written Decision and Approval

The Development Review Board shall perform review functions, including but not limited to review of and making quasi-judicial decisions on the following:

A. Conditional Uses: Conditional Uses require public hearing and a written decision and approval by the Development Review Board (except in the case of Agriculture and Silviculture/forestry Uses that are governed by the provisions of 24 V.S.A. § 4413(d)). Review of proposed Conditional Uses is authorized by 24 V.S.A. § 4414(3) including:
   1. **Changes in Use or a new Use** that is a substantial expansion similar to the prior Use, even within the same category of Use (i.e.; Real Estate Service Business change to Hair Dresser Service Business,
   2. **New or substantial Land Development** as defined in this ordinance.
   3. **General and Specific Standards** conformity with standards of land development including construction, re-construction or modifications to Structures.
   4. **Use Specific Standards** applying to certain Permitted Uses.
   5. **Performance Standards** requirements applying to all Conditional Uses. 24 V.S.A. § 4414(3)(B) and 24 V.S.A. § 4414(5)
   6. **Commercial Parking and/or Loading Area** requirements applying to all Conditional Uses. 24 V.S.A. § 4414(4)
B. Nonconforming Structures, Lots and/or Uses: All Land Development and changes to Nonconforming Structures, Lots and/or Uses.
C. Planned Unit Developments (a Conditional Use): Review of all Planned Unit Developments (PUDs) as authorized in 24 V.S.A § 4417.
D. Site Plan Review: Review of all Conditional Uses applying Site Plan Review requirements. 24 V.S.A. § 4416.
E. Design Review Districts: Review land development or Use within a Design Review District. 24 V.S.A. § 4414(1)(E). The Wilmington Historic Design Review District is a Design Review District. It is not a Historic District as governed by 24 V.S.A. § 4414(1)(F).

F. Waivers or Variances: Review Waiver or Variance requests. 24 V.S.A. § 4414(8) and 24 V.S.A. § 4469
G. Right-of-way Easements: Review right-of-way or easement for land development without frontage. 24 V.S.A. § 4412(3)
H. Telecommunications: Reviews Wireless Telecommunications Facilities. 24 V.S.A. § 4414(12)
I. Flood Hazards: Review Flood Hazard compliance consistent with Article VI, Flood Hazard Area Regulations. 24 V.S.A. § 4414(1)(G) and § 4424
J. Review Appeals of the decisions, acts, or failures to act by the Zoning Administrator as provided for in 24 V.S.A. § 4465
K. Extensions: Grant extensions to prior Development Review Board written decision and approval for Land Development or Use.

Section 223: Development Review Board Site Plan and Design Review

Site Plan and Design Review is required for all Development Review Board reviews as defined above. The goals of Site Plan and Design Review are:

A. To build on the architectural patterns and landscapes that fit the character of the community.
B. To preserve and enhance the historic architectural patterns and agricultural landscapes of the town, maintaining the character of the community and a tourism corridor along the major highways through the Designated Downtown area.
C. To preserve the historical character of the Structures recognized by the National and State Register of historic places.
D. To promote economic development.
E. To sustain and enhance the physical attributes and natural beauty of the town.
F. To provide community services meeting the needs of the residents.
G. To provide for the health, safety, and wellness of the community.

Section 224: Development Review Board Site Plan and Design Review Submission Requirements

Any application for a zoning Permit for development subject to Development Review Board Review shall be made to the Zoning Administrator. Upon receipt of a complete application, the Zoning Administrator shall, within 30 days, submit it to the Development Review Board for a public hearing. Refer to Section 270 – 275 for additional information Development Review Board public hearings.

Prior to filing a completed application, property owners and their agents are encouraged to meet with the Zoning Administrator for a pre-application consultation. The applicant should bring to a pre-application consultation as many of the submission requirements (as defined below) as is available at the time of the consultation. While not required, the pre-application consultation provides an opportunity for the applicant and the Zoning Administrator to clarify the requirements and guidelines of this document and discuss materials that will be required for the hearing.

The application for Site Plan and Design Approval requires the following information when such information is necessary to fully understand the project and its impact on neighbors or the district. Should some aspects of the submission requirements not appear to be

applicable to a proposed project, the applicant should consult with the Zoning Administrator. Application submission requirements include:

A. A fully completed application including all of the following:
   a. Existing Site Plan: Lot layout including Lot dimensions, Structure dimensions and location, front, side and rear setbacks.
   b. Photographs of existing buildings including structural features and materials.
B. Existing Conditions of Development
C. Proposed Changes
   a. Proposed Site Plan: Lot layout including Lot dimensions, Structure dimensions and location, front, side and rear setbacks.
   b. Planting and/or Landscaping Plan
   c. Floor Plan

If deemed necessary to determine conformity with this ordinance, the Zoning Administrator and/or the Development Review Board may require:

D. Survey map
E. Material Samples
F. Exterior Elevations
G. Architectural Details
H. Grading and Drainage Plan
I. Utilities Plan
J. In the case of historic preservation, expert materials and guidelines in support of the proposed changes, such as Historic Preservation Trust guidelines or US Government's National Park Service Preservation Briefs.

Section 225: Development Review Board Site Plan and Design Review Submission Fees

All applications to the Development Review Board shall be accompanied by the appropriate fees as established by the Selectboard to cover the cost of advertising, processing and recording of Memorandum of Municipal Action.

Section 226: Development Review Board Decisions

The Development Review Board shall gather evidence during the course of public hearings, deliberate on, and make findings on all cases presented to the Development Review Board. In determining conformity with zoning requirements, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.

The Development Review Board's role is to apply the provisions of this zoning ordinance. All Uses and Districts as well as Standards shall be applied. In the case of Standards specific to a certain type of Use, the Use Specific Standard shall take precedence over any Standard for other types of Uses. In the case of conflicting provisions, the Standard for the Specific Use shall apply.

Board written decision and approval or disapproval shall be based on its judgment regarding the overall compatibility of the proposed project with the provisions of this ordinance. The

Development Review Board may attach such conditions to a decision that it deems necessary to meet the standards and criteria of the zoning ordinance

Pursuant to 24 V.S.A. § 4464(b)(1), **The Development Review Board shall, within 45 days of closing the public hearing, approve, approve with modifications, or deny such plans.** Failure of the Development Review Board to issue a written decision within this period shall be deemed approval and shall be effective on the 46th day. A deemed approval after the 46th day shall become effective only after the applicant petitions and receives approval from the Environmental Division of the Supreme Court.

Development Review Board written decisions shall address the requirements of the Districts & Uses (Article IV) and Standards (Article VII) of the zoning ordinance as well as the Site Plan and Design Guidelines (Appendix I). In addition, findings shall address such other provisions as may be applicable from the zoning ordinance, including but not limited to:

Article III Boundary Lines and Subdivision
Article V Design Review Districts
Article VI Flood Hazard Area
Article VIII Signs
Article IX Telecommunications

For projects not involving complex state or federal Permitting, Development Review Board **decisions shall expire after no more than twenty-four (24) months** from the date of issuance. For projects involving complex state or federal Permitting, the Development Review Board **decision shall expire after no more than forty-eight (48) months** after date of issuance.

The zoning Permit issued by the Zoning Administrator as a result of a Development Review Board hearing and subsequent written decision resulting in an approval shall expire on the same date as the Development Review Board decision expires.

If all authorized activities are not substantially completed, as determined by the Zoning Administrator, prior to the expiration date of the Development Review Board decision and zoning Permit, the applicant may request an administrative extension from the Zoning Administrator. If no administrative extension is received from the Zoning Administrator, the Permit shall be deemed expired and a new hearing shall be required from the Development Review Board.

All changes substantially completed (as determined by the Zoning Administrator) prior to the expiration date and in conformity with the Development Review Board Decision will be considered legal and conforming to this ordinance. Development not determined to be substantially completed on the expiration date shall cease until an extension is issued by the Zoning Administrator or a new Development Review Board hearing is held and decision is issued.

Land Development occurring without obtaining a valid Permit or occurring with an expired Permit that has not received a valid extension is subject to Penalties as defined in this Article. (See sections 215 – 216).

Section 227: Plan Changes after Receiving a Development Review Board Decision

A. Any substantial alteration or material change (as determined by the Zoning Administrator\) to a plan approved by the Development Review Board shall require re-application and review by the Development Review Board.

   Substantial alteration or material change means any change to a Permitted development plan approved by the Development Review Board which may have a significant adverse impact on any finding, conclusion, term or condition of the project's Permit or which may result in significant adverse impact with respect to any zoning criteria. This includes but is not limited to site plan and design changes.

B. For minor, non-substantial changes (as determined by the Zoning Administrator) not involving substantial change in a site plan, design, or other change to a Conditional Use previously addressed in a decision of the Development Review Board, the Zoning Administrator may issue a zoning Permit under Article II Administrative Approvals authority. The Zoning Administrator shall report all such administrative approval amendments to the Development Review Board.

Section 228: State and Federal Permits and Development Review Board Decisions

A. Any land development, construction, reconstruction, or Use subject to Act 250 pursuant to 10 V.S.A. § 151 shall be subject to the decisions of the Act 250 review and Permit process with regards to issues of:
   1) Water and air pollution,
   2) Availability of sufficient water,
   3) Burden on existing water supplies,
   4) Soil erosion and soil water absorption,
   5) Impact on highway, transportation, transit networks and services,
   6) Burden on educational facilities,
   7) Burden on municipal and governmental services,
   8) Impact on aesthetics, scenic beauty, historic sites, natural areas, wildlife habitat, or endangered species,
   9) Conformity with local and regional capability and development plans impact on:
      a. town or regional growth,
      b. agricultural soils,
      c. productive forest soils,
      d. earth resources,
      e. extraction of earth resources,
      f. energy conservation,
      g. private utility services,
      h. cost of scattered development,
      j. public utility services,
      k. public investments impact, and
      l. local and regional settlement patterns
   10) Conformity with local and regional plans or capital facilities program.

In addition to the findings of the Act 250 review, The Development Review Board may apply such other conditions, findings of fact and conclusions of law it deems necessary to ensure zoning ordinance conformity on the above issues.

For all other issues not addressed by Act 250, development projects shall be governed by and subject to the terms of this zoning ordinance including Development Review Board review and Permitting process as defined herein.

B. Land development, construction, reconstruction and Uses may be subject to other Permitting as required by the state and federal governments.

State Permitting agencies include but are not limited to the Agency of Natural Resources, the Department of Labor & Industry, the Department of Health, the Agency of Human Services, the Agency of Transportation, the Agency of Agriculture, Food & Markets, and the Department of Liquor Control.

Federal Permitting includes but is not limited to work in wetlands, rivers and streams, lakes and ponds, and historic properties.

The applicant is responsible for determining need for and obtaining any needed State or Federal required Permits. For more information on obtaining state and federal Permits, contact the state Agency of Natural Resources Permitting Specialist.

The Development Review Board shall include in all decisions a statement of applicant responsibility for obtaining any needed State or Federal required Permits.

Section 229: Dimensional and Sign Waivers Granted by the Development Review Board [Pursuant to 24 V.S.A. § 4414(8)]

In the case of proposed development that does not meet the standards of this ordinance, Waivers may be requested only for dimensional requirements when seeking a written decision and approval from the Development Review Board. In applying for a Waiver, the burden of proof is on the Applicant to demonstrate that the Waiver request meets Waiver criteria. The Development Review Board may require a survey to be completed at the owner's expense, if essential to verify the location of property lines.

In the event that a Waiver is granted, the Permittee must comply with all other requirements of this Bylaw.

Section 230: Structural Enlargements Not Eligible for a Dimensional Waiver from the Development Review Board

Structural enlargements to Nonconforming Structures meeting the requirements of Section 706 do not require a Waiver but must receive a written decision and approval by Development Review Board. Structural enlargements that do not meet the requirements of Section 706 are prohibited and are not eligible for a Waiver.

Changes to Nonconforming Undeveloped Lots, including construction of a Structure, meeting the requirements of Section 707 do not require a Waiver but must receive the written decision and approval of the Development Review Board. Development of Nonconforming Undeveloped Lots not meeting the requirements of Section 707 are prohibited and are not eligible for a Waiver.

All changes to Nonconforming Structures, Lots and/or Uses must receive a written decision and approval of the Development Review Board.

For additional information on Structures, Lots and/or Uses that do not conform to the current zoning ordinance but which complied with the zoning ordinance in existence at the time the Structure, Lot and/or Use was created or established, see Article VII Section 705 - 709.

Section 231: Criteria for Obtaining a Dimensional Waiver from the Development Review Board

Waivers may be granted by the Development Review Board only for dimensional requirements. No Waivers shall be granted for Uses, densities or other non-dimensional requirements of this zoning ordinance. No Waivers shall be granted for the alteration, renovation, change or development of a Nonconforming Structure that does not meet the requirements of Section 705-709). No Waivers shall be granted for the development of a pre-existing Non-Conforming Lot that does not meet the requirements of Section 705 - 709.

The Development Review Board may grant a Waiver after assessing the criteria below and finding that the proposed development meet all of the following criteria:

A. The proposed Land Development is impossible without actions that significantly exceed generally accepted development practices.
B. The Waiver is for the minimum reduction in the dimensional requirement necessary to provide relief from the specific zoning requirements, provided that
    1. The Waiver does not increase the footprint of the building by more than five (5) percent, or by no more than two hundred (200) square feet, whichever is less.
    2. No front setback is reduced to less than two (2) feet, except in HDRD where there is a zero (0) setback.
C. The proposed project is in conformity with the purpose of the Zoning district in which the land development is located and the Town Plan.
D. The Waiver does not have an undue adverse impact on appropriate Use or development of abutting or neighboring properties.
E. The proposed project does not have an undue adverse impact on the preservation of open spaces or scenic vistas.
F. The proposed project will not have an undue adverse effect on the following:
    1. Highways, roads, traffic patterns and circulation
    2. Public interests, health, safety, and services
    3. Water and wastewater capacity

Section 232: Criteria for Obtaining a Sign Waiver from the Development Review Board

The Development Review Board may grant a Waiver to sign requirements if the sign is found to be in the public interest and will contribute to the character of the area and the community. (Refer to Article VIII, Section 850)

Waivers meeting these criteria may be granted by the Zoning Administrator if the waiver is:

1. For the minimum size necessary to serve its intended function.
2. The waiver is not to the detriment of the public welfare, including the safety and maintenance of the Town and State highways.

Section 233: Dimensional and Sign Waiver Application and Review Process of the Development Review Board

A. An application to the Development Review Board for a dimensional or Sign Waiver may be made as part of, and simultaneously with, an application for Conditional Use review or as a separate application if Conditional Use review is not otherwise required.
B. Pursuant to 24 V.S.A. § 4460(e), the application shall come to the Development Review Board either as 1) an application from the property owner, 2) an Appeal of a decision made by the Zoning Administrator, or 3) as a referral from the Zoning Administrator.
C. The application for a Waiver shall follow the same procedure used for Conditional Use review, approvals, and Appeals. (See Section 222 thru 226 of Article II)
D. The Development Review Board shall assess the impact on abutters in deciding whether to grant the Waiver, or to place conditions in the written decision.
E. In granting a decision in favor of the Applicant, the Development Review Board may attach reasonable conditions including mitigation by design, screening, or other remedy.
F. Any Waiver granted under this Section shall be limited to the specific property to which it has been granted. A Waiver on one property shall not be construed as a general guideline or standard for any other property.
G. Waiver written decisions and approval shall expire if work is not substantially completed within twenty-four (24) months from the date they are approved. All work shall be substantially completed as shown on any approved plan before the expiration date. The Zoning Administrator shall be notified upon completion of the work. The DRB may grant an extension if an Application for an Extension is submitted prior to expiration of the Waiver.

Section 234: Dimensional Variances Granted by the Development Review Board for Other than Renewable Energy Resource Structures

The Development Review Board shall hear and decide requests for dimensional Variances pursuant to 24 V.S.A. § 4469. No Variances shall be granted for zoning requirements other than Dimensions. The Development Review Board shall 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:

A. There are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the

provisions of these regulations in the neighborhood or district in which the property is located,

B. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a Variance is necessary to enable the reasonable Use of the property,
C. Unnecessary hardship has not been created by the appellant,
D. The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate Use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare, and
E. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least deviation possible from these regulations and from the Town Plan.

Section 235: Dimensional Variances Granted by the Development Review Board for Renewable Energy Resource Structures

The Development Review Board shall hear and decide requests for Dimensional Variances pursuant to 24 V.S.A. § 4469. No Variances shall be granted for zoning requirements other than Dimensions. The Development Review Board may grant a Dimensional 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:

A. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource Structure in conformance with the bylaws,
B. The hardship was not created by the appellant,
C. The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate Use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare, and
D. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least deviation possible from these regulations and from the Town Plan.

Section 240: Appeals

Any decision, action, or failure to act of the Zoning Administrator or Development Review Board may be appealed. Processes and procedures relating to filing an Appeal follow.

Section 241: Appealing Decisions, Acts, or Failures to Act by the Zoning Administrator

Any person may Appeal any decision, act, or failure to act by the Zoning Administrator pursuant to 24 V.S.A. § 4465.

Section 242: Timeframe for Appealing a Decision, Act, or Failures to Act by the Zoning Administrator

An appeal of a decision, action, or non-action by the Zoning Administrator must be filed within 30 days of that decision, action, or failure to act.

Section 243: Where to Send an Appeal of a Decision, Act, or Failures to Act by the Zoning Administrator

Appeals regarding the decisions, actions, or lack of actions by the Zoning Administrator are made in writing to the Development Review Board. A copy shall be provided to the Zoning Administrator.

Section 244: Appealing a Zoning Decision, Zoning Administrator Act, or Failures to Act

The Development Review Board hears and decides Appeals, including those Appeals of determinations, actions, or failures to act by the Zoning Administrator in compliance with this ordinance. (See Section 240 – 245 of Article II)

Prior to initiating an Appeal of a decision or applying for a Variance the applicant may first request a Waiver from the Development Review Board.

In certain situations, Waivers may be granted by the Zoning Administrator. Refer to Section 214 of Article II for Zoning Administrator Waivers. A Waiver for dimensional requirements (other than density), Uses, or signs, may be granted by the Development Review Board if the case meets the criteria outlined in Sections 229 – 233 of Article II.

In the event that an Appeal of a Zoning Administrator decision, act, or failure to act is filed, the Development Review Board will hold a public hearing. The Development Review Board will set a date and place for public hearing of the Appeal and provide public notice of hearing as outlined in Section 270 - 275

As a result of the hearing the Development Review Board may 1) uphold the prior decision, 2) overturn the prior decision, or 3) determine that a Variance, with or without conditions (pursuant to 24 V.S.A. §§ 4469 and 4469(c)), may be allowed for the case, as defined in Section 226 - 228 of this Article.

Section 245: Successive Appeals

Requests for reconsideration of an Appeal may be made by providing notice to the Development Review Board, in which case another Appeal hearing may be scheduled. The Development Review Board may reject an Appeal for reconsideration and render a decision without hearing within 10 days of the date of receiving notice of Appeal if the Development Review Board finds the issues have been decided in an earlier Appeal or involve substantially or materially the same facts presented at the prior Appeal. 24 V.S.A. § 4470(a).

Section 246: Appealing Decisions, Acts, or Failures to Act of the Development Review Board

Appeals regarding the decisions, actions, or lack of actions of the Development Review Board are to be made in writing to the Environmental Court within 30 days of the decision, act, or failures to act. Refer to Vermont Rules for Environmental Court Proceedings (V.R.E.C.P.) 5 section (b)(1) for rules on filing an Appeal to the Environmental Court. Enforcement may be by mandate, injunction, process of contempt, or otherwise, pursuant to 24 V.S.A. § 4470(b).

Section 247: Authority for Enforcement

Decisions of the Zoning Administrator and the Development Review Board are enforced by the Town of Wilmington and upon petition, complaint, Appeal, or otherwise, the state's superior court civil or environmental division. 24 V.S.A. § 4470(b).

Section 250: The Role of the Planning Commission

Section 251: The Role of the Planning Commission in Adopting Changes to Zoning Bylaws and the Town Plan

The Planning Commission is made up of three (3) to nine (9) volunteer members appointed by the Selectboard for a term of one (1) to four (4) years. (24 V.S.A. § 4322, 4323) The Planning Commission includes Selectboard members as ex-officio, non-voting members of the Planning Commission (24 V.S.A. § 4322)

The Planning Commission prepares, holds public hearings on, and recommends to the Selectboard changes to the Town Plan (24 V.S.A. § 4349), zoning ordinances and bylaws, in addition to such other duties as may be defined in 24 V.S.A. § 4325.

The Planning Commission reviews, interviews, and recommends to the Selectboard appointments to the position of Zoning Administrator. 24 V.S.A. § 4448.

Section 260: The Role of the Selectboard

Section 261: The Role of the Selectboard in Appointing Planning Commission, Development Review Board, and Zoning Administrator

The Selectboard is the legislative body that appoints volunteers to their roles on the Planning Commission and the Development Review Board. Appointments are generally for a three (3) year term, but this may vary based on special circumstances such as in filling the remaining tenure of a previously filled position.

The Selectboard receives Zoning Administrator appointment recommendations from the Planning Commission. The Selectboard makes all final decisions and appointments on selecting a Zoning Administrator. The Zoning Administrator reports to the Town Manager, as a delegated authority from the Selectboard.

Section 262: The Role of the Selectboard in Adopting Changes to Zoning Ordinances, Bylaws and Town Plan

After the Planning Commission prepares, holds hearing on, and recommends changes to the Town Plan, zoning ordinance, or bylaws they submit the new recommended zoning bylaws, ordinances or Town Plan to the Selectboard. The Selectboard receives recommended changes to Zoning Bylaws from the Planning Commission (see Section 251 of this Article)

The Selectboard holds hearings on and makes all final determinations on zoning ordinance, bylaw or Town Plan changes and adopts them.

Section 263: The Role of the Selectboard in Enacting Emergency Ordinances

In the event of an emergency, within 72 hours (3 days) the Selectboard may issue, to property owners of improved properties or the municipality, temporary authorization for projects to address immediate threat to life and/or property. Such projects must:

A. Be necessary to protect life and/or property,
B. Be the minimum necessary to protect life and/or property,
C. Not adversely affect public safety, and
D. In the case of river and stream management, meet Agency of Natural Resources implementation standards for such projects.

Within 24 hours all river and stream projects must be reported by the Selectboard to the Agency of Natural Resources through their on-line application form. Submission must include:

1) Site map (such as a town road map) circling the area impacted
2) Sketches of work to be completed including cross-sections and planforms
3) Description of all fill amounts and cuts for authorized activity which are limited to
   - removing flood deposits to pre-flood river profile levels
   - filling river beds to pre-flood "armor bed" levels
   - filling river banks to bankfull width goals, without narrowing of beds
   - river stabilization (armoring, bankfull width channels and flood plains)
   - berming (discouraged, allowed only if absolutely essential.)
4) Documentation that the project work meets the Agency of Natural Resources implementation standards as defined in the Vermont Rivers and Road Field Manual.

The Agency of Natural Resources will issue a temporary Permit after initial review. A final Permit will be issued after a more complete review. After receiving a state Permit, the town would then seek FEMA authorization if applicable.

The Selectboard may delegate the authority for these approvals to an individual based on expertise and knowledge of relevant Vermont Regulations.

Section 270: Public Hearings on Zoning Decisions

Section 271: Public Hearings

Public Hearings will be held by the Development Review Board to address zoning applications including Site Plan Review, appeal of a Zoning Administrator decision, or Zoning Administrator Failures to Act.

Appeal of a Development Review Board decision is handled by the Superior Court of Vermont, Environmental Division.

Section 272: Who May Attend and Be Heard at a Public Hearing

<u>The public may attend all Public Hearings.</u>
Any "Interested Person" has the right to be heard at a Public Hearing.
Participation in the initial hearing proceedings is a prerequisite to making future Appeals.

An Interested Person, their agent, or their attorney may appear at the hearing and be heard on the issue, in either support or opposition, or to raise a point of interest or concern on the issue being heard. Pursuant to 24 V.S.A. § 4465(b), an Interested Person includes:

A. A group of ten (10) or more voters or property owners who, by signed petition presented to the Board, allege that the decision, proposed action or failures to act will or will not conform to policies, purposes, or the terms of the bylaw, ordinance or plan. The petition shall designate one person to serve as their representative regarding all matters related to the issue
B. A person owning title to a property who alleges that the decision, proposed action or failures to act will or will not impose unreasonable or inappropriate restrictions on or potential Use of the property.
C. A person owning or occupying property in an adjacent neighborhood or property subject to the decision, proposed action or failures to act, who can demonstrate a physical or environmental impact on their interests and who alleges that the decision or proposed action will or will not conform to policies, purposes, or the terms of the bylaw, ordinance, or plan.
D. The Town of Wilmington having a bylaw, ordinance or plan brought under review.
E. Any department of the state owning property or with interest in property in the town of Wilmington having a plan, proposed action or failures to act, brought under review and the agency of commerce and community development for the state.

Section 273: Development Review Board Hearing Notice Requirements for Conditional Use, Variance, Subdivision, or Appeal of Zoning Administrator Administrative Reviews

Pursuant to 24 V.S.A. § 4464(a), public notice of hearing will be provided at least fifteen (15) days prior to hearing for a review of Conditional Use, Variance, Subdivision, or the Administrative Review decision of the Zoning Administrator.

Administrative Review decisions of the Zoning Administrator include those reviews and decisions for new development or amendments to previously approved developments that would otherwise require review by the Development Review Board. The Development Review Board will retain review authority on any new development that results in substantial impact or substantially changes any of the findings of fact under a written decision of the Development Review Board and approval.

The Administrative Review decisions granted to the Zoning Administrator under this zoning ordinance include:

A. Administrative Waivers granted by the Zoning Administrator as defined in Section 214.
B. Administrative Permit amendments in Article VIII Section 843 Administrative Amendment to a zoning Permit.

The notices of hearing will be made:

1. In the Wilmington newspaper of record, and
2. In three (3) or more public places in Wilmington in conformance with 1 V.S.A. § 312(c)(2), including within view of the public right-of-way most nearly adjacent to the property for which application is made.

Written notice shall be sent to the applicant and the owners of all properties adjoining the subject property (regardless of whether intersected by a highway or other public right-of-way). The notices of hearing will include:

1. A description of the proposed project,
2. Information on where additional information can be obtained, and
3. Notification that participation in the proceeding is a prerequisite to making a future Appeal.

Section 274: Development Review Board Hearing Notice Requirements for Appeal of Non-Administrative Review Decisions of the Zoning Administrator

Upon receipt of notice of Appeal under 24 V.S.A. § 4465, and pursuant to 24 V.S.A § 4468, the Development Review Board shall set a public hearing date to be held within sixty (60) days of the notice of Appeal filing.

Public notices of hearing will be provided at least fifteen (15) days prior to hearing an Appeal. The notices of hearing will be made:

1. In the Wilmington newspaper of record, and
2. In three (3) or more public places in Wilmington in conformance with 1 V.S.A. § 312(c)(2), including within view of the public right-of-way most nearly adjacent to any property.

Written notice of hearing shall be sent to the appellant and any owners of properties adjoining the subject property (regardless of whether intersected by a highway or other public right-of-way). The notices of hearing will include:

1. A description of the Appeal,
2. Information on where additional information can be obtained, and
3. Notification that participation in the proceeding is a prerequisite to making a future Appeal.

Section 275: Development Review Board Hearing Notice Requirements for Any Other Development Review Purpose Including Site Plan Review

Pursuant to 24 V.S.A. § 4464(a)(2), public notice on all other types of development review, including site plan review, will be provided at least seven (7) days prior to the public hearing.

The notices of hearing will be made in three (3) or more public places in Wilmington in conformance with 1 V.S.A. § 312(c)(2), including within view of the public right-of-way most nearly adjacent to the property for which application is made.

Written notice shall be sent to the applicant as well as the owners of all properties adjoining the subject property (regardless of whether intersected by a highway or other public right-of-way).

The notices of hearing shall include:

1. Date, place, and purpose of hearing,
2. Information on where additional information can be obtained, and
3. Notification that participation in the proceeding is a prerequisite to making a future Appeal.

Section 280: Public Hearings on Changes to Zoning Bylaws

Section 281: Bylaw Changes and Adoption

The Planning Commission prepares recommended changes to bylaws or ordinances consistent with the Town Plan. Prior to sending a proposed bylaw or ordinance revision or adoption to the Selectboard for consideration, the Planning Commission must hold at least one Public Hearing to hear comments from the community, pursuant to 24 V.S.A. § 4441.

Prior to Selectboard adoption, amendment, or repeal of a bylaw or ordinance the Selectboard shall hold at least one public hearing pursuant to 24 V.S.A. § 4442.

Pursuant to 24 V.S.A. § 4442(b), the Selectboard may make minor changes to the bylaw or ordinance proposed by the Planning Commission, but shall do so at least 14 days prior to the final Selectboard held public hearing. Should the Selectboard make substantial changes to the concept, meaning, or extent of the bylaw or ordinance after public hearing, a new final hearing will be held on the proposed bylaw, with public advance notices as described below.

The Selectboard must notify the planning commission and the clerk of the municipality of the changes at least 10 days prior to the final hearing. The Planning Commission shall prepare an amended report to reflect the changes and submit the amended report to the Selectboard at or prior to the public hearing. This final report provides the Planning Commission the opportunity to voice any concerns they may have over changes made by the Selectboard to recommended language.

Pursuant to 24 V.S.A. § 4442(d), no Selectboard vote for adoption of a bylaw, amendment, or repeal shall take effect if, within 20 days of the vote, five percent (5%) of the voters petition for a public meeting to consider the proposal and to act upon the proposal by Australian ballot.

Pursuant to 24 V.S.A. § 4442(g), any proposed bylaw, amendment, or repeal will be considered disapproved if not acted on within one year of the date of the final hearing of the Planning Commission, unless within 60 days of the end of that year five percent (5%) of the

voters petition for a public meeting to consider the proposal and to act upon the proposal by Australian ballot.

Section 282: Public Hearing Notice Requirements for Preparation or Adoption of Bylaws and Ordinances

Pursuant to 24 V.S.A. § 4444, public notice of such hearings will be provided at least 15 days prior to the hearing date.

The notices of hearing will be placed:

1. In the Wilmington newspaper of record, and
2. in three (3) or more public places in Wilmington, in conformance with 1 V.S.A. § 312(c)(2).

The notices of hearing will include:

1. Location, place, and purpose, and
2. A copy of the text of the proposed material or a statement of purpose, a map or description of the geographic area covered, list of Sections headings or table of contents, and the place where the full text can be seen.

In addition to public notice as defined above, and pursuant to 24 V.S.A. § 4441, the town will provide required notices to abutting municipalities, the regional planning commission, and the department of housing and community affairs within the agency of commerce and community development.

Section 283: Who May Attend and Be Heard at a Planning Commission or Selectboard Hearing on Zoning Bylaws and Ordinances

The public may attend all Public Hearings. Any person has the right to be heard at a Public Hearing regarding a zoning bylaw or ordinance.

ARTICLE III
BOUNDARY LINES & SUBDIVISION

Section 300: Purpose

The purpose of this article is to define the processes and procedures for altering boundary lines and creating subdivisions.

Section 310: Boundary Line Adjustment

Boundary Line Adjustment is a method of adjusting boundaries of adjacent Lots without creating an additional Lot and which does not cause any parcel of land involved to become nonconforming.

Boundary line adjustments shall be issued a zoning Permit by the Zoning Administrator provided:

A. A survey, prepared by a Vermont licensed surveyor is provided identifying the dimensions of all Lots to be created or altered and the location of any road, highway, waterway, right-of-way or easement, and
B. All resulting Lots satisfy all requirements of the districts in which they lie, and
C. On a nonconforming Lot, the boundary line adjustment does not increase the degree of nonconformity.

A Development Review Board written decision and approval is required in all other circumstances.

<u>Upon completion of a Boundary Line Adjustment landowners are responsible for recording new deeds for affected properties in the land records.</u>

Section 320: Subdivision of Land

Pursuant to 24 V.S.A. § 4418 subdivision of Land creates two (2) or more Lots from a single Lot. Each Lot resulting from a subdivision of land shall have legal means of access by way of:

1. a public road, private road, highway, easement or right-of-way conforming to the Wilmington Highway Ordinance adopted September 27, 2011 as updated and amended from time to time, or
2. public waters

Subdivision of land applications shall be issued a zoning Permit by the Zoning Administrator provided:

A. A survey, prepared by a Vermont licensed surveyor, is provided identifying the dimensions of all Lots to be created or altered and the location of any road, highway, waterway, right-of-way or easement, and
B. The application creates five (5) or fewer Lots, and
C. Lot size and building setback requirements can be met for every Lot (See Article IV Section 450 for district site criteria setbacks), and
D. Frontage requirements
    1. can be met for every Lot or

2. at least one (1) Lot has the requisite road frontage, and a survey, prepared by a Vermont Licensed Surveyor, shows a right-of-way a preferred width of fifty (50) feet providing access to the remaining Lots. In no case will right-of-way be less than twenty (20) feet in width.

A Development Review Board written decision and approval shall be required for the subdivision of land in all other circumstances.

Upon completion of a Subdivision the landowner is responsible for recording new deeds for affected properties in the land records.

Section 330: Dimensional Calculations

Right-of-ways shall be excluded from all dimensional calculations as non-developable property.

Dimensional conformity shall be measured from the property line, or in the case of a right-of-way, from the edge of the right-of-way.

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.)

Ground mounted solar arrays are not allowed in the Village Historic, Design and Conservation Districts.

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
- Ground Mounted Solar Array
- 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
- Ground Mounted Solar Array
- Home Business
- 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 HomeGroup 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
- Ground Mounted Solar Array
- 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. <u>Conditional Uses, Resort - Commercial/Residential:</u>
(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

ARTICLE V
DESIGN REVIEW DISTRICTS
OVERLAY DISTRICTS
DESCRIPTION, USES, AND REGULATIONS

Section 500: Authority

An Overlay Districts: As provided for in 24 VSA § 4414(2) Overlay districts, the Historic Design Review District was created to modify the zoning requirements otherwise applicable in the underlying district in order to provide supplementary provisions to an area having unique historic, and community interest or value, 24 VSA § 4411(F) and high risk of flood hazard, 24 VSA § 4411(G)

A Design Review District: As provided in 24 VSA § 4414(E) - Zoning districts, zoning regulations may contain provisions for the establishment of design review districts for areas with Structures of

> *"historical, architectural, or cultural merit, and other areas of community interest and participation such as a central business district, civic center, or a similar grouping of focus of activities.* **.** *These areas may include townscape areas that resemble in important aspects the earliest permanent settlement, including a concentrated urban settlement with striking vistas, views extending across open fields and up to a forest edge, a central focal point or town green, and buildings of architectural quality, including styles of the early 19th century. Within such a designated design review district, no Structure may be erected, reconstructed, substantially altered, restored, moved, demolished or changed in Use or type of occupancy without approval of the plans by the appropriate municipal panel*" 24 VSA § 4414(E)

In Wilmington the Development Review Board is the municipalities appointed "appropriate municipal panel".

There are two Design Review Districts, the Village Design Review District and the Historic Design Review District. These are Overlay Districts as provided for under the above regulatory authority.

Within the Village Design Review District and the Historic Design Review District no Structure may be erected, reconstructed, altered, restored, moved, demolished or changed in Use or type of occupancy, except as otherwise provided for in Section 531 (A) & (B) of this Article, without a written decision and approval of the plans by the Development Review Board, subject to Site Plan and Design Review and administrative approval by the Zoning Administrator as provided for within this zoning ordinance pursuant to 24 VSA § 4464 (C).

Section 510: Village Design Review District Purpose

The basis for a Design Review District is to preserve the natural beauty, vistas and the visual character of the Village of Wilmington. The visual aspects of the Design Review Districts represent an important asset to the community by providing a source of pleasure for both residents and visitors, and contributing to the economic development of the community.

Section 511: Village Design Review District Boundaries (Identification of District)

The Village Design Review District Boundaries are illustrated on the zoning map.

The district boundaries are as follows:

The district includes those Structures and properties in the following area:

Starting at the southwesterly most boundary of the Historic Design Review District (HDRD) on the Beaver Brook, following Beaver Brook to the southerly most boundary of Baker Field on Beaver Brook.

Turning east following the south-eastern boundary of Baker Field and Deerfield Valley Farmers Day Association, continuing between the 43 East Main Street (gas station) and 53 East Main Street (Family Dollar), continuing across East Main Street in a straight line to the rear of 44 East Mains Street property fronting on East Main Street.

Turning West at the rear property line of 44 East Main Street, continuing westerly along the rear property lines of 28 – 44 East Main St.

Terminating at the connection point on the North-East corner of the HDRD at the intersecting rear property line of 24 and 28 East Main St.

Section 512: Goals of the Village Design Review District

The Site Plan and Design Goals of the Village Design Review District are as follows:

A. To promote the Use of buildings and property in a manner that benefits the community and individual property owners, while preserving the visual character of the village.
B. To attract visitors and encourage tourism by enhancing the visual character as a New England village.
C. To encourage maintenance of buildings and property, and support a visually attractive village for the pleasure of residents and visitors
D. To encourage and support economic growth and prosperity within the community while maintaining the visual character of the village.
E. To encourage public and private investment and to protect the interests of future generations.

The goals of this District shall be considered by the Development Review Board when considering proposed land development for this District.

Section 520: Historic Design Review District Purpose

The basis for the Historic Design Review District is to preserve the beauty, vistas and visual character of the many buildings of historic significance as defined by the National and State

Registers of Historic Places dating from the early 19th century. In order to protect these characteristics, it is necessary to ensure that proper attention is given to the historic exterior features of buildings and Structures so as to provide a means by which long term economic prosperity may be supported, property values can be stabilized or improved, and economic well–being of the community protected and fostered.

Section 521: Historic Design Review District Boundaries (Identification of District)

The Historic Design Review District Boundaries are illustrated on the zoning map.

The district boundaries are as follows: The district includes those Structures and properties with frontage on North, South, East and West Main Street, intersecting in the town center up to the following perimeter boundaries:

<u>East – West Perimeter:</u>
East Main Street (24 East Main – north side, 21 East Main – south side)
Across the intersection of Main Streets, continuing up to and including
West Main Street (37 West Main – north side, 36 West Main – south side)

<u>North – South Perimeter</u>
South Main Street (19 South Main – west side, Buzzy Town Park – east side)
Across the intersection of Main Streets, continuing up to and including
North Main Street (17 North Main – east side, 18 North Main – west side)

2 Lisle Hill Rd, which once fronted on North Main Street, is also included in the Historic Design Review District.

Section 522: Goals of the Historic Design Review District

The Site Plan and Design Goals of the Wilmington Historic Design Review District are as follows:

A. To preserve the historic and cultural heritage of the historic downtown.
B. To support maintenance, change and preservation of buildings and property in accordance with the design guidelines of this zoning ordinance and consistent with recognized and accepted standards for historic preservation projects.
C. To promote the Use of buildings and property in a manner that benefits the community and individual property owners, while preserving those features that have architectural or historic merit.
D. To attract visitors and encourage tourism by enhancing the visual character as a New England village.
E. To encourage maintenance and preservation of buildings and property and changes to support a visually attractive village for the pleasure of residents and visitors
F. To encourage and support economic growth and prosperity within the community while maintaining the New England character.
G. To encourage public and private investments that may result in a positive contribution to visual harmony and economic vitality, and protect these assets for future generations.

The goals of this District shall be considered by the Development Review Board when considering proposed land development for this District.

Section 530: Development Review Board Site Plan and Design Review Required on Design Review District Development

As required by §4414(1)(E), no Structure in any Design Review District (Historic or Village), "may be erected, renovated, substantially altered, restored, moved, demolished, or changed in Use or type of occupancy without a written decision and approval of the plans by the appropriate municipal panel." (The Development Review Board).

With the exception of those situations defined in Section 531, all development in a Design Review District must receive a written decision and approval from the Development Review Board and a Permit from the Zoning Administrator, including but is not limited to:

For the Historic Design Review District and the Village Design Review District:

A. Construction of a building.
B. Alteration of, tearing down, or removing any portion of an exterior wall or roof.
C. Filling in, sealing, boarding up, closing or enclosing any portion of an existing window, door, space, porch, or breezeway.
D. Changes to the materials of the exterior of a building that are of a kind or type different from the existing.
E. Significant changes to site features including, but not limited to screenings, driveways, parking areas, signs, service areas, and Structures. Changes to conditions of previously approved DRB plan.

For the Historic Design Review District (Not applicable to the Village Design Review District)

F. Addition to or alteration of the exterior of a building which increases or decreases the square footage of the building, whether enclosed or not.
G. Alteration of the roof line to a building including, but not limited to, alteration of a gable roof to a flat roof, but specifically excluding any alterations to chimneys.

Refer to Article II Section 223 – 227 for submission requirements and written decision and approval processes of the Development Review Board.

Section 531: Exceptions to Zoning Permit or Development Review Board Site Plan and Design Review Requirements

A. <u>Zoning Permit from Zoning Administrator Not Required; No Development Review Board Written Decision and Approval Required.</u>

As provided in 24 VSA § 4414(1)(E) within a designated design review district, no Structure may be erected, reconstructed, altered, restored, moved, demolished or changed in Use or type of occupancy without a written decision and approval of the plans by the Development Review Board and Permitting by the Zoning Administrator as defined in Article II, except as defined below.

The following are not considered to be a form of reconstruction, alteration, or restoration and are consistent with the goals of this district. As such they do not require prior written decision and approval of the Development Review Board or Permitting from the Zoning Administrator.

1. Temporary outdoor display of products or ads that represent products. (Outdoor displays are treated as a temporary sign and must, as applicable, meet Sign Standards as defined in Section 870.)
2. Resurfacing of driveways & walkways when fully on the property owner's Lot.
3. Window or door repair or installation (including screen and storm windows/doors) matching the historical style and design of the original Structure.
4. Landscaping installation/change or maintenance of any kind that protects and enhances the natural features and character of the neighborhood and community including removal and replacement of dead or dying plants, trees, shrubs, flowers or other live natural features.
5. Minor repairs and maintenance that follow the guidelines of Appendix I Site Plan and Design Guidelines do not require a zoning Permit or written decision and approval of the Development Review Board. **All changes of any nature that do not follow these guidelines are subject to review by the Development Review Board and, if approved, permitting by the Zoning Administrator.**

B. Zoning Permit from Zoning Administrator Required; No Development Review Board Written Decision and Approval Required.
In the following cases the Zoning Administrator will make an administrative decision as to whether the requested development is allowed and a Permit will be approved without Development Review Board review, so as to have a quicker decision.

1. Roof repair using the same roof material as was most recently on the Structure and with no change to the roof Structure, or replacing current roof materials with a slate colored metal roof consistent with the Site Plan and Design Guidelines.
2. Replacing vinyl siding with wood or wood look-alike synthetic clapboards consistent with the Site Plan and Design Guidelines.
3. Handicap ramps anywhere on the building.
4. Non-substantial additions to a building meeting the design guidelines of this ordinance.
5. Healthy shrubs, hedges, or trees plainly visible form a public area or way may be removed with approval of the Zoning Administrator for health & safety or replacement with other landscaping or features such as a fence or stone wall.
6. Minor changes to plans previously approved by the Development Review Board that do not modify the conditions of the Development Review Board decision or the testimony on which the decision was based. If the Zoning Administrator believes a requested change meets the criteria the Zoning Administrator will issue a minor change Permit on a plan previously approved by the DRB. If the proposed change alters anything related to the conditions of the decision or the testimony of facts on which the decision was based, the Zoning Administrator will re-submit the Permit request to the Development Review Board for a decision.
7. Businesses may erect temporary fencing or other means of delineating outdoor areas for the sole purpose of extending dining for a period of no more than 120 days from the date of approval by the Zoning Administrator.[1]

All other repairs and replacements not meeting these criteria must be reviewed by the Development Review Board.

[1] Interim bylaw, T24 VSA 4415, Selectboard approved June 5, 2020, duration 2-years

Section 540: Site Plan and Design Review Standards

A. All development and land improvements within a Design Review District are subject to the Standards as defined in Article VII as well as any applicable standards as set forth in Article VI Flood Hazard Area, Article VIII Signs, and Article IX Telecommunications.
B. All development and land improvement with the Village Design Review District shall preserve the character of the village and conform to the Goals of this District as defined in Section 513.
C. All development and land improvements within the Historic Design Review District shall conform to the Site Plan and Design Guidelines of Appendix I to the extent reasonable and possible to satisfy the intent of this ordinance and preserve, rehabilitate or restore the historic Structures of the town as defined in Sections 730, 731, and 732 of this ordinance.

ARTICLE VI
FLOOD HAZARD DISTRICT
AN OVERLAY DISTRICT

Section 600: Statutory Authorization

To effect the purposes of 10 V.S.A. Chapter 32, and in accord with the Vermont Planning and Development Act 24 V.S.A. Chapter 117, there are hereby established Flood Hazard Area Regulations for the Town of Wilmington.

Section 601: Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in flood hazard areas, and to minimize losses due to flooding by:

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

B. Requiring that Uses vulnerable to floods be protected against flood damage at the time of initial construction;

C. Rendering the state, municipalities and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

Section 602: Lands to Which These Regulations Apply

A. These regulations apply for development in all areas in the Town of Wilmington identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

B. The base flood elevations and floodway limits (Zones A1—A3O, AE, and AH) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.

C. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program, ("Zone A") the base flood elevation and floodway information available from State or Federal agencies or other sources shall be obtained and reasonably utilized to administer the provisions of these regulations.

D. If there is an area that is a potential floodway that has not been mapped, no new construction, substantial improvements, or other development shall be Permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section 603: Development Permit Required

A Permit is required, to the extent authorized by State law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. Conditional Use written decision and approval is required from the Development Review Board for all Uses, except those defined as Permitted Uses in Section 610, prior to being Permitted by the Zoning Administrator. Such development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, and public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

Section 604: Interpretation of Flood Hazard Area Boundaries

The Zoning Administrator shall determine the boundaries of the designated flood hazard area by scaling distances on the National Flood Insurance Maps of the Federal Emergency Management Agency.

Section 605: Permitted Uses

The following open space Uses shall be Permitted within flood hazard areas to the extent that they are not prohibited by any other ordinance or regulation and provided that they do not require the erection of Structures, storage of materials and equipment, importing fill from outside the flood hazard area, do not obstruct flood flows and will not increase the flood level within the floodway during the occurrence of the base flood or increase off-site damage potential.

A. Agricultural Uses, such as general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming and forestry.
B. Recreational Uses, such as parks, campsites, picnic grounds, golf courses and boat launching sites.
C. Residential Uses, such as lawns, gardens, unpaved areas and play areas.
D. Municipal roadways, culverts and bridges

Section 606: Conditional Uses

Except for the Permitted Uses as defined by Section 605, all other Uses listed for the zoning district that fall within any designated flood hazard area may be Permitted only upon the granting of a Conditional Use Permit by the Development Review Board.

Section 607: Permit Application Procedures

A. All zoning Permit applications shall be submitted to the Zoning Administrator, on forms furnished by him/her, who shall determine whether or not the proposed development is located within the Flood Hazard Area by the procedure established in Section 603.

B. If the proposed Use is a Permitted Use as defined in Section 605, a Permit shall be issued by the Zoning Administrator.

C. Requests for all other Uses will be referred to the Development Review Board.

Section 608: Conditional Use Application Requirements

Application submission requirements shall include:

A. Two (2) copies of plans drawn to scale showing the nature, location, dimensions and elevations of, and distance between, the body of water and the proposed construction or land development.

B. Existing and proposed Structures including the elevation of the lowest habitable floor including basement and confirmation as to whether such Structure contains a basement.

C. Proposed fill and/or storage of materials.

D. Proposed flood proofing measures and the level to which any Structure will be flood-proofed.

E. The relationship of the proposal to the location of the channel.

F. The extent of the flood hazard area and the base flood elevation utilizing the best information available.

G. For all subdivision and development which requires a Permit under Sections 602 & 603 and which involves more than 50 Lots or 5 acres, whichever is the lesser, the base flood elevation for that portion that lies within Zone A.

Section 609: Review Procedures

A. Upon receipt of an application and plans, the Zoning Administrator shall transmit one copy to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424.

B. In accordance with 24 V.S.A. § 4424, no Permit may be granted prior to the expiration of a period of thirty (30) days following the mailing of a report to the Agency under item (A) above.

C. In riverine situations, the Development Review Board shall notify adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section at least 30 days prior to written decision and approval of any alteration or relocation of a watercourse and submit copies of such notification to the Administrator of the National Flood Insurance Program. In granting its written decision and approval, the Board shall be assured that the flood carrying capacity of the altered or relocated portion of any watercourse is maintained.

D. The applicant shall provide evidence of review by the state Permit Specialist for the applicable agency and ensure that all necessary Permits are obtained from applicable Federal, State or Municipal agencies identified by the Permit Specialist.

Section 610: Development Standards

Before a Permit may be granted, the Development Review Board shall require the following standards:

A. Floodway and Floodway Fringe Areas:

1. Floodway Areas
   a. Development within the regulatory floodway, as determined by Section 602, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.
   b. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

2. Floodway Fringe Areas (i.e., special flood hazard areas outside of the floodway)
   a. <u>All Development</u> - All development shall be reasonably safe from flooding and:
      i. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the Structure during the occurrence of the base flood,
      ii. constructed with materials resistant to flood damage,
      iii. constructed by methods and practices that minimize flood damage, and
      iv. constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. <u>Residential Development</u>:
   1. New construction and existing buildings to be substantially improved shall have the lowest floor, including basement, elevated to or above the base flood elevation.
   2. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
      a. located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
      b. located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

C. Non-Residential Development:

1. New construction and existing buildings to be substantially improved shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the Structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
2. A Permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

D. Subdivisions: Subdivisions (including manufactured home parks) shall be designed to assure:

1. such proposals minimize flood damage within the flood-prone area,
2. public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
3. adequate drainage is provided to reduce exposure to flood hazards.

E. Enclosed Areas Below the Lowest Floor:

1. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
2. New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
3. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they Permit the automatic entry and exit of floodwaters.

F. Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall either:
1. be on the site for fewer than 180 consecutive days, or
2. be fully licensed and ready for highway Use, or
3. be Permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in section B.2. (ii).

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

1. The Structure must only be Used for parking or storage,
2. The Structure shall be designed to have low flood damage potential, OR The Structure must have the FEMA required openings to allow floodwaters in and out;
3. The Structure must be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters, OR The Structure must be constructed using flood resistant materials below the base flood elevation;
4. The Structure shall be firmly anchored to prevent flotation, collapse, and lateral movement; and
5. All building utility equipment including electrical and heating must be elevated or flood-proofed.

H. Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

I. Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

J. On-Site Waste Disposal Systems: On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

K. Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

L. Securing floatables: All floatables in any district and in an area which has historically flooded and all Flood Fringe Areas shall be raised above the Base Flood Elevation (BFE) or firmly secured so as to ensure they are not dislodged in the event of a flood. This includes but is not limited to propane, oil and gas tanks, chemicals, explosives, flammable liquids, toxic or hazardous materials. While hay bales and logs are protected Agricultural and Silviculture industries in Vermont, conformity with this provision is encouraged.

Section 611: Administration and Variances

A. The provisions of these Regulations shall be administered as provided by §§ 4440-4471 of 24 V.S.A. Chapter 117, as amended.

B. The Zoning Administrator shall:
   1. Maintain a record of all Permits issued for development in areas of special flood hazards.
   2. Maintain a record of the elevation (consistent with the datum of the elevation of the NFIP maps) of the lowest habitable floor, including basement, of all new or substantially improved Structures, and whether or not such Structures contain a basement.
   3. Maintain a record of the elevation (consistent with the datum of the elevation of the NFIP maps) to which the Structure was flood-proofed.
   4. Maintain a record of all flood-proofing certifications required under these regulations.
   5. Maintain a record of all variance actions, including justification for their issuance.

C. Variances shall be granted by the Development Review Board only:
   1. In accordance with the provisions of 24 V.S.A. § 4469; and

2. In accordance with the criteria for granting variances found in 44 CFR, § 60.6, of the National Flood Insurance Program regulations.

D. The Development Review Board shall notify the applicant that:
   1. The issuance of a variance to construct a Structure below the base flood elevation may result in increased premium rates for flood insurance, and
   2. Such construction below the base flood elevation increases risk of life and property.

E. The Development Review Board shall:
   1. Maintain a record of all variance actions, including justification for their issuance, and
   2. Report such variances issued to the Federal Insurance Administrator.

Section 612: Warning of Disclaimer of Liability

A. These regulations do not imply that areas outside the flood hazard area or land Uses Permitted within such districts will be free from flooding or flood damages.

B. These regulations shall not create liability on the part of the Town of Wilmington, any town official or employee thereof for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

Section 613: Validity and Severability

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

Section 614: Precedence of Bylaw

The provisions of this bylaw shall not in any way impair or remove the necessity of compliance with any other applicable ordinances, bylaws or regulations. Where this bylaw imposes a greater restriction, the provisions of this bylaw shall take precedence.

Section 615: Enforcement and Penalties

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

If the Structure is still noncompliant after the opportunity to cure has passed, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its

identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Section 620: Flood Hazard Area Definitions

Area of Special Flood Hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "area of special flood hazard area" is synonymous in meaning with the phrase "special flood hazard area".

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year

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

Cumulative Substantial Improvement: Any combination of repairs, reconstruction, rehabilitation, addition, alteration or other improvements of a Structure, during any (one) year period, in which the cumulative cost equals or exceeds 50% of the market value of the Structure before the "start of construction" of the improvement. This term includes Structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a Structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic Structure", provided that the alteration will not preclude the Structure's continued designation as a "historic Structure".

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

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

Expansion to an existing manufactured home park or subdivision: The preparation of additional sites by the construction of facilities for servicing the Lots on which the manufacturing

homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood: (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Floodplain: Any land area susceptible to being inundated by water from any source (see definition of "flood").

Flood Insurance Rate Map (FIRM): Official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood-proofing: Any combination of structural and non-structural additions, changes, or adjustments to Structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, Structures and their contents.

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

Floodway Fringe: The remaining portion of the flood hazard areas excluding the floodway.

Historic Structures: Any Structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

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

Manufactured Home: A Structure, transportable in one or more sections, which is built on a permanent chassis and is designed for Use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home Lots for rent or sale.

New construction: For the purposes of determining insurance rates, Structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such Structures. For floodplain management purposes, **new construction** means Structures for which the **start of construction** commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such Structures.

New Manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the Town of Wilmington.

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

Riverine: involving a river.

Start of Construction: includes substantial improvement, and means the date the building Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the Permit date. The actual start means either the first placement of permanent construction of a Structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main Structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

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

Substantial Damage: Damage of any origin sustained by a Structure whereby the cost of restoring the Structure to it's before damaged conditions would equal or exceed 50 percent of the market value of the Structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a Structure, the cost of which equals or exceeds 50 percent of the market value of the Structure before the "start of construction" of the improvement. This term includes Structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a Structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic Structure", provided that the alteration will not preclude the Structure's continued designation as a "historic Structure".

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

ARTICLE VII
STANDARDS

Section 700: Purpose

The purpose of this Article VII, Standards is to define requirements and criteria that shall be applied by the Development Review Board. The goals of these reviews are to:

A. Preserve the unique character of the town as a rural and agricultural community with a clustered historic downtown as a cornerstone of the town's visitor industry that is a key revenue source for the town's economy,
B. Protect the economic viability and vitality of the town,
C. Serve the needs of the community, the downtown, the neighborhoods, and the region.

The standards of this section are required on all Land Development in all Districts and shall be addressed by the Development Review Board to ensure the proposed development meets the required standards. The Development Review Board shall require that proposed Uses and development comply with all requirements of this zoning ordinance.

The role of the Development Review Board is also to work with the landowner of proposed development to achieve solutions that support the character of the community, drawing on Site Plan and Design Guidelines of Appendix I. These guidelines are not hard and fast rules, but are proven and industry accepted guidelines of sound site planning and design.

To achieve this goal, property owners and developers are encouraged to consult with the Zoning Administrator for a pre-application consultation.

Section 705: Changes to Nonconforming Structures, Lots and/or Uses

[See 24 V.S.A. §§ 4303(13)(14)(15)(16) and 4412(7)].

A. **Nonconforming Structure, Lot and/or Use is a** Structure, part of a Structure, a Lot (or parcel), and/or a Use that does not comply with the present ordinance, but which was created or established legally in conformance with the ordinance in effect at the time it was created or established. [See 24 V.S.A. §§ 4303(13 - 16) and 4412(7)] This includes:
   1. Structures, Lots and/or Uses improperly authorized as a result of error by the Zoning Administrator.
   2. All Structures, parts of Structures, Lots and/or Uses existing prior to January 26, 1968, when the first Wilmington zoning ordinance was adopted.

B. Nonconforming Structures, Lots and/or Uses created or established legally in conformity with the ordinance in effect at the time it was created or established:
   1. Structures and lots shall be allowed to exist indefinitely.
   2. Will not be subject to penalties for nonconforming elements that were in conformity with the ordinance in effect at the time they were created or established.
   3. Uses, if not used shall expire in two years.
   4. May be altered, renovated, changed, or developed in accordance with the requirements of Sections 706, 707, and 708.
   5. Are not eligible for Waivers under Section 231 of this ordinance.

C. Changes to a Nonconforming Structure, Lot, or Use which do not comply with the requirements of this Section are illegal and will be subject to remedy consistent with the enforcement, violations and penalties provisions of this ordinance (see Article II Section 215 & 216).

Section 706: Nonconforming Structures on Developed Land/Lot

A. Developed Land/Lot is any Land, Lot or parcel which includes "the construction, reconstruction, conversion, Structural alteration, relocation, or enlargement of any building or other Structure; the demolition, destruction, or razing of a Structure, whether intentional or unintentional; any change in the Use of any building or other Structure, Land, or Use; the Subdivision of a parcel into two (2) or more parcels; any mining, landfill, or excavation that increases peak off-site flow; and any water impoundment such as lakes and ponds". [See Definitions Land Development, Lot Development]

B. A Nonconforming Structure on a Developed Lot/Developed Land may be modified consistent with the guidelines of this Section with the prior written decision and approval of the Development Review Board. Modifications to Nonconforming Structures are not eligible for a Waiver.

C. In a Development Review Board hearing where there is question as to whether a Lot has been previously Developed, the burden of proof lies with the applicant. This burden may be met through dated photographs, expert testimony, or the provision of town land records or Grand List of the Town of Wilmington records back to January 26, 1968 (the time of the first Wilmington zoning ordinance) or the time when the Lot/land was established or created, whichever is later,

D. No alteration, renovation, or change shall exceed thirty (30) feet to the highest point of the ridge line. Nonconforming Structures and Land Development of Nonconforming Lots are not eligible for Height Limitation Exceptions – Review Options under Section 442 of this ordinance or for Waivers under Section 231 of this ordinance.

E. A Nonconforming Structure on a Developed Lot may be altered, renovated, or changed in any direction for any reason, with the written decision and approval of the Development Review Board (except as provided for in item F below), provided that:

1. The change to the non-conforming element of the Structure:
   a. Remains within the footprint of the original non-conforming element or feature, including any overhangs or cantilevering, or

      <u>Determining Footprint of Original Structure</u>:
      Evidence of the footprint of the original non-conforming Structure shall 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 and dimensions of the original Structure remains with the property owner seeking a Permit for such a change. For owners failing to clearly establish and maintain evidence of the footprint and dimensions of the original Structure on the Lot, the applicant shall provide evidence of the prior Structure's dimensions and photos of the prior

Structure's location in relation to the Lot or such other documentation as may demonstrate the location and dimensions of the original footprint of the Structure.

b. Does not increase the Degree of Nonconformity, except that when alteration, renovation, or change is for the purpose of compliance with environmental, safety, health, or energy codes the change is allowed to increase the degree of nonconformity, but only to the minimum necessary to achieve compliance.

Measuring Degree of Nonconformity:
If a house currently encroaches ten (10) feet into a setback and an attached porch encroaches fifteen (15) feet into the same setback, there is an existing non-conformity of 15 feet. The degree of non-conformity is measured from the greatest degree of non-conformity for that Structure, or in this case 15 feet. Additions that do not exceed the greatest current non-conformity would not be considered an increase in the degree of non-conformity.

Using the above example; the porch with the 15 foot encroachment could be extended so long as it stays less than or equal to the 15 feet of non-conformity, or the 10 foot setback non-conformity of the house could be expanded another 5 feet, up to the 15 foot existing non-conformity, without increasing the degree of non-conformity. No Waiver would be required as the Structure is not increasing the degree of non-conformity.

F. A Nonconforming Structure which is demolished or destroyed unintentionally may, with a Permit from the Zoning Administrator, be restored to its earlier state, matching all prior dimensions including but not limited to roof pitch, height, footprint, etc., provided the reconstruction commences within two (2) years of the date of loss. Reconstruction seeking any changes to prior dimensions is subject to the terms of this Section and require a written decision and approval from the Development Review Board.

Section 707: Nonconforming Undeveloped Lots (Small Lots)

(See 24 V.S.A. § 4412(2))

A. Undeveloped Lands are Lands that have not been developed as defined in Land Development/Developed Land.

B. In a Development Review Board hearing where there is question as to whether a Lot has been previously Developed, the burden of proof lies with the applicant. This burden may be met through dated photographs, expert testimony, or the provision of town land records or Grand List of the Town of Wilmington records back to January 26, 1968 (the time of the first Wilmington zoning ordinance) or the time when the Lot/land was established or created, whichever is later,

C. A Nonconforming Undeveloped Lot may be developed with the prior written decision and approval of the Development Review Board except that the following special provisions apply:

1) Lot Size: The Lot is not less than one-eighth (1/8) acre (5445 square feet) in area with a minimum width or depth 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) Setback: Nonconforming Undeveloped Lots shall be eligible for reduced setback 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) Height Limitation: No Development of a Nonconforming Undeveloped Lot shall exceed thirty (30) feet to the highest point of the ridge line. Nonconforming Structures and Land Development of Nonconforming Lots are not eligible for Height Limitation Exceptions – Review Options under Section 442 of this ordinance or for Waivers under Section 231 of this ordinance.

Nonconforming Undeveloped Lots shall comply with all other provisions of this ordinance including the requirement for a water supply system and wastewater system that comply with the Wastewater System and Potable Water Supply Rules.

D. Contiguous Nonconforming Undeveloped Lots which subsequently come under common ownership shall not be deemed merged and may be separately developed or conveyed.

Section 708: Nonconforming Uses

A. A Nonconforming Use may be altered or changed for any reason so long as, in the opinion of the Development Review Board, it will not increase the degree of nonconformity.

B. 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. In a Development Review Board hearing where there is question as to whether a Use has been actively engaged in for a period of twelve (12) months, the burden of proof is on the applicant to demonstrate active Use in the past twelve (12) months.

Section 709: Changes in Ownership of Nonconforming Structures, Lots, and/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/or Uses.

Section 710: Use Performance Standards

Pursuant to 24 V.S.A. § 4414(5) Performance Standards, the following standards shall apply to all Uses and land development in the town.

A. Vibration: No continuous, permanent, ongoing, or frequent vibration shall be produced which, when transmitted, is discernible at the property line without the aid of instruments. Temporary vibration created during land development should be limited to daylight hours to preserve quality of life in neighboring properties.

B. Noise: continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation (in the judgment of the Development Review Board) must not exist at the property boundary line. Recurring periodic or intermittent noises in excess of that of a normal lawn mower (in the judgment of the Development Review Board) at the property line is allowed provided it does not occur between the hours of nine (9) PM and seven (7) AM, and does not significantly detract from or diminish other property's allowed Use or land development.

   In that ski-areas reasonably expected to have snowmaking ski-areas and in that those owning property near a ski area would reasonably expect to hear snow-making equipment at any time, snowmaking equipment in a Resort Commercial/Residential District of a Resort Residential District is exempt from this provision.

   Temporary noise created during land development should be limited to daylight hours to preserve quality of life for neighboring properties.

C. Air Emissions for Commercial Operations: There shall be no emission of dust, ash, smoke or other particulate matter:
   1. Which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity
   2. Which can cause contamination of the subject property or beyond the property boundaries
   3. Which is composed of solid or liquid particles in concentrations exceeding current state authority standards
   4. Which causes emission of non-farming, odorous matter in such quantities, as determined to be offensive.

D. Injurious or Noxious Practices: No operations or Use shall create electromagnetic, liquid or solid refuse or waste, heat, cold, dampness, explosive, fire, glare, or other hazard which may cause injury or damage to human or animal health, vegetation, or property.

Section 720: Applicability of Conditional Use Standards and Site Plan and Design Guidelines

Conditional Uses are subject to both General and Specific Standards as defined below. Site Plan and Design Guidelines of Appendix I shall be applied to development within the Historic Design Review District and are recommended in all other districts.

The Development Review Board will complete a Site Plan Review and a Design Review as needed to determine conformity with the Standards of this Article VII.

The Development Review Board shall utilize the Listing of Structures in the State and Federal Registers of Historic Places (Appendix II) to determine the historical significance of all pre-existing Structures seeking written decision and approval for alteration, renovation or change.

The Development Review Board shall require conformity with Section 732 within the Historic Design Review District.

For structures outside of the Historic Design Review District listed in Appendix II, the Development Review Board shall encourage the applicant to conform with the standards of Section 723, however, the Development Review Board shall not withhold approval based solely on the applicant's non-compliance with Section 723 outside of the Historic Design Review District.

Section 721: Conditional Use - General Standards

In all districts, all Conditional Use development shall protect from undue adverse effects: (24 V.S.A. § 4414 (3)(A)). No Land Development or Use shall result in an undue adverse effect on any of the following:

A. The capacity of existing or planned community, municipal or educational facilities
B. Impact on traffic, roads, highways, transportation systems, pedestrian walkways in the vicinity
C. By-laws and ordinances in effect at the time
D. Utilization of renewable energy resources
E. Air quality
F. The character, aesthetics, and scenic value of the neighborhood and area affected, as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies and standards of this ordinance and the Town Plan.

The Development Review Board shall review all proposed Conditional Use development in all districts, demonstrating no undue adverse effect on Conditional Use General Standards A - F above. In establishing conformity with General Standard F, the Development Review Board shall seek to preserve the character of the town consistent with the rural, agricultural, and historic nature of the town as defined in Section 722 and 723 below.

Section 722: Conditional Use – Preserving the Character of the Town

Land development and Uses in all Districts shall preserve the character of town consistent with its rural and agricultural heritage, conforming to the following:

A. Preservation of the Town's Character: Business development shall, to the extent reasonable and possible, occur in a manner that preserves the rural and agricultural character and ambiance of the community and the historic downtown.

B. Economic Development Contributing to the Character of the Town: Merchandise or services shall not detract from the historic character and nature of the town as a family destination for tourists and a family focused residential community.

C. Development Consistent with the Rural, Agricultural, and Historic Nature of the Town: Construction, reconstruction, or land development, whether allowed, Permitted, or Conditional shall, to the extent reasonable and possible, reflect and/or compliment the historic nature of the town and the rural and agricultural appearance of the neighborhood and region.

D. Formula Businesses: The visual appearance of Formula Businesses (also known as chain stores, including things such as grocery stores, gas stations, chain drugs stores, dollar stores, etc. See Article X for a complete definition of this term), including signage, shall project an appearance harmonious with the character of the rural, agricultural, and historic nature of the town, reflecting the distinctive and unique character of the town, consistent with the Site Plan and Design Guidelines of Appendix I.

E. Maximum Square Footage for Retail: All retail businesses with a proposed footprint of greater than two thousand (2.000) square feet (for example a 50' long x 40' wide store) shall require Development Review Board review, written decision and approval in all districts. Stores exceeding the two thousand (2,000) square foot maximum may be approved by the Development Review Board in the event that the business:
   1. is consistent with the unique character and ambiance of the community
   2. is found to be in the best interest of the community
   3. is the minimum size required to reasonably accommodate the business
   4. will enhance or preserve the economic base and economic diversity of the town as a whole
   5. will create economic stability and viability for the community

F. Building Scale Conformity: Development shall conform to the scale of the established neighborhood.

G. Utility Placement: to preserve the aesthetics and natural beauty of the area, underground utilities are encouraged where possible, particularly in areas of natural scenic beauty and in the Historic Design Review District.

Section 723: Conditional Use - Preserving the Character of the Town: Historic Preservation

Compliance with the following guidelines is required in the Historic Design Review District, a Design Review District to the extent reasonable and possible to preserve, rehabilitate, or restore historic Structures, as defined below.

Compliance with these guidelines is encouraged in all other districts. However, in no case shall the Development Review Board withhold approval of proposed development outside of the Historic Design Review District based solely on conformity with the criteria of this Section 723.

A. Historic Structures: All Conditional Uses for a certified historic Structure as defined by Internal Revenue Code 26 U.S.C § 47(c) and/or recognized in the National Register of Historic Places, or by the Preservation Trust of Vermont shall not engage in land development that will compromise the Structure's historic status. Every effort shall be made to preserve and enhance the historic features of Structures dating to 1920 or earlier. Preservation and enhancement of historic Structures shall be compatible with the historic character of the town and region.

   No Historic Structure may be demolished without the written decision and approval of the Development Review Board). See also Section 530 and 723(E).

B. Historic Preservation, Rehabilitation, and Restoration: With particular attention to those historic Structures listed in the state or federal registries of historic places (see Appendix II) Historic features and historic Structures shall, to the extent reasonable and possible, be preserved, rehabilitated, or restored. In determining whether historic elements will be Preserved, Rehabilitated or Restored, the following guidelines shall be considered.

   1. Preservation: If historic elements are in good repair, historic materials, features and Structures shall be maintained and repaired to preserve the form and character of the property.
   2. Rehabilitation: If historic elements are not in good repair, to the extent that historic materials, features and Structure must be altered or added to meet continuing or changing Uses, the original material, feature or Structure shall be preserved and any alteration or addition shall retain the property's historic character and not detract from the historic materials, features and Structures.
   3. Restoration including Reconstruction: If historic elements are not salvageable, historic materials, features and Structures that have been altered over time or have had elements added to the Structure from other periods, a restoration shall occur, removing evidence of those elements not in keeping with the historic character of the original Structure and restoring the original features of the Structure. Reconstruction shall re-create vanished or non-surviving portions of a property for interpretive purposes.

      Vermont state recommended guidelines for historic preservation are as follows:

      Secretary of the Interior's Standards for Rehabilitation:
      https://www.nps.gov/tps/standards/rehabilitation.htm

Guidelines for Rehabilitating Historic Buildings:
https://www.nps.gov/tps/standards/rehabilitation/rehab/guide.htm

The Preservation Briefs: https://www.nps.gov/tps/how-to-preserve.htm

C. Historic Features: For reconstruction, historic features of the Structure or complimenting the historic features of the region shall be retained or reconstructed.

D. Criteria for Determining Preservation, Rehabilitation, Restoration/Reconstruction: In considering the reasonableness of requiring preservation, rehabilitation, and restoration the Development Review Board shall consider the following criteria:
   1. Property's historical significance
   2. Property's physical condition
   3. Proposed Use
   4. Reasonableness of undertaking preservation, rehabilitation, or restoration
   5. Degree to which the preservation, rehabilitation, or restoration will contribute to preserving or enhancing the character of the community

E. Demolition of Historic Structures: The owner of a historic structure, that may reasonably be Preserved, Rehabilitated, or Restored/Renovated (See Section 723(B)) shall not demolish any historic Structure certified as a historic Structure as defined by Internal Revenue Code 26 U.S.C § 47(c) or listed on any State or Federal Register of Historic Places (see Appendix II). The Development Review Board may require the applicant to pay the reasonable costs of an Independent Technical Review and may recess the Hearing pending receipt of Independent Technical Review findings. (See Section 730(N)

Section 730: Specific Standards (24 V.S.A. § 4414 (3)(B))

The Development Review Board shall refer to the Existing Land Use, Natural Resources, Special Resource Areas, Water Resources, Transportation System, and Community Facility and Utilities Maps of Appendices IV – IX to aid their decisions on proposed land development, including but not limited to the following areas:

1. Lands Over 2500 Feet in Elevation
2. Surface Waters
3. Water Source Protection Areas
4. Flood Hazard Areas
5. Deer Wintering Areas
6. Wildlife Crossings
7. Rare and Threatened Plants
8. Scenic Areas
9. Scenic Roads
10. Impact on Community Facilities and Utilities
11. Impact on Transportation Systems

All land development and Uses in all Districts and Overlay Districts shall conform to the following:

A. Lighting and Glare: All exterior lighting in the Historic Design Review District and Village District shall be in keeping with historic character of the commercial area of the village. All

exterior lighting in all districts shall be shielded and downcast. Interior and exterior lighting, glare or reflection are prohibited if they:

1) Constitute an unreasonable nuisance to other property owners or tenants
2) Are found to not contribute to the aesthetics, scenic value, or character of the area and the community
3) Could impair the vision of pedestrians or the driver of a motor vehicle or an aircraft

B. Safety: Where a potential safety hazard exists, either from temporary or permanent activities, provisions shall be undertaken to minimize physical hazards.

C. Traffic and Pedestrian Safety: Development shall provide for pedestrian walkways to ensure a safe and efficient means for pedestrians to navigate the town on foot or by bicycle. Special consideration shall be made for children's safety. Traffic patterns shall be reviewed for safety, ease of traffic flow, and efficiency. Access to public roadways require the approval of the Town of Wilmington (for access to town roads) or the State of Vermont (for access to state highways) pursuant to 19 V.S.A. § 1111.

D. Commercial Parking and Loading Areas: Pursuant to 24 V.S.A. § 4414(4) All commercial parking and loading areas in all districts in the town shall adhere to the following standards:
   1. Parking Spaces Required: With the exception of the Historic Design Review District, for every building hereafter changed in Use, erected, or altered or extended in such a way as likely to increase the need for more parking, there shall be off-street parking spaces as set forth below.
   2. Size of Parking Spaces: Parking space size shall be a minimum of ten (10) feet by eighteen (18) feet. Smaller parking spaces are allowed only where circumstances calling for added spaces outweigh the risks and public inconvenience of smaller spaces. Special consideration should be given to safety, pedestrian, and disabled persons concerns when smaller spaces are allowed.
   3. Minimum Number of Spaces: The minimum number of required spaces are:
      i. Dwelling, Multi-Family: Two (2) parking spaces for every Dwelling unit.
      ii. Lodging: One and one-half (1.5) parking space for every guest bedroom.
      iii. Multi Business Centers and Offices: One (1) parking space for every four hundred (400) square feet of business or office space.
      iv. Retail Business: One (1) parking space for every two hundred (200) square feet of retail area.
      v. Restaurant, Bar, Lounge, Entertainment / Cultural Facility: One (1) parking space for every three (3) persons Permitted for occupancy by the Vermont Department of Labor and Industry.
      vi. Manufacturing: One (1) parking space per employee per shift.
      vii. Lodging with two (2) guest bedrooms or less does not require additional parking.
   4. Drive-Up Windows: Restaurants, banks, and similar establishments with drive-up windows shall have a stacking lane for each drive-up lane or remote customer access service point long enough to prevent the line of waiting vehicles from extending into the public right-of-way.
   5. Minimize the Visual Impact of Parking & Loading Areas: Break up parking with buildings and human scaled landscape islands. Utilize the landscape islands for plantings without obscuring traffic. Avoid the visual impact of a "sea of parking". Rear parking and access

points including loading areas will minimize the visual impact on the public view of the property. Screen unaesthetic features where possible (see Section 730 (E)), sufficient to minimize their physical and aesthetic impact on other land Uses, properties in the area, the town and public or private roads.

6. Buffer Area to Parking: See Section 730 E (b) Screening and Buffer Areas for Parking.
7. Public Road Access: Traffic circulation shall provide for automotive and pedestrian safety. Access to public roads should minimize traffic interruption and avoid undue burden on the main arteries of the Town. Approval for changes to a town road requires approval from the Town of Wilmington. Access changes to a state road, including all curb cuts, requires approval from the Vermont Agency of Transportation compliant with 19 V.S.A. § 1111.
8. Rainwater, Snow, and Ice Removal/Storage: Plan landscaping for safe snow removal and ice management. Plan for storage of snow at the edge of Lots or on parking islands which will not compromise traffic fields of vision or pedestrian walkways (5 foot wide minimum). Plan for rainwater runoff conforming to Section 730 (F) through (K) and salt melt in a fashion that will not damage vegetation or water sources.
9. Safety: Where a potential safety hazard exists, either from temporary or permanent activities, provisions shall be undertaken to minimize physical hazards. In all cases, consider safe vehicular and pedestrian movement with unobscured view of roadways and pedestrian intersections. Provisions shall be made for maximum traffic and parking safety and pedestrian circulation throughout the town, including provision for safety during snow and ice removal. Particular consideration shall be given to:
   a. Visibility at intersections
   b. Pedestrian safety
   c. Convenience
   d. Access in case of emergency
10. Neighboring Properties: Provide maximum integration of circulation and parking with neighboring properties. Work collaboratively to maximize flow for efficiency, safety, and attractive solutions.

E. Road Development: Any new roads, whether public or private, shall conform to the Wilmington Town Highway Ordinance.

F. Landscaping, Screening and Buffer Areas: As defined in Section 722(A) development shall "preserve the rural and agricultural character and ambiance of the community". Natural features characteristic of the town's rural and agricultural character shall be used in Landscaping and Screening to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties.

1. Landscaping: Landscape beds, trees, shrubs and plantings shall be required by the Development Review Board as reasonable and possible to protect the aesthetic and scenic value of town, its neighborhoods, residents, and neighboring properties, creating green spaces when possible. Trees, Shrubs, and Landscape Bed plantings shall be maintained for general aesthetics and plant health.

   The Development Review Board shall require that if plants do not survive, they will be replanted within the growing season and the Buffer Areas shall be maintained and vegetation replaced to insure continuous seasonal vegetation. See Site Plan and Design Guidelines for planting specification and landscaping recommendations.

2. Screening & Buffer Areas: All reasonable and possible effort shall be made to maximize the visual aesthetics of development from the road, adjoining properties, neighborhoods, and properties with a view of the development area for all of the types of unaesthetic features described below. Every effort shall be made to protect natural vistas and the aesthetics of the area.

   All screening shall include natural vegetation, tree plantings, hedges, rocks or combinations thereof. Fences and walls may be used in those circumstances where natural vegetative screening is not possible or as a secondary supplement to natural vegetative screening as needed to achieve a visual barrier.

   The Development Review Board shall require that if plants do not survive, they shall be replanted within the growing season and that Buffer Areas shall be maintained and replaced as needed to insure continuous seasonal vegetation.

   i. Screening Unaesthetic Features, Small: For unaesthetic features including but not limited to: propane tanks, dumpsters, storage areas, mechanicals, utility features, animal shelters/pens (except for Agricultural Uses or Accessory Agricultural Uses licensed or Permitted with the state and protected under 10 VA 1021(f) and 1259(f) and 6 V.S.A. 4810), creating undue adverse impact on the aesthetics of an abutting property, neighborhood or state, municipal, or private road, screening of the non-aesthetic features shall be provided.

   ii. Screening & Buffer Areas for Unaesthetic Features, Large: For unaesthetic features larger than 200 square feet (including but not limited to large mechanical installations or utilities) and within 50 feet of a road or abutting property, creating an undue adverse impact on the aesthetics of an abutting property or state, municipal, or private road, a minimum Buffer Area of 10 feet in depth shall be provided where reasonable and possible.

   iii. Screening & Buffer Areas for Commercial Structures and Uses: Where there is an undue adverse impact on the aesthetics of an abutting residential property, neighborhood or state, municipal, or private road as a result of the Commercial development (except for development within the Village District or for development within a Planned Unit Development (PUD) not abutting the border of the PUD), a Buffer Area shall be provided between the commercial property and an abutting residential property, neighborhood, or road. A minimum Buffer Area of 10 feet in depth shall be provided where reasonable and possible.

   iv. Screening & Buffer Areas for Parking: Where there is an undue adverse impact on the aesthetics of an abutting property, neighborhood or state, municipal, or private road as a result of parking, screening shall be provided where reasonable and necessary to preserve aesthetics. For parking areas in excess of 200 square feet and within 50 feet of a road or abutting property, a minimum Buffer Area of 10 feet in depth shall be provided where reasonable and possible.

v. Screening & Buffer Areas for Ground Mounted Solar Arrays and Related Unaesthetic Features: When a ground mounted solar array and/or related unaesthetic features create an undue adverse impact on the aesthetics of an abutting property, neighborhood or state, municipal, or private road, screening of the solar array and/or related non-aesthetic features shall be provided. All reasonable effort shall be made to maximize the visual aesthetics of ground solar development. For ground installation of solar arrays and related unaesthetic features larger than 200 square feet and within 50 feet of a road or abutting property, a minimum Buffer Area of 10 feet in depth shall be provided.

G. Land and Water Management: Pursuant to 24 V.S.A. § 4414 (1)(G) and 24 V.S.A. § 4414 (9) the development plan shall protect properties, transportation systems, and public safety by:

a. Providing for safe and environmentally appropriate water management including but not limited to water supply quality/availability, stormwater retention/absorption and impervious surface runoff management.
b. Preventing water pollution.
c. Making appropriate provision for management of erosion, preservation of rivers and streams, river/stream banks, wetlands, waterways, channels, and agricultural lands.
d. Preserving and promoting scenic or aesthetic features and open spaces

If the project is not subject to the State of Vermont Act 250 written decision and approval process, determination of conformity of this provision may be made through expert testimony or studies.

H. Wastewater and Potable Water: Pursuant to 24 V.S.A. § 4414 (13) the Zoning Administrator may issue an initial Permit conditioned upon receipt of evidence of a wastewater and potable water supply Permit, if none is provided with the submitted application. A final Permit may be issued by the Zoning Administrator after receiving evidence that a Permit has been issued, as applicable, under chapter 64 Title 10. Development Review Board decisions shall instruct the applicant of their responsibility in obtaining state and federal Permits and may condition their decision on obtaining such a Permit if none has been obtained.

I. Natural Resources and Features: Existing vegetation, native species, native trees, scenic views, and river access, and other natural features shall be preserved to the extent possible and to the extent that they will enhance and promote the natural assets of the town. Clearing of land to create pasturelands for the creation of scenic spaces and vistas is allowed provided the clearing does not have an unreasonable impact on natural resources. Development shall blend with the topography, vegetation, and natural features of the land.

Development shall not have an undue adverse impact on preservation of natural features, natural resources, and renewable energy including; forested lands, streams and stream banks, steep slopes, wetlands, watersheds, floodplains, soils unsuitable for development, impervious surfaces essential to stormwater detention, agricultural lands, open scenic lands, scenic vistas, scenic features, unique natural and manmade features, and renewable energy sources.

To the extent that a specific land development plan is subject to Act 250 review, the development shall comply with the findings of Act 250 to ensure no undue effect on natural

resources, natural features and renewable energy as defined in this section. To the extent that the proposed development is not subject to Act 250, the Development Review Board may request expert testimony and/or independent studies to establish such compliance on those cases where, in the opinion of the Development Review Board, there is evidence that natural features, natural resources, or renewable energy may be adversely impacted.

J. Wildlife Protection: Development shall not have an undue adverse impact on wildlife habitats and wildlife corridors.

To the extent that a specific land development plan is subject to Act 250 review, the development shall comply with the findings of Act 250 to ensure no undue effect on wildlife habitats and corridors as defined in this section. To the extent that proposed development is not subject to Act 250, the Development Review Board may request expert testimony and/or independent studies to establish such compliance on those cases where there is evidence that, in the opinion of the Development Review Board, wildlife habitats or wildlife corridors may be adversely impacted.

K. Shoreland Protection: Pursuant to 24 V.S.A. § 4414 (13) all development shall be in conformity with the Shoreland Protection Act (applying to all development within 250 feet of a body of water greater than or equal to 10 acres).

L. Flood Hazard Protection: All land development in the Flood Hazard District shall comply with all provisions of Article VI, Flood Hazard District. All floatables in any district and in an area which has historically flooded and all Flood Fringe Areas, shall be raised above the estimated Base Flood Elevation (BFE) or firmly secured so as to ensure they are not dislodged in the event of a flood. This includes but is not limited to propane, oil, and gas tanks, chemicals, explosives, flammable liquids, toxic or hazardous materials. (See Flood Hazard Regulations Section 620 (B)(12)). While hay bales and logs are protected Agricultural and Silviculture industries in Vermont, conformity with this provision is encouraged.

M. Energy Resources: Commercial Development shall comply with Commercial Building Energy Standards. Residential Development shall comply with Vermont Residential Building Energy Standards. 30 V.S.A. § 51 & § 53.

N. Technical Review Costs: The Development Review Board may require an applicant for Conditional Use review to pay the reasonable costs of an Independent Technical Review of all or part of the application. The Development Review Board may recess the Hearing pending receipt of Independent Technical Review findings.

731: Planned Unit Development Specific Standards

Planned Unit Developments are a Conditional Use and must satisfy the standards of Conditional Use as defined in Sections 710 through 730 above. In addition to meeting the Standards of a Conditional Use, a Planned Unit Development (PUD) must meet the Specific Standards that follow. In the case of any conflict between the Specific Standards of the PUD and other Standards of this ordinance, the more Specific PUD Standard shall take precedence over any similar or conflicting Standard of this ordinance.

A. Minimum Acreage: No application for a PUD shall be considered for approval unless a minimum of two (2) acres of land is contained in any proposal.

B. Contiguous Lands: No application for a PUD shall be considered for approval unless all land contained in any proposal is contiguous.

C. Open Space Preservation: At least forty (40) percent of the total area of the property shall be dedicated to or reserved as usable common outdoor living space and open land. Open Space shall not include streets, driveways and parking areas. The preservation of Open Space, recreation areas and/or parks shall be in perpetuity.

D. Total Number of Units: The total number of units approved for a project shall not exceed the number of residential units or commercial square footage allowed if the land were subdivided into Lots in accordance with the Zoning Regulations for the districts in which such land is located, except as defined in Increased Density (E) below.

E. Increased Density: To create open lands, the Development Review Board may approve greater densities than those defined within the Districts of this ordinance.

   Approval of density in excess of:
   1. One Primary Use Dwelling per acre (Single Family, Two Family or Duplex, Multi-family, Mixed Use, or Seasonal), or
   2. One Primary Use Commercial Structure per two (2) acres

   shall be of a single design concept, with continuity and cohesiveness of appearance and consistent with the character of the town. Examples of this would be a single design concept for a condominium development or a "pocket community."

F. Building Setbacks:
   1. Buildings abutting the perimeter of the PUD parcel shall have a setback of at least fifty feet (50) from the Lot line of the PUD.
   2. Side Yard Setback: all residential buildings abutting an interior street, private or public, within the PUD shall be set back twenty feet (20) from the street.
   3. If a side yard abuts a residentially zoned property or Use or a public or private street, a continuous natural or landscaped setback of twenty feet (20) is required between the commercial/industrial building and the residence. This setback shall not be Used for parking.
   4. Front Yard Setback: A building fronting on a street must be located a minimum of twenty feet (20) from the back of sidewalk, or back of curb if a sidewalk is not planned at the location.

5. Rear Yard Setback: If a rear yard of a commercial building abuts a commercial or industrial Use or zoning district, a minimum rear yard setback of ten feet (10) is required. If a rear yard abuts a residential Use or residentially zoned property, a rear yard setback of twenty feet (20) shall be provided. This setback shall not be Used for parking or drives and shall be landscaped.

G. Municipal Facility Burden: The cumulative effect of a phased PUD shall not cause transportation networks, municipal facilities, educational facilities, or other public services to be unduly burdened.

H. Utilities: All electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities or utilities shall be placed underground by the developer for any development primarily for or occupied by dwellings. The Development Review Board or Sewer Commission may require easements necessary for the orderly extension of public utilities to future adjacent developments. These extensions shall be underground wherever possible.

I. Pedestrian Walkway Requirements:
Sidewalks may be required within a PUD. In addition, the Development Review Board may require additional sidewalks in order to improve pedestrian access to buildings and protect pedestrian safety throughout the development. When requiring additional sidewalks, the Board shall consider the following criteria:
1. Number, location, types and Use(s) of buildings propose
2. Amount of traffic generated by the proposed Use

J. Private Roads:
Private Roads may be allowed within a PUD when specifically approved by the Development Review Board. Any new road, public or private, within a PUD shall conform to the Wilmington Town Highway Ordinance.

Section 732: Other Specific Standards

Except as otherwise noted below, Other Specific Conditional Uses must conform to all requirements of this Section as well as the Standards for Conditional Uses of Sections 710 thru 731 of this Article VII. In the case of any conflict between the Specific Standards of this Section and other standards of this ordinance, the more Specific Standard shall take precedence over any similar or conflicting standard of this ordinance.

A. Affordable Housing**:** In all districts where allowed, a Structure or Structures may, as a Conditional Use, be converted or built for multi-family or residential Use for the purpose of providing affordable housing. Such affordable housing shall:
1. Demonstrate sufficient wastewater capacity.
2. Be maintained as affordable units under the State Definition of Affordable Housing.
3. Provide deeds of conveyance of any unit or units containing language/covenants/ restrictions which preserve the affordability requirements of the property for a period of **no less than** twenty (20) years from the date of the Development Review Board written decision and approval of such conversion.

B. Automotive Service Station and Repair Garage: Automotive Service Station and Repair Garage must obtain Conditional Use written decision and approval from the Development Review Board in all districts where allowed and may be allowed if the following can be met:

1. Lot size shall be at least one-half acre (1/2 acre).
2. Lot frontage shall be at least one hundred fifty (150) feet.
3. One (1) two-way access or one (1) point of ingress and one (1) point of egress shall be allowed. An additional driveway may be allowed if the property has frontage on two Town roads. Where appropriate the Development Review Board may require a landscape strip. Where there is one point of ingress and one point of egress a landscape strip should be considered along the length of the remaining frontage, beginning at a point adjacent to the driveway and continuing to the side property line, at a minimum of four (4) feet wide.
4. All portions of canopies shall be located at least twenty (20) feet from the side and rear Lot lines and all canopy lighting shall be recessed to reduce glare.
5. All canopies shall be of a solid color. Bright colors and designs on canopies are not allowed.

C. Junked Vehicles:

1) Junk vehicles shall be screened by a Structure or natural vegetation and not visible from neighboring properties, public and private roads.
2) Junkyards or Salvage Yards having more than (1) one junk vehicle, shall be hidden from all neighbors and public roads by Screening of Unaesthetic Features defined in Section 730 (E) of this ordinance.

D. Medical Marijuana Dispensaries: Pursuant to 18 V.S.A. § 4474(e)(c) a Marijuana Dispensary shall not be located within 1000 feet of the property line of a pre-existing public or private school, licensed or regulated day-care facility, house of worship, library, park, or other public municipal services facility.

E. Mobile Home Parks (Trailer Parks):

1. No more than one (1) mobile home/trailer shall be allowed on any parcel of land, unless said mobile homes/trailers are located in a mobile home/trailer park duly approved pursuant to the zoning ordinance.
2. A mobile home park shall be reviewed under the procedures and standards set forth in the Planned Unit Development Section of this ordinance.
3. The overall density of the Mobile Home Park shall in no case exceed the allowable density in the District where allowed.
4. Mobile Home Park (Trailer Park) shall comply with the Vermont Mobile Home Park Law [see 10 VSA Chapter 153]

F. Ponds/Water Impounds: Ponds/Water Impounds must obtain a zoning Permit from the Zoning Administrator. If not received with the submitted application, the Zoning Administrator may issue an initial Permit conditioned upon receipt of the following:

1. A Project Review Sheet from the State Permit Office.
2. Evidence of written compliance with regulations of any department indicated on the Project Review Sheet.

Upon receipt of these two items the Zoning Administrator may issue a final Permit.

The following state and federal requirements are not all-inclusive. The applicant is responsible for obtaining all needed state and federal Permits. For information on state Permitting requirements visit the Water Quality Division website at: http://www.anr.state.vt.us/dec/waterq/wqdhome.html

- If the proposed dam or pond will impound or be capable of impounding 500,000 cubic feet or more of water, a Permit will be required under Title 10 V.S.A., Chapter 43 Dams.
- If the project necessitates any work in a stream, a stream alteration Permit or other approval may be required under Title 10 V.S.A., Chapter 41. Subchapter 2. Alteration of Streams.
- If the proposed dam or pond is located in or near a wetland, a representative of the Vermont Wetlands Office should be contacted.
- If the pond project has the potential to affect rare, threatened or endangered species of plants and animals or their habitat, you should contact the VT Dept of Fish and Wildlife.
- Approval is required by the Fish and Wildlife Commissioner for placing obstructions in streams that block passage of fish under Title 10 V.S.A., Chapter 111, § 4607.
- Persons contemplating the construction, alteration or removal of dams or impoundments or construction wetlands are advised that approval may be required from the U. S. Army Corps of Engineers.
- Bodies of water of over 10 acres are subject to the Shoreland Protection Act.
- It is possible that other laws or programs could be involved, such as Act 250.

G. Quarry Operations - Extraction of Soil, Sand, Gravel & Earth Resources: Quarry operations - extraction of soil, sand, gravel and earth resources must obtain Conditional Use written decision and approval from the Development Review Board in all districts where allowed and may be allowed if the Development Review Board finds:

1. It will not have an undue adverse effect on the neighborhood or area, the scenic or natural beauty of the area, other aesthetic values, historic sites, pedestrian walkways, or rare and irreplaceable natural areas.
2. It will not cause unreasonable congestion
3. It will not cause burden, contamination, or compromise of existing water supplies.
4. It will not cause excessive Use of or unsafe conditions on highways, existing or proposed.
5. It will not cause undue soil erosion or result in an embankment with a slope steeper than one (1) foot vertical to two (2) feet horizontal upon completion of an area of work.
6. It will not undermine any adjacent areas.
7. A site Reclamation Plan shall be provided at time of application.
8. The site shall be maintained at all times in safe condition and shall be restored to a safe, attractive and useful condition consistent with the Reclamation Plan within 30 days of the termination of the Permit.
9. The hours of operation shall not exceed the hours of 7:00 am through 6:00 pm daily.
10. A Conditional Use Permit granted shall not be valid for more than five (5) years.

H. Recreational Vehicle Storage: Recreational vehicle(s)/travel trailer(s), tent(s) or boat(s) may be stored by a homeowner on their property but shall not be Used as living quarters for longer than 30 days per year and shall not be connected to any utility, including water and sewer.

I. Solar Projects: Pursuant to 24 V.S.A. § 4414(15) the Public Service Board shall enforce the requirements of this ordinance. No solar energy generation land development or facility shall be approved that is not in conformity with the following municipal requirements:

Setbacks: Ground mounted solar generating development shall meet a minimum setback of:
For development plans with a plant capacity of 15 – 150 kilowatts:
- 40 feet from any state or municipal highway, and
- 25 feet from each property boundary that is not a state or municipal highway, or

For development plans exceeding 150 kilowatts:
-100 feet from any state or municipal highway, and
- 50 feet from each property boundary that is not a state or municipal highway.

No setback is required for solar development with plant capacity of less than 15 kilowatts. For Screening and Buffer Area requirements see Section 730 (F) Screening and Buffer Areas for Ground Mounted Solar Arrays and Related Unaesthetic Features.

All solar installations on residential and commercial Structures shall provide for fire safety.

Solar ground installations are discouraged on agricultural lands, in scenic vistas and fields, or in other natural aesthetic settings that contribute to the rural and agricultural character of the town. Solar installations are encouraged in areas primarily Used for commercial development and on non-residential Structures.

J. Temporary Outdoor Retail:
Temporary Outdoor Retail operating less than or equal to four days per calendar year is Allowed without a zoning Permit.

Temporary Outdoor Retail of five (5) days or up to two (2) months per calendar year requires a zoning Permit from the Zoning Administrator.

Retail of greater than two (2) months is not considered temporary and requires the written decision and approval of the Development Review Board.

K. Wind Turbines: Large Commercial Wind Turbines are prohibited in the Town Of Wilmington. Small wind turbines meeting the following criteria are Permitted:
1) Blades are less than or equal to 20 feet in diameter.
2) The tower is less than 85 feet above grade.
3) The tower is set back one and a half (1 ½) times its own height from all property lines.

A zoning application including a Plot Plan must be submitted to and Permitted by the Zoning Administrator prior to commencing construction. The Plot Plan shall be to scale and show elevations, boundary Lot lines, location of all new and existing Structures, size and setback dimensions from all Lot lines.

ARTICLE VIII
SIGNS

Section 800: General Provisions

Statutory Authority: This Article is promulgated under the authority granted to municipalities under 24 V.S.A. § §1971 and 2291(7).

Section 801: Purpose

The purpose of this Article is to:

A. Provide for orderly and appropriate signage
B. Protect the economic and scenic values of the Town
C. Prevent hazards to users of the walkways and roads in the Town
D. Encourage a style and scale of outdoor advertising that is compatible with the Rural Historic New England Town character
E. Promote economic development

Section 802: Application in Districts

The town is divided into districts as defined in Article IV of this ordinance. All provisions of this Article shall apply to all districts and overlay districts unless otherwise noted.

Section 803: Types of Signs

Signs may be Allowed/Exempt, Permitted, Conditional Waivers, or Not Allowed:

1. Allowed/Exempt:	Not requiring a zoning Permit
2. Permitted:	Requiring a zoning Permit from the Zoning Administrator. A Structure or Use existing prior to the first sign zoning ordinance, March 7, 1972, is deemed Permitted.
3. Conditional Waivers:	Requiring Development Review Board Waiver and requiring a zoning Permit issued by the Zoning Administrator
4. Not Allowed:	A prohibited sign

Section 820: Allowed/Exempt Signs (Not Requiring a Permit)

Allowed signs:

A. Do not require a zoning Permit.
B. Are subject to Sign Standards defined in Sections 870, 871, 872, 873 and 874 of this Article.
C. Do not count toward Area and Number Calculation of Signs as defined in Section 874.

Section 821: Subject to a Maximum of <u>three (3) Square Feet</u> in Total Area per side

Allowed/Exempt Signs (Not Requiring a Permit)

A. <u>For Rent</u>: One (1) "for rent" sign displayed on the rental property, only while the property is available for rent. <u>For Rent signs are subject to Time Limitations as defined in Section 872</u>.
B. <u>Fuel Pumps</u>: Signage on fuel pumps in automobile service stations, provided it is Used solely for the purpose of displaying brands, grades and prices of fuel sold on the premises.

C. Historic Landmark: Two (2) Historic Landmark plaques.
D. Property Identification: One (1) sign per property with property number, post box numbers, or names of occupants of the premises. State assigned E-911 numbers under Section 823(C) are do not count toward the one (1) Allowed/Exempt sign.
E. Yard Sale: Yard sale and similar personal property sale signs. Yard Sale signs are subject to Time Limitations as defined in Section 872.

Section 822: Subject to a Maximum of six (6) Square Feet in Total Area per side

Allowed/Exempt Signs (Not Requiring a Permit)

A. Agricultural: "Directional signs, subject to regulations adopted by the Federal Highway Administration, providing directions to places of business offering for sale Agricultural products harvested or produced on the premises where the sale is taking place or to farmers' markets that are members of the Vermont Farmers Market Association selling Vermont products", pursuant to 10 V.S.A. § 494(12). Agricultural products harvested or produced on the premises may be included on the signs.
B. Banners and Posters: A business is allowed one (1) Banner or Poster. Banners and Posters are subject to Time Limitations as defined in Section 872.
C. Contractor: With the express consent of the property owner, one (1) sign displayed by a contractor, displayed on the subject property. Contractor signs are subject to Time Limitations as defined in Section 872.
D. Flags (Other than Open/Closed): two (2) other flags are allowed per property. Open/Closed signs; see below. State and Federal flags are allowed without a Permit pursuant to Section 832.
E. Open/Closed Signs or Flags: One (1) "Open/Closed" sign or one (1) "Open" flag per business indicating whether a business is open. Open/Closed signs are subject to Time Limitations as defined in Section 872.
F. Public Convenience Signs: Signs without advertising, displayed for the convenience, direction, or instruction of the public, including but not limited to signs identifying rest rooms, entrances, wireless internet access, ATMs, or posted areas, pursuant to 10 V.S.A. § 494(5)(8).
G. Public Events: Two (2) outdoor signs erected for fairs, expositions, entertainment, campaigns, drives, auctions, or events of civic, political, philanthropic, service, or religious organizations. Event signs may be placed on property not owned or rented by the event sponsor with the written consent of the property owner. Public Event Signs are subject to Time Limitations as defined in Section 872.
H. Real Estate: One (1) "Real Estate for Sale" sign for each property side on a Public or Private Road, placed on the subject property. Real Estate signs are subject to Time Limitations as defined in Section 872. See 10 V. S.A. § 493(3).
I. Sandwich-Board Signs: One (1) A-frame or sandwich-board sign per business. A-Frame or sandwich-board signs shall not be displayed when the business is closed, shall be located on or directly in front of the business, and are not subject to normal setback requirements. Signs shall not impair public safety or impede pedestrian traffic and are subject to State penalties for violations pursuant to 19 V.S.A. § 1105. See Section 870 (F).
J. Short Term Sales, Specials or Rates: One (1) sign indicating short-term sales, special rates, or other short-term advertising. Short Term Sales, Specials, or Rates signs are subject to Time Limitations as defined in Section 872.
K. Vending Machines: Internal illumination is allowed on outdoor vending machines.
L. Window Display: Any number of signs displayed in windows, provided that no more than 30% of a contiguous area of the window is covered. 70% of a contiguous area of the window shall remain free and clear of window signage.

Section 823: Other Signs

Allowed/Exempt Signs (Not Requiring a Permit)

A. Awning Signs: One (1) awning with advertising, attached to the front of the building. Awnings not Used for advertising purposes are not subject to this Article VIII. Awning sign is type of wall sign that is attached to an awning, canopy, or other structural protective cover over a door, entrance, window or other outdoor service area.
Exception: Awnings and canopies for Automotive Service Station and Repair Garages do require a Permit and the written decision and approval of the Development Review board as defined in Section 732(B) of this ordinance.

B. Decorative String Lights: Decorative string lights with bulbs of less than 3 inches, regardless of whether incandescent, LED, fluorescent, neon, or otherwise, and regardless of time of year, are not considered a "sign" under this Article and are not subject to this Article, unless the lights are Used for advertising (for example to spell out a word)**.** Decorative string lights Used for advertising purposes are subject to Permitting pursuant to Section 830 of this Article.

C. E-911 House Numbers: Assigned E-911 numbers are Allowed/Exempt and do not count toward number of Allowed signs.

D. Government Signs: Pursuant to 10 V.S.A. § 494(4)(6)(7)(13)(14)(15)(17), signs erected, maintained or administered by the Town of Wilmington or the State of Vermont, whether maintained at private or public expense, regardless of size, are Allowed/Exempt. This includes Welcome signs or other signs erected, maintained, or administered for the downtown designation pursuant to 24 V.S.A. § 76(A).

E. Memorial Signs or tablets pursuant to 10 V.S.A. § 494(10).

F. Motor Vehicles and Trailers: Signs on trailers or motor vehicles including signs painted on or attached to a registered and inspected vehicle or the rolling stock of a common carrier are Allowed/Exempt pursuant to 10 V. S.A. §§ 494(1) and (2).

G. Personal Recognition signs displaying messages of congratulations, condolences, birthday wishes, or displaying a message commemorating a personal milestone or event, pursuant to 10 V.S.A. § 494(16). Personal Recognitions signs are subject to Time Limitations as defined in Section 872.

H. State and Federal Flags: One (1) state and one (1) federal flag are allowed without a Permit.

I. Transportation Stops/Fare Zones: Signs identifying stops or fare zone limits of common carriers are Allowed/Exempt pursuant to 10 V.S.A. § 494(4).

J. Umbrella Signs: One (1) table umbrella sign is Allowed/Exempt for each Permitted outdoor customer dining table at a restaurant or food stand which has both a) a valid food service license, and b) an approved zoning plan allowing outdoor seating. Umbrellas may include business name or advertising for products sold on the premises and must be installed over the table.

Section 830: Permitted Signs **(Requiring a Zoning Permit)**

Signs, other than those defined in Sections 820, 821, 822 and 823 must receive a Permit before any construction, erection, alteration, or enlargement. A sign Permit shall be secured from the Zoning Administrator. See Article VIII Sections 840, 841, 842, 843 and 844 for Permitting information.

Section 831: Types of Signs

Permitted Signs (Requiring a Zoning Permit)

Permitted signs will be one of the following two types. See Appendix III for definitions.

1. **Freestanding** (of all types including poles, pedestals, posts, and plaza signs)
2. **Structure Mounted** (of all types)

Flags, whether freestanding or Structure mounted are not counted as a Freestanding or Structure Mounted sign under this Section of the ordinance.

Section 832: Number of Signs

Permitted Signs (Requiring a Zoning Permit)

Each Commercial Business other than Home Occupations and Home Businesses may have:

A. One (1) **Freestanding** sign – Allowed only when setback requirements of Section 873 can be met.

B. One (1) **Overhanging Sign**. **One (1) sign overhanging or perpendicular to a public walkway is encouraged, allowing them to be visible to pedestrians and drivers from a distance.** Signs overhanging a right-of-way or property not owned by the sign applicant require the written approval of the owner of the land or right-of-way. Pursuant to Section 873 (E), hanging sign (including flags), in all districts, shall provide at least seven (7) feet of unobstructed area down vertically to any pedestrian walk way.

C. One (1) **Structure Mounted – per Customer Entry (other than an overhanging sign).** One sign is Permitted for **each** building entrance operating primarily as a customer entrance to a commercial business.

D. One (1) **Structure Mounted – No Customer Entry but Facing a Public Area** identification sign on **each** side or rear of the Structure that has no Customer Entry door but faces a public area.

E. **Home Business** and **Home Industry** are allowed one (1) Structure Mounted or one (1) Freestanding sign, but not both.

Properties with Multiple Commercial Businesses

Structures or properties with more than one business, plazas, or business complexes are allowed only one Structure Mounted – Customer Entry sign per individual Customer Entry door. Only individual businesses that have their own Customer Entry door may have an individual Structure mounted sign. For shared Customer Entry doors, property owners will allocate space on the single Permitted sign for individual businesses.

Individual businesses doing Business on properties with multiple commercial Businesses shall not have a separate Freestanding Sign for each business. Each property is allowed just one Freestanding sign with the exception of properties with multiple buildings accessed by separate driveways, in which case each driveway is allowed one (1) Freestanding sign.

Signs for multi-business Structures, business complexes and plazas may have a Header sign representing the name of the business group, complex, or plaza. A Header sign will be counted in the overall size of the Permitted sign (See Section 833 & 874) and will not be counted as a separate sign.

Section 833: Size of Signs
Permitted Signs (Requiring a Zoning Permit)

The following are sign **maximums**. It is recommended that discretion be applied. Sign size should be determined by aesthetics and the space available on the Structure.

For Freestanding and Hanging signs, size limits are per sign side. Each side of a sign is allowed the maximum Square Feet (Sq. Ft.) defined below.

The following maximums apply to all except Home Businesses. **Home Businesses** are allowed a total of 4 Sq Ft per side of signage.

	Village District Maximum Sq. Ft. Per Side	Other Districts Maximum Sq. Ft. Per Side
A. Freestanding signs		
• 1 - 2 Businesses	24	32
• 3 or more Businesses	32	32

All Freestanding signs shall be fully contained within the Structure of the sign. No appendages or extensions outside of the sign Structure are allowed.

B. Structure Mounted Signs - per Customer Entry		
Hanging Signs		
• Fully on premises – not overhanging a public area		
- Structures less than two stories*	12	16
- Structures two stories* or greater	24	32
• Overhanging a public area		
- Structures less than two stories*	6	12
- Structures two stories* or greater	12	24

*** Number of stories above street level**

Flush Mounted - one (1) sided sign		
• 1 - 2 Businesses	24	32
• 3 or more Businesses	32	32
C. Structure Mounted Signs - No Customer Entry and Facing a Public Area		
Flush Mounted - one (1) sided sign		
• 1 – 2 Businesses	12	16
• 3 or more Businesses	16	24

Section 840: Obtaining a Permit

For all Permitted Signs a zoning Permit shall be obtained from the Zoning Administrator prior to the erection or change of any sign.

Section 841: Zoning Ordinance Administration

For more information on administration of this zoning ordinance refer to Article II, Administrative Procedures

Section 842: When is a Zoning Permit Required

A sign Permit shall be secured from the Zoning Administrator:

A. For all signs described in Sections 831, 832, and 833.

B. Prior to the placement, erection, reconstruction, relocation or modification of any permanent or temporary sign, except signs as described in Section 820, 821, 822 and 823.

C. For alteration or change of any existing Permitted sign resulting in a different sized sign or a substantially changed sign. Rewording of a sign for an existing Use while maintaining uniformity of background shall not be deemed to constitute sign alteration.

Section 843: Administrative Amendments to Zoning Permits

Permits for minor changes to previously issued sign Permits may be administratively amended. The Zoning Administrator may make the decision as to whether an amended Permit will be approved. If the Zoning Administrator believes that the change to the sign is not consistent with the intent of this Article VIII, the Zoning Administrator may require that an application for a new sign Permit be submitted to the Development Review Board for review.

Prior to making any changes to existing signs, the property owner / business owner should confirm with the Zoning Administrator that the required Permits or amendments have been approved. Upon completion of the Permitted work, the Zoning Administrator shall be notified of the completion.

No Permit is required to refresh or repair existing graphics and/or text.

Section 844: Obtaining a Zoning Permit for a Sign

Completed zoning Permit applications should be submitted to the Zoning Administrator for review.

The Permit application for a sign shall include a drawing of the sign, including all colors and description of materials. If, in the judgment of the Zoning Administrator, the proposed sign does not satisfy the intent of this Article VIII, the Zoning Administrator may require the sign be reviewed and a determination made by the Development Review Board.

Section 850: Conditional Sign Waivers Requiring Written Decision and Approval from the Development Review Board

A waiver may be requested from the Development Review Board for signs not meeting all of the requirements of this Article VIII. The Development Review Board may approve the sign if:

A. It meets the requirements found in Article II, Administrative Procedures, Section 232, Criteria for Obtaining a Sign Waiver from the Development Review Board, or

B. If the sign is found to be in the public interest and will contribute to the character of the area and the community.

Section 860: Signs Not Allowed

A. Signs erected, drawn, painted or attached to or on trees, rocks, other natural features, or utility poles as expressly prohibited in 10 VSA § 495(5).
B. Billboards as defined and regulated in Title 10 VSA § 494(4) are not allowed in the state of Vermont.
C. Off-premise signs regulated in Title 10 VSA § 494 are not allowed in the state of Vermont.
D. Any sign not meeting the standards and requirements of this Article, including sign standards as defined in Section 870 below.

Section 870: Sign Standards – Applying to ALL signs

Allowed (not requiring a Permit) and Permitted (requiring a Permit)

With the exception of those signs receiving a Conditional Sign Waiver from the Development Review Board as defined in Section 850, all signs, both Allowed and Permitted, must satisfy the following standards:

A. Signs shall not prevent a clear and unobstructed view of existing Allowed or Permitted signs.
B. All signs must be maintained in good repair, with clear, easily readable lettering, without significant rotting, rusting, peeling, fading, or deteriorating parts, and must be in stable, safe and durable condition, safely secured to a stable Structure as determined by the Zoning Administrator.
C. When a business or organization closes, moves or otherwise terminates, or an advertised product ceases to be offered, all graphics and text signs pertaining to that Use, service, product or event must be removed from the location within ninety (90) days unless an extension of time is approved by the Development Review Board. The need to maintain a visible sense of business activity in retail areas will be considered in the granting of waivers to this provision.
D. Any nonconforming (‘grandfathered’) sign that is destroyed or damaged may be restored to its original state, but not altered unless in conformance with this Bylaw.
E. Signs shall not be placed without permission from the owner or tenant of a property or his/her authorized agent.
F. Signs shall not impair public safety or impede pedestrian traffic. Violations are subject to State penalties pursuant to 19 V.S.A. § 1105.
G. Signs shall not prevent a clear and unobstructed view of official signs and approaching or merging traffic.
H. Signs shall not impede access to any door, window, or fire escape.
I. With the exception of entrance and exit signs, signs shall not be erected which appear to direct the movement of traffic or interfere with, imitate, or resemble any official traffic, directional or route sign, signal or device.
J. External illumination of signs shall be downcast and effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way of a Public Road or adjacent properties. Businesses in the Village District are encouraged to keep externally illuminated signs and soft internal window displays illuminated until midnight to maintain an active appearance. Bright lighting is discouraged.
K. Signs with internal illumination, including but not limited to incandescent, fluorescent, neon, and LED, are not allowed. Previously Permitted internally illuminated signs existing on November 20, 2014, the date of adoption of this provision in the Sign Article of the zoning ordinance, are

"Grandfathered" and considered "Permitted" under Section 803 (2) of this Article VIII and may remain "as-is." Sign changes require full compliance with this Article VIII. (See Section 842)

L. Signs shall not be illuminated, internally or externally, by any flashing, moving or intermittent light.
M. Signs shall not contain any moving parts.
N. Signs shall not emit noise or have audible systems to the extent that they can be heard on adjacent properties, public ways, parking areas, streets, or highways.
O. External signs shall be sufficiently secured and of a material able to withstand sustained winds.
P. Signs may not be placed internally so as to be visible through a window or door, with the intention of circumventing this article.

Section 871: Sign Design Guidelines

Compliance with the following guidelines is required in the Historic Design Review District.

Compliance with these guidelines is recommended in all other districts.

All signs, both Permitted and Allowed, regardless of district, shall be of a simple look and/or style consistent with our Post-Colonial working-class mill town (1800 -1900).

Colonial signs with curved tops, broken pediments, and ornate design elements are not consistent with the history of Wilmington.

The following design elements consistent with the history of Wilmington shall be followed:

A. Simple Flush Mounted, often rectangular signs, attached to the front or side of the building.
B. Simple rectangles or ovals, hung over the sidewalk or edge of the street with simple metal or wooden hangers
C. Sign illustration demonstrating the nature of the service or product provided (for instance a shoe for shoemaker, a book for a bookseller).
D. The Use of neon colors is not consistent with the town's history. Use of other historically appropriate colors may add interest to a sign while maintaining a historically appropriate look. Simple color schemes, such as black/dark colors on white, or white on black/dark colors were characteristic of original signs in the town.

Examples of the type of signs common to historic Wilmington can be seen in the brochure "A Historic Walking Tour of Wilmington, Vermont".

Commercial operations are encouraged to have hanging signs that project out from the Structure so as to be visible to people walking or driving up the street. Signs overhanging a state highway right-of-way must obtain a Permit from the State pursuant to 19 V.S.A. § 1111(a). Signs overhanding property not owned by the sign applicant must obtain the written permission of the property owner whose property is being overshadowed.

Section 872: Time Limitations

Signs subject to Time Limitations shall be removed promptly after the conclusion of the event advertised, and in no case may be displayed more than the Time Limitations defined below:

A. A maximum of six (6) weeks:
   - Fairs and expositions – pursuant to 10 V.S.A. § 494(11)

B. A maximum of two (2) weeks:
   - Auctions, campaigns, drives, civic, philanthropic, or religious events, pursuant to 10 V.S.A. § 494(9)
   - Personal Recognition Signs, pursuant to 10 V.S.A. § 494(16)

C. A maximum of twenty-three (23) consecutive days and not more than twice in a calendar year.
   - Banners and Posters
   - Short Term Sales, Specials or Rates
   - Yard Sales
   - Public Events other than those addressed elsewhere in this Section

D. For Rent, For Sale, Real Estate, and Contractor signs may only be displayed for the time the property is for rent, sale, or under development.

E. Appropriate Use of open/closed signs is encouraged. Open signs should be displayed only when the business is open. Closed signs should be displayed only when the business is closed.

Section 873: Setback and Height Limitations - Applying to ALL signs

Allowed (not requiring a Permit) and Permitted (requiring a Permit)

A. Signs may overhang an adjacent property with the written permission of the property owner whose property the sign is overhanging. Signs shall not be within the right-of-way of a public road, with the exception of Awnings and Hanging Signs which may overhang a public way in the Historic Design Review District which has a zero (0) setback. Signs overhanging a state right-of-way require a Permit from the state, pursuant to 19 V.S.A. § 1111(a). Further information regarding on-premises signs may be found in 10 V.S.A. § 493.

B. Freestanding signs shall be no more than sixteen (16) feet to the top of the sign from the average normal grade of the ground.

C. Freestanding signs shall be set back ten (10) feet from the right-of-way of any Public or Private Road, except in the Historic Design Review District that has a zero (0) setback. In no case shall a sign impede traffic visibility or public safety.

D. Freestanding signs shall be set back ten (10) feet from a side or back property line in all districts except the Historic Design Review District that has a zero (0) setback.

E. All hanging signs (including flags) in all districts, shall provide at least seven (7) feet of unobstructed area down vertically to any pedestrian walk way. Any sign providing less than seven (7) feet vertical clearance to the average normal grade of an area accessible to the public must make the area under the sign inaccessible to pedestrians so as not impair public safety.

Section 874: Calculation of Area and Number of Signs

Allowed (not requiring a Permit) and Permitted (Requiring a Permit)

A. Area: The area of a sign includes all of the sign surface area on a single side, regardless of whether the entire surface area is Used for advertising content. Any Header on a multi-business, business complex, or plaza sign is included in the total sign area. Structural support members, poles, and hardware not bearing advertising shall not be included in total area unless they are incorporated as an integral part of the sign.

   Where the sign is painted directly on a Structure and where the background color of the sign is not different than the color of the building, the area of the sign will be measured as the smallest rectangle that encompasses all of the elements of the sign.

B. Two-Sided Signs: For two sided signs each side is allowed the same Area for advertising Allowed or Permitted for that Type of sign (see Section 833)

C. Number of signs:
   All of the components or panels shall count as a single sign, including multi-business signs with separate attached panels for each business within the Structure, plaza, or complex.

Section 880: Enforcement and Penalties

The Zoning Administrator shall enforce the provisions and penalties under this section. In carrying out this enforcement, the Zoning Administrator shall follow the enforcement requirements of the zoning ordinance found in Article II.

The Zoning Administrator shall follow the enforcement procedures of this ordinance to ensure that any sign endangering public safety or violating any provision of this Article comes into conformity or penalties shall be applied (See Sections 215 and 216).

Pursuant to 24 V.S.A. § 4451(a) no such action will be taken until seven (7) days after the violator has received written notice of violation by certified mail stating the nature of the violation and the opportunity to correct the violation without penalty. No seven (7) day advance notice is required for repeat offenses or violations or for signs that endanger public safety.

Refer to Article II, Administration, Sections 215 and 216 for additional information on enforcement and penalties of the provisions of this Article VIII, Signs.

Section 881: Appeals & Waivers

Any person may appeal any decision, act, or failure to act by the Zoning Administrator or Development Review Board. Refer to Article II, Administrative Procedures, Sections 240, 241, 242, 243, 244, 245, 246 and 247 for appeal provisions. Prior to filing an Appeal the applicant may apply for a Waiver as defined in section 850 of this Article. (See also Article II, Sections 214, 229 thru 324)

Section 890: Signs for which Provision is Not Made

Signs not prohibited or provided for elsewhere in this Article may be Permitted upon written decision and approval from the Development Review Board after a public hearing if the Development Review Board finds that such a sign is in the public interest and is not detrimental to surrounding properties.

ARTICLE IX
WIRELESS AND TELECOMMUNICATION FACILITIES

Section 901: Authority

Under authority granted by 24 V.S.A. Chapter 117, the Town of Wilmington adopts this Wireless Telecommunication Facility Zoning Bylaw.

Pursuant to 24 V.S.A. § 4414(12), the Development Review Board shall have the authority to regulate construction, alteration, siting and design, development, decommissioning and dismantling of Wireless Telecommunication Facilities in the Town of Wilmington.

Section 902: Purpose

The purpose of this Article of the bylaw is to promote the public health, safety, welfare, and convenience of the residents of the Town of Wilmington, while encouraging the advancement of the telecommunication needs of the Town's residents.

Section 903: Consistency with Federal and State Law - Severability

This bylaw is intended to be consistent with the Telecommunications Act of 1996 and Title 24, Chapter 117 of Vermont Statutes Annotated. If any section of this bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this bylaw.

Section 904: Definitions

The following terms shall have the meanings indicated:

Wireless Telecommunication Service: Any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

Wireless Telecommunication Facility: Any tower or other support Structure, including antennae, that will extend 20 or more feet vertically, and any accompanying Structure, building, access road, service utility or equipment that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services.

Wireless Telecommunication Service Provider: Any person or entity providing Wireless Telecommunication Services.

Section 910: Permit Requirements & Exemptions

A. Permits Required:
   1. Wireless Telecommunication Facilities may be approved as Conditional Uses upon compliance with the provisions of this bylaw in all zoning districts.
   2. No visual modification shall commence until written decision and approval has been signed by the Development Review Board and a zoning Permit has been issued.
   3. Wireless Telecommunication Facilities may be approved as Permitted Uses when located primarily inside existing buildings or Structures.

B. Exemptions:
   1. No Permit shall be required for a Wireless Telecommunication Facility that is Used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed 50 feet in elevation.
   2. This bylaw shall not apply to amateur activities, including radio, citizens band radio, AM or FM residential radio.

Section 911: Permit Application Requirements

In addition to information otherwise required in the Town of Wilmington's zoning bylaws, applicants shall include the following supplemental information:

A. The applicant's legal name, address and telephone number. If the applicant is not a natural person, the applicant shall provide the appropriate form of authorization as required by municipality, including but not limited to, state in which it is incorporated and the name and address of its resident agent.

B. The name, title, address and telephone number of the person to whom correspondence concerning the application should be sent.

C. The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the Structure or safety of the facility.

D. The name, address and telephone number of the owner or lessee of the property on which the Wireless Telecommunication Facility will be located. Applicant shall provide authorization from the owner or lessee, in the format required by municipality, which authorizes applicant to act on behalf of owner or lessee. In addition applicant shall submit a copy of the executed contract with the owner or lessee of the existing Structure.

E. The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public right-of-way.

F. A vicinity map, showing the entire vicinity within a 1,000 foot radius of the Facility, including the location of any tower, topography, public and private roads and driveways, buildings and Structures, utilities, water bodies, streams, wetlands, landscape features, historic sites and necessary wildlife habitats. It shall indicate the property lines of the proposed Facility site parcel and all easements or rights of way needed for access from a public way to the Facility.

G. The location of the Facility on a USGS Topographic Map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two-mile radius of the proposed tower site.

H. Elevations and proposed site plans, prepared by a licensed engineer, architect or other professional acceptable to the DRB, of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet).

I. In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.

J. The construction sequence and time schedule for completion of each phase of the entire project.

K. A report from a licensed engineer, architect or other professional acceptable to the DRB:

1. Describes any tower's design and elevation,
2. Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between antennas,
3. Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.

L. In the case of new Facilities, demonstration that existing towers and Structures or other Structures proposed by applicant within 5 miles of the proposed site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.

M. Description of potential changes or additions to existing Structures or towers that would enable them to provide adequate coverage.

N. Description of the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.

O. Demonstration of the Facility's compliance with the standards set forth in this bylaw or other applicable standards.

P. Proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).

Q. Other information as determined by the Development Review Board or an independent reviewer as necessary to evaluate the application.

R. A letter of intent committing the Facility owner and its successors to Permit shared Use of any tower if the additional users agree to meet reasonable terms and conditions for shared Use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.

S. A copy of the executed contract with the owner of the existing Structure where an application for additional antennas or other equipment is to be installed on an existing Facility.

T. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft of final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required for the facility.

U. Computer-generated photo simulations showing the proposed facility from the public roads and adjacent property from which it may be visible and indicating the projection of any towers or Structure above the approximate average height of the existing vegetation within 200 feet of the tower base.

Section 920: Independent Consultants

Upon submission of an application for a Wireless Telecommunication Facility Permit, the Development Review Board may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the Development Review Board. The consultant(s) shall work at the Development Review Board's direction and shall provide the Development Review Board such reports and assistance, as the Development Review Board deems necessary to review an application and in conformance with the Selectboard's Independent Technical Review Criteria Policy.

Section 930: Balloon Test

The Development Review Board may require the applicant to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test at least 7 days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Development Review Board, in writing, of the date, time and location of the test, at least 15 days in advance of the test.

The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Development Review Board.

Section 940: Criteria for Written Decision, Conditions, and Approval by the Development Review Board

An application for a Wireless Telecommunication Facility Permit may be approved after a hearing when the Development Review Board finds all the following criteria have been met:

A. General Criteria:

1. The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the Development Review Board shall require the applicant to provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.
2. The Facility shall be designed to provide reasonable future opportunity for co-location of other equipment. Where a facility is designed to host equipment from more than one wireless telecommunications provider on a single site, the engineering report required pursuant to Section 911 hereof shall also address and justify the proposed choice between vertical co-location of antennas on a single tall Structure or horizontal clustering of antennas on multiple shorter Structures.
3. The applicant shall provide written documentation that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.
4. The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.

5. The applicant will maintain adequate insurance on the Facility.
6. Application for new tower facility or Accessory Structure shall not be approved unless the Development Review Board finds that the facilities planned cannot be accommodated on an existing or approved telecommunications Structure or another existing building or Structure for one of the following reasons:
   a. The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
   b. The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.
   c. The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.
   d. Existing towers and Structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.
   e. Co-location of the equipment upon an existing tower would cause an undue aesthetic impact.

7. The Facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.

8. The Facility will not generate undue noise.

9. The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

10. The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Development Review Board shall consider the following factors:
    a. The results of the balloon test, if conducted.
    b. The extent to which the proposed towers and equipment, ground-mounted equipment, antennas as well as building and Structures accessory to the tower(s), to have been designed to blend into the surrounding environment through the Use of vegetative screening, camouflage, architectural design, and/or imitation of natural features and other means appropriate to specific site. A planted vegetative screen shall be a minimum of ten feet in depth, with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity.
    c. The extent that the construction of access roads or improvements thereto, have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
    d. The duration and frequency with which the Facility will be viewed on a public highway or from public property.
    e. The degree to which the Facility will be screened by existing vegetation, topography, or existing Structures.
    f. Background features in the line of sight to the Facility that obscure or make the Facility

more conspicuous.

g. The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
h. The sensitivity or unique value of a particular view affected by the Facility.
i. Any significant disruption of a viewshed that provides context to an important historic or scenic resource.

B. Bond Requirements

The Development Review Board may require that the applicant provide a bond or other form of financial guarantee acceptable to the Board to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate. (See Section 960: Removal of Abandoned or Unused Facilities)

C. Facility and Site Design

1. Where a facility is designed to host equipment from more than one wireless telecommunications provider on a single site, the engineering report required pursuant to Section 911 hereof, shall also address and justify the proposed choice between vertical co-location of antennas on a single tall Structure or horizontal clustering of antennas on multiple shorter Structures.

2. The Facility will not project more than 20 feet above the average elevation of the tree line measured or other effective horizon (e.g. surrounding roof tops) within 100 feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate co-location of facilities. In this event, the Development Review Board may approve additional height, so long as that additional height will not cause an undue visual impact on the scenic character or appearance of the neighborhood or the Town, in general.

3. The minimum distance from the base of any tower to any property line is not less than 100 % of the total elevation of the tower, including antenna or equipment.

4. The Facility will not be illuminated by artificial means and will not display any lights or signs or lettering except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw. When required, the application must employ the least visually obtrusive marking and/or lighting scheme Permitted by FAA regulations.

5. The Development Review Board may condition a Permit on the provision of appropriate fencing.

6. A planted vegetative screen shall have a minimum height of 6 feet and shall have the potential to grow to a height of at least 15 feet at maturity.

7. Existing on-site vegetation outside the immediate site area of the facility shall be preserved or improved. Disturbance to existing topography shall be minimized. However, applicant shall be required to alter existing topography if such alteration shall minimize the visual impact of the facility as seen from surrounding properties or other vantage points.

8. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the Town. Utility or service lines which run underground are preferred.

Section 950: Continuing Obligations for Wireless Telecommunication Facilities

A. Maintenance

1. Facilities must be maintained. Maintenance shall include, but not be limited to, painting, assurance of structural integrity of towers, antennas, facility perimeter fencing and care of landscaping and any planted vegetative screening.

2. Failure to maintain facility will result in punitive action, which may include fines, removal and potential demolition.

Section 960: Removal of Abandoned or Unused Facilities

A. Unless otherwise approved by the Development Review Board, an abandoned or Unused Wireless Telecommunication Facility shall be removed within 90 days of abandonment or cessation of Use.

B. Abandonment or cessation of Use shall be deemed if: the facility fails to operate for a period of 30 consecutive days.

C. Facilities constructed in violation of Permit conditions or application representations shall be removed or corrected within 90 days of notification of violation.

D. Unused portions of a Wireless Telecommunication Facility shall be removed within 90 days of the time that such portion is no longer Used. Note: Replacement of portions of a Facility previously removed shall require a new Permit, pursuant to Section 910 (A).

E. If the Facility or any Unused portions hereof is not removed within the 90 days, as required above, the Development Review Board/Town of Wilmington may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner. (See Section 940.B, Bond Requirements).

Section 970: Temporary Wireless Communication Facilities

A. Temporary facilities may be allowed for periods up to 90 days for a special event.
B. Maximum height for a temporary facility is 100 feet from grade.
C. Temporary facilities must comply with all applicable portions of these regulations.
D. Temporary Wireless Communication Facilities must obtain a temporary Use Permit from the Selectboard of the Town of Wilmington.

Section 980: Facility Modifications

Any substantial changes, additions, or alterations to a previously approved Facility shall require a new Permit application.

Section 990: Application Fees

A fee schedule for the Permitting of permanent tower facilities and temporary wireless communication facilities shall be established by the Selectboard, which may include reasonable fees to cover the administrative costs of application processing and tracking.

ARTICLE X
GENERAL DEFINITIONS

Definitions for Sections VI Flood Hazard District and Section IX Telecommunication are included within each of their respective sections. The following definitions apply to all other Sections of this Zoning Ordinance.

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. Reference for terms undefined is *Black's Law* Dictionary, and if the term is not found, Webster's *New College Dictionary.* The word "shall" is mandatory; "occupied" or "Uses" or "uses" shall be considered as though followed by "or intended, arranged or designed to be Used or occupied"; "person" includes individual, partnership, association, cooperative, corporation, company, organization or any governmental body.

Accessory Apartment: An apartment **c**reated within, attached or detached, which is subordinate to an owner occupied single-family dwelling where property can demonstrate sufficient wastewater capacity. [See 24 V.S.A. §4412(1)(E)]

Accessory Structure: Any assembly of materials for occupancy or Use, attached or detached, which is subordinate to and which Use is incidental and accessory to the Use of the principal building on the same Lot.

Accessory Agricultural Uses: Customary on-farm Uses not requiring a Permit that are directly related and subordinate to the Agricultural operations. Such activities need not be subordinate to the Agricultural operation in terms of revenue, but shall be subordinate in overall land Use (e.g., land area, Structures utilized). Including, but not limited to: farm tours, trails for non-motorized recreation, composting, u-pick operations, product tasting, retail sales of products produced on the farm (including products that are produced and then processed on the farm, for example, livestock), retail sales of a limited number of Agricultural products not produced on the farm as long as such sales are clearly subordinate to retail sales of on-farm products.

Accessory Use: A Use subordinate to and incidental to the principal Use of land or building.

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

Administrative Officer: Zoning Administrator

Affordable Housing Development: A housing development in which at least 20% or a minimum of 5 units, whichever is greater, are affordable housing units as defined by 24 V.S.A.§ 4303 (1). Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 20 years from the date of their first sale or lease. [See 24 V.S.A. §§ 4303(2) and 4412(1)]

Agricultural (Farm) Structure: A Structure 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). Agricultural Farm Structures do not need a Permit.

Agricultural (Farm) Structure Notification: The submission by the farm property owner of a plot plan showing property lines, all Structures on the Lot, and the setbacks and dimensions of the proposed Structures. [See 24 V.S.A. § 4413(d)(2)]

Agriculture (Agricultural): Land or Structures Used for the growing or harvesting of crops; raising of livestock; operation of orchards, including maple sugar orchards; the sale of Agricultural produce and forest products on the premises where raised; the processing or storage of products raised on the premises, as licensed and Permitted by the Commissioner of Agriculture, Food and Markets and the Use of Agricultural Structures and the storage of Agricultural equipment incidental to the above. Includes Forest Management. [See 24 V.S.A. § 4413(d)]

Agritourism: operations taking place on a farm that include activities that may not be directly related to the Agricultural Use. Such activities need not be subordinate to the Agricultural operation in terms of revenue, but shall be subordinate in terms of overall land Use (e.g., land area, Structures utilized). Activities must fall within one or more of the following categories:

- On-site processing, storage, sampling and tasting of crops or farm products including livestock not principally produced on the farm.
- Retail sales of crops or farm products not principally produced on the farm.
- Retail sales of non-farm products related to the farm and/or what is produced on the farm. Such retail sales of non-farm products must be clearly subordinate to the farming operation and/or other integrated Uses.
- Education, cultural, recreation programming – e.g., classes, day camp, corn maze, petting zoo, etc.
- Event hosting as long as such events are clearly subordinate to the farming operation – e.g., wedding venue, dinner/dance venue, theater production, etc.
- Farm Café - A restaurant with indoor seating for no more than 40 people, and no more than 1,000 square feet of outdoor seating that meets the following criteria:
  1. Is subordinate to an Agricultural operation.
  2. One of the principal objectives is the Use of products produced on the farm.
  3. Is located on a parcel of at least 15 acres that contains one or more of the farm operation's principal Structures. This Use need not be subordinate to the Agricultural operation in terms of revenue, but shall be subordinate in terms of overall land Use (e.g., land area, Structures utilized). Includes dining on the premises (indoor and/or outdoor), take out dining, and delivery, but excludes drive-through service.

Airport terminal facility: A facility/Structure at an airport where passengers transfer between ground transportation and the facilities that allow them to board and disembark from aircraft.

Airport Hanger: Structure for the storage of aircraft.

Alteration: External structural change, rearrangement, change in location, or addition to a building, other than repairs to the building.

Appeal: An application to a higher authority where it is alleged that an error or mistake has occurred in an order, requirement, decision, or determination made by the Zoning Administrator or the Development Review Board. Variances are a type of appeal. A complaint is a form of appeal.

Appropriate Municipal Panel (AMP): The Development Review Board. [See 24 V.S.A. §§ 4303(3) and 4460]

Automotive Service Station and Repair Garage: Land or Structures Used for either or both the sale of petroleum products, motor fuel, oil or other fuel for the propulsion of motor vehicles and the maintenance, servicing, repairing or painting of vehicles.

Automotive Services: Establishments primarily engaged in furnishing automotive rental, leasing, washing or installation of accessories (such as tires, windows and stereos), and other similar activities. Retail establishments engaged in the sale of automotive accessories are not included.

Average Grade: The proposed finished elevation of the land around the Structure measured as an average of the highest and lowest points.

Bank: A business, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds. ATMs within another business are not considered to be a bank.

Bar or Lounge: A room or establishment where the sale and consumption of alcoholic beverages are the primary activity.

Basement: Any area of the building having its floor elevation below grade level on all sides.

Basement, walk-out: An area of the building having its floor elevation below grade level on one to three sides.

Base Lodge Facilities: A building(s) Used for recreational support services.

Boundary Line Adjustment: Altering the location of a line or lines that mark the common edge of two contiguous properties.

Buffer Area: A space between two or more other area to prevent incompatible Uses from coming into contact.

Buildable Site Area: The buildable site area is the area of the site that may be altered, disturbed, or re-graded for development purposes. The buildable site area could contain buildings, roads, parking areas, sewage systems, and stormwater management facilities. The buildable site area shall not contain required open space, recreation, or natural resource protection areas.

Building: see Structure

Bus Shelter: An enclosure or canopy intended for bus passenger protection.

Business and/or Commerce: The purchase, sale, exchange or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood, or the ownership or management of office buildings, office, recreation enterprises or the maintenance and Use of offices or professions and trades rendering service.

Camp, Dwelling: See Dwelling, Seasonal.

Camp, Recreational: A building or group of associated buildings containing facilities for occupancy and/or Use on a short term basis and having an overseeing entity managing the building(s) and providing services to the occupants of the facility for the purpose of providing sports, educational, developmental or recreational services. Included are sports camps, club camps, educational camps and vacation camps.

Campground / Recreational Vehicle Park: Temporary or permanent buildings, recreational vehicles/travel trailers, tents, or other Structures established or maintained as a temporary living quarter, occupied for recreation, religious, education, or vacation purposes.

Canopy: A roof-like Structure providing partial protection from the weather, with a maximum drip edge of six (6") inches. The canopy has no permanent foundation. However, a canopy Used over an automotive service station may be permanently affixed to a cement or macadam surface.

Cemetery: Property Used for interring the dead.

Change of Use: A Change of Use occurs when a Use within a Structure or property changes to another Use of the Structure or property. Changes in Use where the new Use is substantially similar to the prior Use will not be considered a Change in Use for the purposes of this Zoning Ordinance. Any Change in Use that is not substantial similar to the prior Use, even if within the same category of se (such as a Real Estate Service Business changing to a Hair Dressing Service Business) must obtain any written decision and approval and/or permit as defined in this ordinance.

Child Care Facilities: [See 24 V.S.A. § 4412(5)]

A. Family Child Care Home: A state registered or licensed family child care home serving no more than six (6) full-time children and four (4) part-time children, as defined in 24 V.S.A. § 4412(5) and33 V.S.A.§ 4902(3).

B. Child Care Facility: A state registered or licensed center-based program as defined and regulated by the Child Care Services Division of the Vermont Agency of Human Services, as defined in 24 V.S.A. § 4412(5) and 33 V.S.A.§ 4902(2).

Community Facility: A Structure or Use as defined in Section 448 of this ordinance.

Conditional Use: In any district, a Use that is allowed only by written decision and approval of the Development Review Board.

Construction: The assembly or building of a Structure.

Cultural Facility: See Entertainment/Cultural Facility

Customer Entry Door: A door used primarily for exterior ingress and egress for customers to access a business space.

Density: Density is a measure of the number of dwelling units per unit of area.

Development/Developoed: See Land Development.

District: A geographic unit established by the provisions of Article II of this ordinance.

Dripline: The vertical line from the outermost edge of a roof or eave extending to the ground.

Dwelling Unit: A building or a portion of a building occupied or intended to be occupied for residential purposes, containing cooking, sleeping and sanitary facilities that constitute a separate independent housekeeping establishment.

Dwelling, Multiple-Family: A building containing separate dwelling units for three (3) or more families having separate or joint entrances, services, or facilities.

Dwelling, One-Family: A detached building designated for or occupied solely as a dwelling by one family.

Dwelling, Seasonal: A dwelling unit which is not a primary residence and is occupied on a part time or seasonal basis, not to exceed four (4) months per year. Seasonal dwellings shall have no indoor plumbing and must meet all other standards for development in the district. However, inside composting, incinerating, and other non-plumbed toilets are allowed.

Dwelling, Two-Family/Duplex: A building containing separate dwelling units for two (2) families, either side by side or top and bottom; each dwelling unit designated for occupancy as a residence for one family.

Educational or Institutional Facility: A public, parochial, or private institution that provides educational instruction to students.

Entertainment/Cultural Facility: A museum, art gallery, theater, concert hall, community center or other establishment offering programs, performances, or exhibits of cultural, educational, historical or scientific interest.

Excavation: The movement of soil or earth to create roads, dams, retaining walls, foundations, drainage, canals or berms.

Extraction of Earth Resources/Quarrying: The removal of earth, soil, sand or other materials in excess of 200 cubic yards per site, per year.

Family: One (1) or more persons occupying a single dwelling unit and living as a single household unit.

Family Child Care Home: See Child Care Facilities

F.I.A.: Federal Insurance Administrator.

Forest Management: See Silviculture. [See 24 V.S.A. § 4413(d)]

Food Stand: An establishment that serves food and beverages to the public for take-out and/or outdoor consumption.

Formula Business: Retail stores, restaurants, hotels or other establishments that are required by contract or other arrangements to adopt standardized services, décor, methods of operation, architecture or other features that make it virtually identical to businesses elsewhere.

Frontage: The length of a Lot bordering on and parallel with a public or private road(s) or right(s) of way.

Golf Course: Substantially undeveloped land, including amenities such as landscaping, irrigation systems, paths and golf greens and tees, which may be Used for golfing or golfing practice by the public or by members and guests of a private club. A golf course may include a clubhouse, restaurant, bar/lounge and shelters as Accessory Uses.

Group Home, 1-8 Residents: A state licensed or registered residential care home or group home, serving not more than eight (8) persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute an allowed single-family residential Use of property, except that no such home shall be so considered if it is located within one thousand (1,000) feet of another existing and allowed such home. [See 24 V.S.A. § 4412(1)(G)]

Group Home, more than 8 residents: A Group Home serving more than 8 residents.

Health Care Facility: An institution providing health care services and medical or surgical care, primarily to out-patients.

Home Business: See Article IV Section 462 for detailed definition.

Home Industry: See Article IV Section 462 for detailed definition.

Home Occupation: See Article IV Section 462 for detailed definition.

Impervious Surface: A surface that does not allow infiltration of rain into soil, including paved and graveled surfaces.

Improvement: A change or addition to the property, usually increasing the value thereof.

Industry: A type of Manufacturing (See Manufacturing)

Junkyard (or Salvage Yard): Land or Structure Used for the collection, storage, or sale of waste paper, rags, scrap metal or discarded material, or for the collecting, wrecking, dismantling, storage, salvaging and sale of machinery, parts or vehicles. A Junkyard shall also be considered to

be any property which has situated on it two (2) or more un-housed Junked Vehicles, as defined herein.

Junked Vehicle: Any vehicle that is both (1) without a valid vehicle registration in any state, and (2) unable to be started and operated as the vehicle is intended to operate.

Kennel: Commercial operation for the breeding or boarding of dogs or cats.

Lake and Ponds: Lakes and ponds are natural or artificial bodies of water that retain water year-round. Artificial bodies of water may be created by dams, or result from excavation using machinery.

Land Development/Developed Land: The construction, reconstruction, conversion, Structural alteration, relocation, or enlargement of any building or other Structure; the demolition, destruction, or razing of a Structure, whether intentional or unintentional; any change in the Use of any building or other Structure, Land, or Use; the Subdivision of a parcel into two (2) or more parcels; any mining, landfill, or excavation that increases peak off-site flow; any water impoundment such as lakes and ponds. [See 24 V.S.A. §§ 4303(10) and 4449]

Landfill: Land that is built up from deposits of solid materials in layers covered by soil.

Landscaping: Modification of the land by grading, clearing or decorative planting.

Lodging ≤ two (2) guest rooms: The rental of bedrooms for overnight accommodations where the operator lives on site.

Lodging > two (2) guest rooms: The rental of bedrooms for overnight accommodations. Meals may be provided to the general public.

Lot: A measured parcel of land having fixed boundaries.

Lot Area: The Lot area is the area contained within the property lines of the individual parcels of land.

Lot Coverage: The total ground floor area of all Structures on a Lot. Lot coverage may be expressed as a percentage of the total Lot area.

Lot Development/Developed Lot: See Land Development/Developed Land

Maintenance: Performing the routine actions which keep a Structure or property in good condition.

Maintenance Facility: A facility Used for maintenance, repair or storage of machinery or property associated with a commercial activity.

Manufactured Home: see Mobile Home

Manufacturing: An operation Used for packaging, processing, fabricating, assembling, treating, processing, and similar operations performed on any materials allowed by the terms of this Regulation.

Medical Marijuana Dispensary: A nonprofit entity registered under 18 V.S.A. § 4474(e) which acquires, processes, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies or educational materials for or to a registered patient.

Mining: The extraction of materials from the earth. See also: Extraction of Earth Resources/Quarrying.

Mini-Storage Facility: A purpose–built building or group of buildings divided into separate compartments Used to meet the temporary storage needs of small businesses, apartment dwellers and other residential Users and may include refrigerated facilities.

Mixed Use: Any combination of Permitted or Conditional Commercial and Residential Uses allowed in the district.

Mobile Home: A dwelling unit that is substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis. (Also referred to as a Manufactured Home.) Recreational vehicles shall not be considered to be manufactured homes and shall not be allowed as a permanent dwelling.

Mobile Home Park: A parcel of land under single or common ownership or control, which contains, or is designed, laid out or adopted to accommodate two (2) or more mobile homes.

Multi-Business Center: A group of businesses sharing a common building or buildings, and a common parking area.

Municipal Transfer Station: An area where solid waste is disposed of, prepared, or stored for transfer in a controlled, managed manner, owned and operated, or under contract by the Town of Wilmington, and which may contain a recycling facility. [See 24 V.S.A. § 4413(a)(5)]

Municipal Utility or Safety Related Facility: All buildings, Structures, or other protected enclosures for providing services traditionally provided by local government, including administrative offices, water and sewer operations, roads, parks, schools, parking and police and fire protection. [See 24 V.S.A. § 4413(a)(1)]

Must: "Must" means that any requirement stated herein is mandatory.

Nonconforming Structure, Lot and/or Use: A Structure, part of a Structure, a Lot (or parcel), and/or a Use that does not comply with the present ordinance, but which was created or established legally in conformance with the ordinance in effect at the time it was created or established. [See 24 V.S.A. §§ 4303(13 - 16) and 4412(7)] This includes:

1. Structures, Lots and/or Uses improperly authorized as a result of error by the Zoning Administrator.

2. All Structures, parts of Structures, Lots and/or Uses existing prior to January 26, 1968, when the first Wilmington zoning ordinance was adopted.

Nonconformity: A Nonconforming Structure, Lot and/or Use as defined above.

Nursing Home/Assisted Living Facility: An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Occupied: "Occupied" or "Used" shall confer the intention for Use or occupancy.

Office: A Structure or part of a Structure, Used primarily for conducting the affairs of one (1) or more businesses, professions, services, studios or governmental agencies.

Open Space: Land or space not occupied by a building or other roofed Structure.

Open Space Ratio: The open space ratio is a measure of the intensity of land Use. It is calculated by dividing the total amount of open space within the development by the base site area.

Parking Space: Refers only to off-street space Used for the temporary location of one licensed motor vehicle, which is at least ten (10) feet wide and eighteen (18) feet long, not including the access driveway and having direct access to a street or alley.

Parking Lot: An open, firm-surfaced area, other than street or public way, to be Used for parking by employees, visitors, and/or patrons of any government office, public accommodations, business, commercial, or industrial establishment, or any other business open to the general public.

Permitted Use: In any district, a Use that is allowed only through issuance of a Permit by the Zoning Administrator.

Person: An individual, a corporation, a partnership, an association and any other incorporated or unincorporated organization or group. [See 24 V.S.A. § 4303(17)]

Place of Worship: The Use of a building or grounds primarily intended for the conducting of organized religious services or activities. [See 24 V.S.A. § 4413(a)(3)]

Planned Unit Development: One or more Lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land Uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to Lot size, bulk, or type of dwelling or building, Use, density, intensity, Lot coverage, parking, required common open space, or other standards. [See 24 V.S.A. §§ 4303(19) and 4417]

Plot Plan: A plan or map of an individual property that is to scale and shows all boundary lines and Lot line distances, road frontage, driveways, curb cuts, fences and stone walls. A plot plan must locate and identify roads and brooks, easements and rights-of-ways, and must locate all existing buildings/Structures with dimensions, and shows setback dimensions from property lines.

Premises: A piece of land or real estate including the buildings thereon.

Primary Use: The principal Use on a property.

Premises: A tract of land, including any buildings or portion of a building thereon.

Principal Building: The Structure on the Lot containing the Primary approved Use or Uses.

Private Club: A Structure and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, education, recreational or cultural enrichment of its members.

Private Road: For the purposes of this ordinance, any thoroughfare or road of less and or equal to .2 miles, owned and maintained by a private individual, organization, or company rather than by a government.

Property Line: The line dividing two pieces of property. For the purpose of determining conformity with dimensional requirements of this zoning ordinance, for any property with a right-of-way the property line will be measured to the right-of-way. Right-of-way lands will not count in dimensional calculations.

Public Road: For the purposes of this ordinance, a Public Road is:
1) any thoroughfare, road, or highway of any length, maintained or owned by the state, town, or other municipal corporation, and
2) any thoroughfare, road, or highway of greater than .2 miles, whether or not maintained or owned by a private individual, organization, or company.

Public Road shall mean the entire width of the right-of-way. Where no width is defined, right-of-way shall be considered to be 25 feet from the centerline on each side.

PUD: See Planned Unit Development

Recreation Facility, Outdoor: Land and/or Structures Used for outdoor recreational activities that require alteration or maintenance of the land, such as: developed parks and playing fields, playgrounds, hunting preserves, ski and snowmobile centers and associated trails, mountain bike centers and associated trails, tennis courts, swimming pools, ice rinks, etc. Such activities may include minor supporting Structures such as benches, bridges, backstops, dugouts, warming huts, etc. Such activities may include larger supporting Structures (e.g., customer reception, rental equipment, restrooms, locker rooms, clubhouses, etc.) as long as such Structures indeed support the outdoor recreation activity, and do not constitute an indoor recreational facility.

Recreation, Indoor: A recreational activity conducted wholly within a Structure.

Recreation, Outdoor: A recreational activity conducted wholly or partially outdoors. Specifically included in this Use are outdoor recreational activities that require no substantial alteration or maintenance of the land, such as: undeveloped green space or park land, primitive hiking, cross-country ski, ATV, snowmobile, mountain bike or sleigh trail, VT Association of Snow Travelers (VAST) trail, etc. Outdoor recreational activities that are incidental or accessory to a Primary

Residential Use, and Used primarily by the residents of the property shall also constitute allowed Accessory Use, and shall not be considered Outdoor Recreational Facilities – e.g., a backyard badminton or volleyball court, horseshoe pit, etc.

Recreational Vehicle: Any motor home, vehicle or trailer, including travel trailers, campers, motor homes or similar vehicles, which are intended to be Used as sleeping or camping for short periods of time. Recreational vehicles shall not mean a manufactured, prefabricated, modular or similar Structure, which is intended for Use as a dwelling unit.

Remodel: To renovate.

Renovation: The process of restoring or improving a Structure.

Repair: To mend or restore to good condition.

Restaurant: An establishment, the primary function of which is to serve food and beverages to the public within a building.

Restoration: Work performed on a building in order to return it to a previous state.

Retail Business: A business delivering goods, or providing services to the general public.

Right-of-Way: A legal right of passage over another's land.

Salvage Yard: see Junkyard

Sawmill: A facility where timber may be processed into building materials, not including the processing of timber for Use on the same Lot by the owner or resident of that Lot. See Wood Processing Operation.

School: see Educational or Institutional Center

Secondary Use: Any Use other than the Primary Use.

Service Business: A business primarily engaged in providing assistance (as opposed to products) to individuals, business, government, or other enterprises. Examples include, but are not limited to: hair salon, caterer, appliance repair shop, real estate agency, laundromat, tailor, pet grooming business, etc. May also include incidental retail sales as a minor portion of the business; for example, as a Cosmetologist may sell shampoo.

Setback: The distance between the nearest portion of a building on a Lot and the public or private road or a property line and extending the full width of the Lot. In no case shall the dripline of a building extend onto an adjoining property.

Setback Area: The space on a Lot required to be left open and unoccupied by buildings or Structures, either by the front, side or rear yard requirements of this by-law. Distance shall be measured perpendicularly from the edge of any public or private road or property line to the nearest portion of the Structure, and shall extend the full width of the Lot.

Setback, Front: A setback measured from the property line abutting a public or private road. Corner Lots may choose a single "front."

Shall: "Shall" means that any requirement stated herein is mandatory.

Should: Something that is expected or recommended.

Sign: Any Structure, display, device or representation, either temporary or permanent, which is designed or Used to advertise or call attention to or direct persons 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 road. A sign shall include window signs, as defined herein, with the exception noted in the definition of window signs. Types of signs include:

Awning - A type of wall sign that is attached to an awning, canopy, or other structural protective cover over a door, entrance, window or other outdoor service area.

Banners and Posters - A temporary sign of lightweight fabric, vinyl, cardboard, or other material.

Flush Mounted - A sign affixed to and mounted parallel to or painted on the face of the building or Structure.

Freestanding (Pole, Pedestal, Post, Flag, Plaza) - A sign supported by Structures or supports in or upon the ground and independent of support from any building.

Hanging: A sign attached to a building or Structure, other than Flush Mounted, generally two sided, supported by a Structure other than the face of the building,

Header: A sign appearing directly above a plaza sign, identifying the name of the plaza complex.

Panel: Smaller signs attached to a plaza sign, representing individual businesses.

Structure Mounted: A sign attached to or painted on a Structure, including Flush Mounted and Hanging.

Window Signs: Any sign affixed to a window or door. Displays of merchandise shall not be considered window signs

Sign – Graphics: The pictorial information displayed on a sign, including logos, designs or other visual representations.

Sign – Internal Illumination: Any sign where an internal light source shines through a transparent or semitransparent sign face to illuminate the sign's message. Neon and LED illumination are considered forms of internal illumination.

Sign - Off Premises: A sign which directs attention to a business, profession, commodity, service, or entertainment that is not carried on, sold, or offered on the same premises on which the sign is located.

Silviculture: The developing, caring for or cultivating of forests, or the management and harvesting of timber. (See Forest Management) [See also 24 V.S.A. § 4413(d)(3)]

Site Area: All land within the tract as defined in the deed. This area shall be computed from an actual site survey rather than from a deed description.

Slaughterhouse, Agricultural: A facility on a farm licensed and Permitted as an Agricultural Use or an Accessory Agricultural Use under 10 VA 1021(f) and 1259(f) and 6 V.S.A. 4810 where animals are killed and/or butchered and a majority of the animals are raised on the premises. An Agricultural Slaughterhouse is an Accessory Agricultural Use.

Slaughterhouse, Commercial: Any facility where animals are killed and/or butchered not meeting the definition of Slaughterhouse, Agricultural or Slaughterhouse, Custom Processor under this ordinance.

Slaughterhouse, Custom Processor: Any person who maintains an establishment licensed by the Vermont Agency of Agriculture, Food, and Markets, for the purpose of processing livestock, meat, meat food product, poultry, or poultry product exclusively for Use in the household of the owner of the commodity, be him/her and members of his/her household, and his/her nonpaying guests and employees. The meat from a custom processed animal cannot be sold and must be identified as "NOT FOR SALE".

Snowmaking Facility: Any installation for snowmaking to include pump house, valve stations, maintenance building, or snowmaking pond/reservoir, snow guns, compressors and hoses.

Start of Construction: Includes substantial improvement, and means either the first placement of permanent construction of a Structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement/footing/piers/foundations or the erection of temporary forms.

Steep Slopes: Areas where the average slope is 15 percent or greater.

Storage Facility: Property or Structures Used for the storage of materials, vehicles, machinery or other goods in the conduct of business or for financial gain except as defined as Mini-Storage Facility or Warehouse. Re-use of existing Structures is encouraged.

Street: A Public Road.

Street Line: The line dividing the Public Road and a Lot. Where the width of a Public Road is not established or cannot be determined, the street line shall be considered to be twenty-five feet from the center of the travelled way of the public road.

Structural Alteration: Work performed on a building that changes its size, area, height or other dimension.

Structure, Large: Any fence, building or assembly of materials for occupancy or Use with a footprint greater than 150 square feet or over ten (10) feet in height. All Large Structures are subject to setbacks and do require a Permit. Signs and their supporting Structures are not considered a Large Structure. (See Structure Height)
Structure, Small: Any fence, building or assembly of materials for any Use with a footprint less than or equal to 150 square feet and ten (10) feet or less in height. Small Structures are not subject

to setbacks defined in Article II. Small Structures, including fences, have a zero (0) setback. Small Structures, except for fences exceeding six feet six inches in height, do not require a Permit. (See Structure Height)

Structure Height: see Article IV

Subdivision of Land: A tract or tracts of land which have been partitioned or divided for any purpose.

Temporary Outdoor Retail: Outdoor retail business operating for not more than two (2) months per calendar year.

Tower: A tower shall be any uninhabitable Structure over 50' in height with an aspect ratio of 4:1 or greater installed at grade level or attached to any location of a building (excluding radio and/or television antennas under 50' above grade). See Windmill.

Tower Height: The height of a Tower shall include the highest point of the fixed Tower to the lowest point of Structure (excluding fan blades, for example).

Transportation Center: A place where goods and/or people transfer between modes of travel; a terminating point where goods are transferred from a truck to a storage area or to other trucks, or are picked up by other forms of transportation. Includes facilities for vehicle maintenance, parking and waiting rooms.

Utility Facility: All buildings, Structures, or other protected enclosures for the producing, transmitting, or distributing of communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste or any other similar commodity.

Warehouse: All buildings, Structures, or other protected enclosures used for storage of articles of value, with or without compensation. See Mini-Storage and Storage Facility.

Wetlands: Wetlands are those areas that are inundated or saturated by surface or groundwater, as determined by the State of Vermont. [See 24 V.S.A. § 4303(32)]

Wholesale Business: A business selling or delivering goods to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers.

Wildlife Refuge: A parcel of land set aside by transfer of development rights to provide a safe place for wildlife.

Windmill: A machine that converts the kinetic energy in the wind into a usable form.

Woodlands: A woodland is one-quarter acre or more of wooded land where the largest trees measure at least 6 inches diameter at 4.5 feet from the ground. The woodland shall be measured from the dripline of the outer trees. Woodlands are also a grove of trees forming one canopy where 10 or more trees measure at least 10 inches diameter at 4.5 feet.

APPENDIX I

SITE PLAN
AND
DESIGN
GUIDELINES

In the Historic Design Review District

guideline conformity is required to the extent reasonable and possible

to preserve, rehabilitate or restore historic Structures.

See Sections 730, 731, and 732

Guideline conformity is recommended in all other districts.

Guidelines adapted from

Town of Manchester, VT

Design Guidelines March 2001

Prepared by

Land-Works, 211 Maple St, The Marble Works, Middlebury, VT 05753

and

Smith & Vansant, Architects, 15 River Rd, Norwich, VT 05055

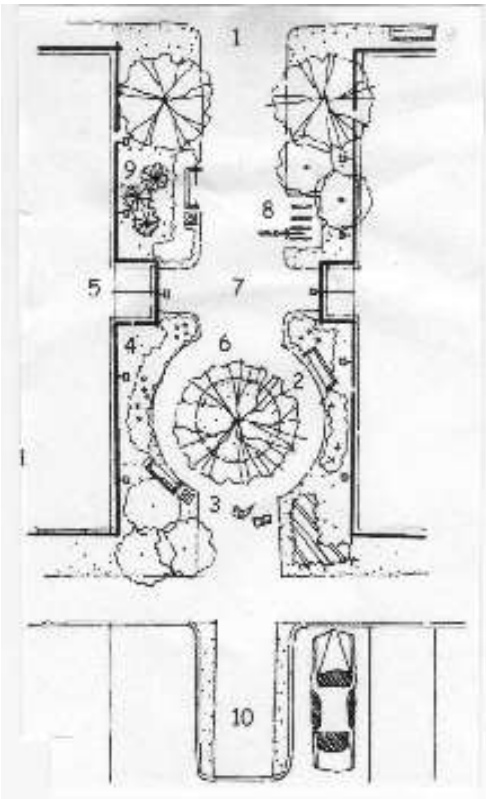
SITE PLANNING

The Development Review Board, when reviewing an application for proposed development shall consider the following Structure siting and Lot layout concepts. These guidelines are not hard and fast rules, but are appropriate site planning concepts to be considered and used as guidelines in development planning. The Development Review Board shall work with the property owner, applying these guidelines to best achieve development that meets the goals of Article V Districts and Article VI Standards.

SPACES DESIGNED FOR PEOPLE

A. Pedestrian Spaces: Create ample pedestrian spaces between buildings and entries. Preserve natural vistas, features, and vegetation.

B. Outdoor Rooms: The shapes created by the space between buildings can be thought of as outdoor "rooms". They are often most comfortable when they are a "human" scaled room with defined shapes and corners, like a room. If you think of the outer walls of your Structures as defining the walls of the outdoor room, make simple shapes of human scale that will make for a comfortable outdoor space for pedestrians. Planting trees and shrubs that will overhang the outdoor room may add a ceiling to your room. Outdoor furniture placement will decorate your room. Consider the path of the sun in positioning Structures to ensure a bright and friendly outdoor space during the when it will be in use.



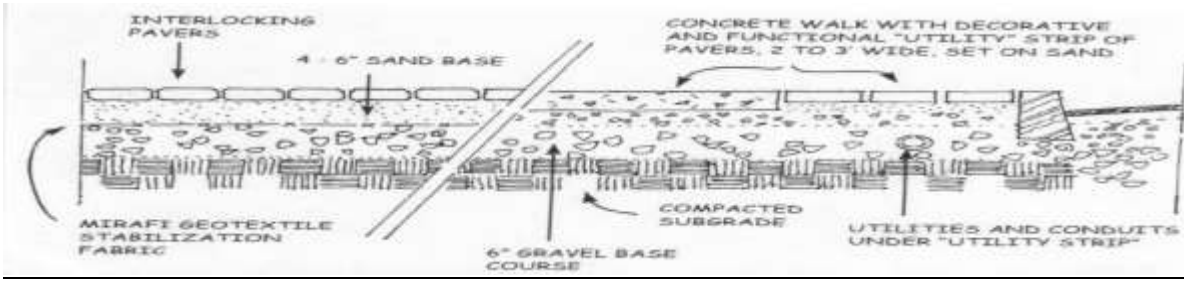
C. Make pedestrian walkways safe, functional, and pleasing: Consider where people want to be and their desired line to get there. Following natural flow of pedestrian flow will ensure that planned walkways are used. Include crosswalks and connections other destinations. Maximize natural features and vistas. Pedestrian friendly areas include (by numbered reference in the picture to the right):

1. Well defined circulation in parking & to buildings
2. Benches/Seats (backs 16" to 20" high)
3. Trash barrels
4. Downcast lighting on paths/entries
5. Paths leading to weather protected entryways
6. Existing specimen trees protected
7. Ample pedestrian & vehicle circulation
8. Bike racks
9. Landscaping for color, shade & interest
10. Sidewalk access from parking including handicapped accessibility.

D. Plan for Gathering Places: Planning for people "pooling" areas will provide for natural gathering places and safe traffic crossing areas.

E. Pedestrian Scale: Fixtures low and intimate around the pedestrian walkway will provide a comfortable human scale. Placing overhanging signs 8' over the sidewalk and 12'-14' decorative street lights (up to 16' if serving to light the street as well), planters, trees and seating areas along walkways will provide and inviting walkway. "Cut-off" technology can be used to cast lighting only where needed.

F. Durable Walkway Surface Materials: Compacted base ground and sub-base preparation is essential to a durable walkway. Compact ground under the area to be covered. Lay down 4" – 6" of gravel followed by Stabilization Fabric, then 4" – 6" of sand prior to placing surface materials. Pavers and concrete are appropriate walkway materials. Interlocking pavers will resist heaving. Concrete should have a rough or textured surface for safety. Decorative paver edges and borders can be visually pleasing as well as functional for identifying and covering utility strips.

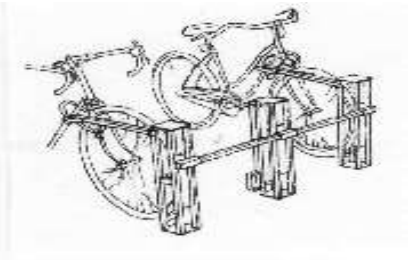


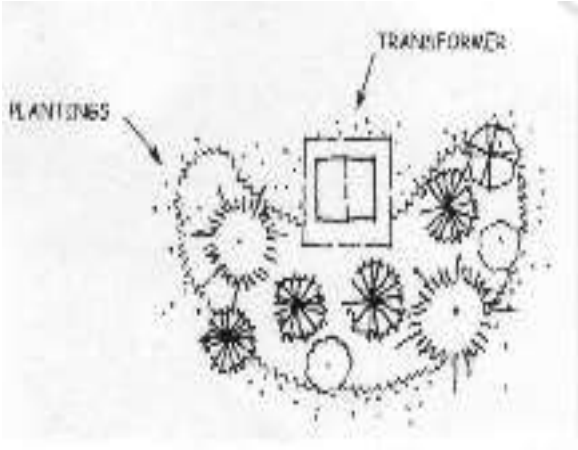
G. Underground Utilities: When possible, underground utilities will enhance the beauty of the landscaping and pedestrian areas created. Where underground is not feasible, coordinate utilities with public utility spaces if possible to minimize the visual disruption. Underground utility conduits should be placed in the gravel layer before Stabilization Fabric and Sand.

H. Accessible Walkways: Appropriate grades of 5% or less will provide accessible walkways and meet ADA (Americans with Disabilities Act) standards.

I. Alleys: Attractively developed alleys can provide access to retail or parking that sets back from the main street. Alleys, even those used by vehicles, can be pleasant for pedestrians when developed with distinctive pavers, lighting, and architectural detail.

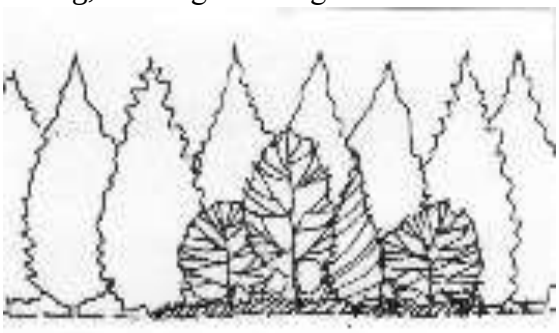
J. Bicycles as Alternate transportation: Provide for bicycle racks to encourage alternate forms of transportation and health promoting exercise.





K. Natural Screening and Buffers: use buffers of natural vegetation such as trees and shrubs to screen unwanted elements and soften architecture. Trees and shrubs to create a linear hedge or buffer should be planted so that tree canopies will almost tough when they reach full growth. Spacing will vary by species. Columnar or pyramidal varieties of evergreens lend themselves well to this application as they provide color and screening year round.

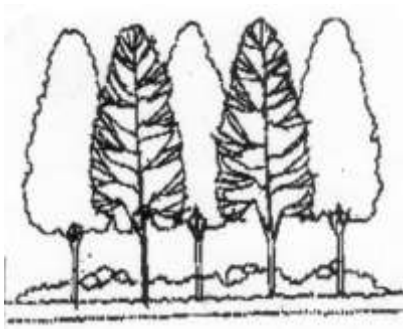
L. Vines such as Honeysuckle, Virginia Creeper, Silverfleece or Wintercreeper can be grown on wood or metal fencing as an alternative form of screening, creating a "living fence". Whether set against a building or within the landscape, natural screening and buffers can be an effective means of drawing attention away from transformers and utilities. Planting deciduous and evergreen accent trees in front of a hedge or buffer can soften the linear look of a continuous line of trees.



M. Plant Size: Shrubs of at least two (2) feet in height above the ground at planting and of a size and growth development so as to require a three-gallon (3 gal.) container will provide the best visual effect. Trees for landscaping or screening are most effective if they are:

a) At least a minimum of two (2) inches caliper.
b) Are of a species of nursery stock tree appropriate to the region and the streetscape of the surrounding neighborhood. See page 8 for suggested species of trees.

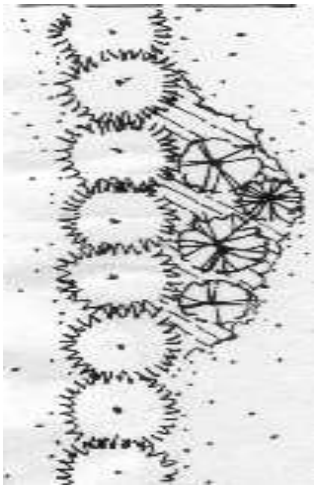
N. Landscaping: Extensive landscaping is encouraged using hardy, native materials. Locate buildings and infrastructure to minimize disturbance of desirable natural features and vegetation.



Clearing of land that is serving to screen for privacy or a buffer from other uses should be avoided. Clearing for pastureland and other scenic spaces is not uncommon in an agricultural area and is encouraged as suitable to improve the

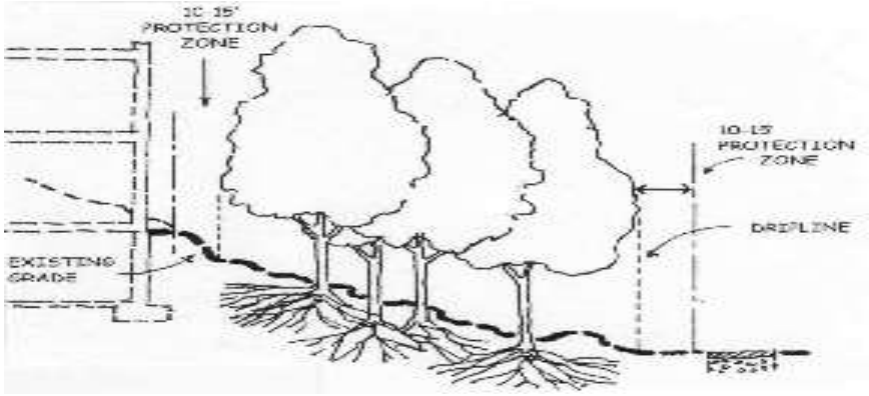
aesthetics of an area.

Soil mix and natural soil supplements to plantings will promote health and growth of landscaping. Highly compacted soil and/or soil with poor drainage should have drainage solutions installed such as perforated PVC pipe or stone.

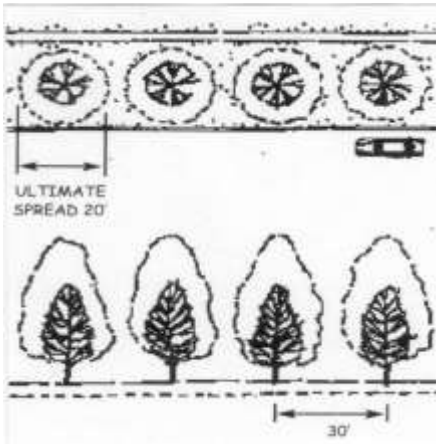


Planting bushes, shrubs, perennials and annuals in islands produces a visually attractive effect. Groupings of a single type of plant provide a visual statement of color and texture. Varying plant groupings will provide interesting changes in texture and color, paying attention to which colors, textures, and species complement one another. In streetscape or parking islands of 4' wide or less, hardy and sturdy perennials such as rose bushes and daylilies can be used with a cobble surround. These will withstand drought and snow piles. For islands of over 6' wide you may plant small trees. Islands of over 10' wide can support larger trees that will effectively shade larger parking areas. If pedestrian walkways are integrated into an island allow a minimum of 5 feet

Be sure to plan for drainage and run-off, as well as front protection zones 10'-15' from the perimeter of the drip line.

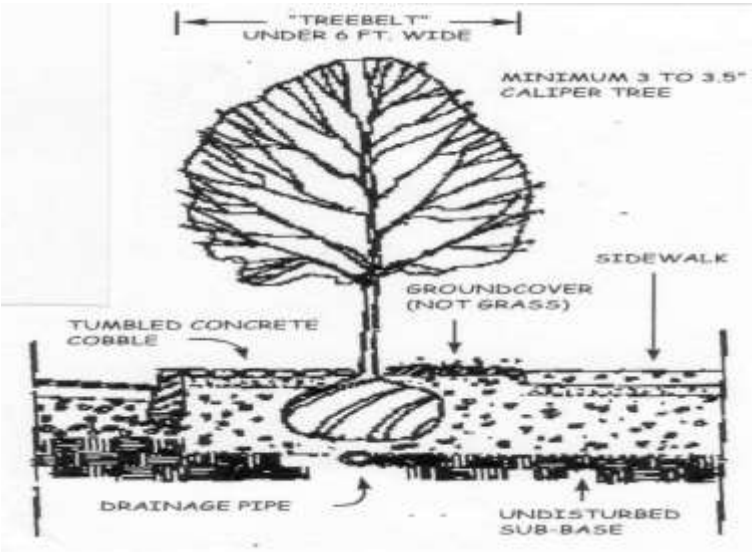


PRESERVE AND PROMOTE TREES



O. <u>Preserve trees</u>: Existing trees, particularly mature trees, should be protected in clumps with the ground area and root systems undisturbed. When possible trees should be planted in groupings for better health, function and visual affect

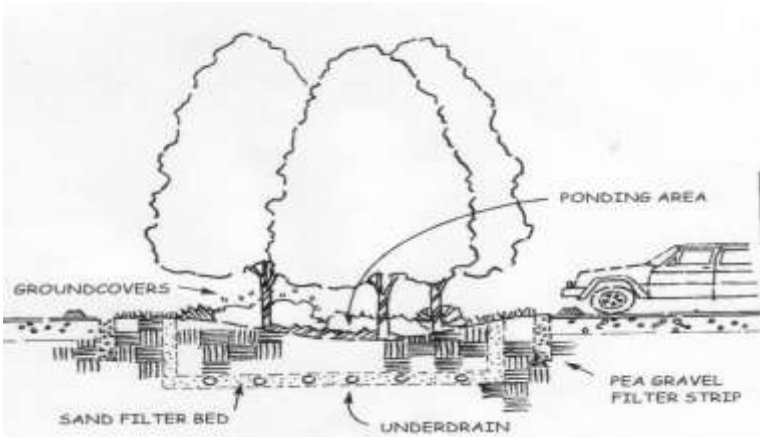
P. <u>Spacing Trees</u>: Large streetscape trees should be spaced at even intervals depending upon the characteristics of the neighborhood. 30'- 50' on center is usual. Smaller trees may be placed every 25' – 30'.



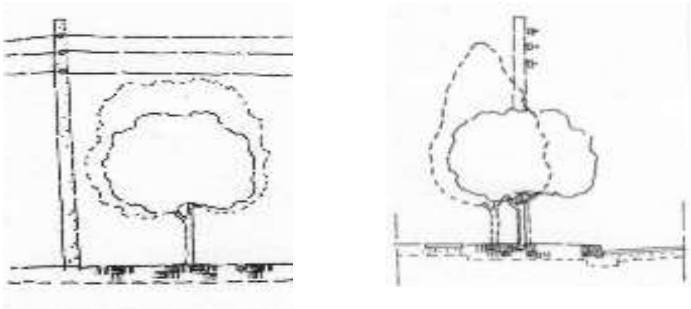
Q. Planting Trees: Trees perform best with a pervious cover around the base. Examples of suitable materials are cobble, ground cover, flowing or evergreen shrubs or gravel. Grass and mulch is not the best solution under a tree for tree health and longevity. Sturdy stakes guying trees can be used on young trees to ensure that young trees stay upright and are not damaged at their trunks. Avoid planting trees atop underground utilities, waterlines, and sewer lines as their roots and entangle and penetrate the utility lines.

Root retardant products are available to restrict roots from invading water and sewer lines. No such product is available to protect powerlines.

Allowing natural water supplies to feed trees can also be accomplished by creating a recessed area around the base of the trees, allowing stormwater to naturally feed the base of the tree. This ecological design approach, known as bio-retention, provides a natural filtration of rainwater through the roots, gravel and sand underlying the tree.



R. Trees and Power Lines: Trees under power lines should not exceed the height of the lowest line when full grown. Larger trees can be used if offset sufficiently from the power line so as to not require extensive pruning at full growth. Kentucky Coffeetrees and Honeylocusts are examples of trees that allow branching in the upper canopy without interfering with power lines.



S. Selecting Trees: Trees planted near roadways treated with salt or near snowplow piles with salt should be a salt tolerant variety. Deciduous trees help to break up expanses, obscure power lines, and provide shade seasonally. Alternating species can avoid a monoculture that may be more at risk of disease.

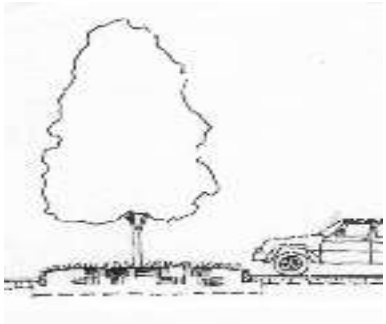
SUGGESTED TREE SPECIES BY USE

Common Name (Botanical Name) *Ornamental	**Min Area Required**	**Salt Tolerance**
Less than 23' In Height		
(For Small Areas, Close to Buildings, or Overhead Wiring)		
Tartarian Maple (Acer tataricum)	6' - 8'	M
American Hornbeam (Carpinus caroliniana)	6' - 8'	M
Thornless Cockspur (Crataegus crusgalli)	6' - 8'	M
Crabapple (Malus) *	6' - 8'	T
Callery Pear (Pyrus calleryana)	6' - 8'	M
Amur Chokecherry (Prunus Maackii)	6' - 8'	M
Japanese Tree Lilac (Sringa reticulata)	6' - 8'	T
Less than 25' in Crown Diameter (Columnar Trees)		
(For Narrow spaces or Close to Buildings		
Freeman Maple (Acer xfreemanii)	8' x 8'	T
Green Ash 'Empire' (Fraxinus Pennsylvanica)	8' x 8'	T
Ginkgo (Ginko Biloba) seedless variety	8' v 8'	T
Sargent Cherry (Prunus Saengetii) Columnaris	8' x 8'	M
English Oak (Quercus Robur)	8' x 8'	T
Greater than 50' in Height		
Red Maple (Acer rubrum)	10' x 10'	M
Green Ash (Fraxinus pennsylvanica)	10' x 10'	M
Honey Locust (Gleditsia triacanthos)	10' x 10'	T
Red Oak (Quercus rubra)	10' x 10'	M
Pin Oak (Quercus palustris)	10' x 10'	T
Japanese Zelkova (Zelkova serrata)	10' x 10'	T
Littleleaf Linden (Tilia cordata)	10' x 10'	T
Kentucky Coffeetree (Gymnocladus dioicus)	10' x 10'	T

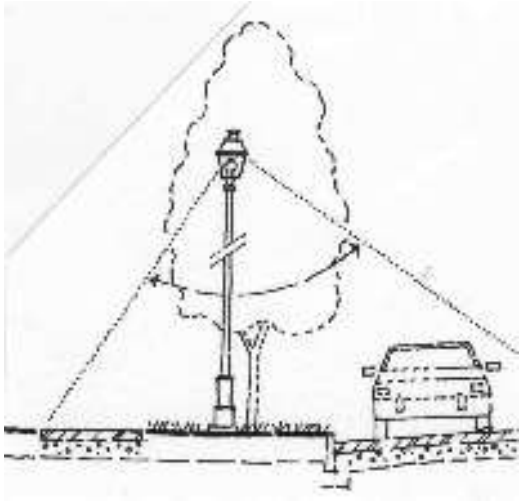
T = Salt Tolerant
M = Moderate Salt Tolerance

PARKING

T. Minimize the Visual Impact of Parking: Break up parking with buildings and human scaled landscape islands. Utilize the landscape islands for plantings without obscuring traffic. Avoid the visual impact of a "sea of parking". Rear parking and access points minimize the visual impact of parking on the public view of the property with screening and creative placement of parking.



U. Minimize the Number of Street Access Points: Minimize the number of curb cuts and access points by integrating entries with other access points and streets. Alternative traffic patterns are encouraged as an alternative to dead-end streets and cul-de-sacs. Interconnecting traffic circulation that does not burden the main arteries of the Town and neighboring developments and towns should be pursued.



V. Safety First: In all cases, consider safe vehicular and pedestrian movement with unobscured view of roadways and pedestrian intersections.

Ensure adequate downcast lighting for both parking areas and walkways.

W. Consider Neighboring Properties: Provide maximum integration of circulation and parking with neighboring properties. Work collaboratively to maximize flow for efficiency, safety, and attractive solutions.

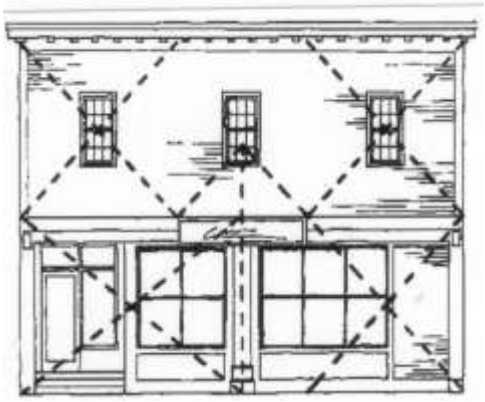
X. Snow Removal/Storage: Plan landscaping for safe snow removal and storage at the edge of Lots or on parking islands will not compromise traffic fields of vision or pedestrian walkways (5 foot wide minimum).

DESIGN

The Development Review Board, when reviewing an application for proposed development, shall consider the following design concept guidelines. These guidelines are not hard and fast rules, but are appropriate design concepts to be considered and used as guidelines in development planning. The Development Review Board shall work with the property owner, applying these guidelines to best achieve development that meets the goals of Article VII Standards and Article IV Districts.

STRUCTURE

A. Simple Shapes: Many of Wilmington's buildings have very simple basic shapes, or an assemblage of smaller simple forms through additions. New construction of a larger building simplicity of form will be consistent with the character of the community.

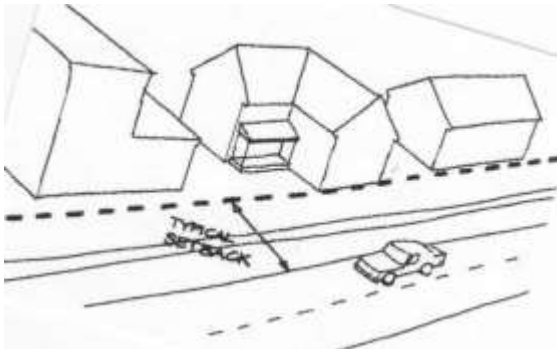


B. Structure Size: Construction and reconstruction shall be respectful of neighboring buildings' height and access to natural light and views. New buildings should not overwhelm the scale of neighboring Structures or grossly block natural light or vistas. Height to width proportions should be compatible with existing or adjacent properties. Structure windows, doors, and trim features shall be scaled to be compatible with the scale of the building to maintain the patterns and design features of the building. A large Structure will have windows and doors than a smaller Structure.

C. Scale: Building a Structure that is "human scaled" with doors, windows, building materials that make it feel cozy and textured will enhance the building. Other elements that contribute to and create a "human scale" comfort for pedestrians are porches, recessed entryways, divided light windows, and scaled signs, and signs overhanging the street. Large expanses of glass or stucco siding that gives the building the appearance of a large monolith would not likely compliment the buildings of Wilmington.

D. Style: Building styles shall be compatible with the style of the community and neighborhood. Styles within the downtown area shall be compatible with traditional New England villages. Renovation and reconstruction shall be of similar historic architectural style(s) to that found within the building.

E. Setbacks: Site a new building in such a way that it conforms to the neighbors' typical setback from the street. This helps to maintain a consistent street edge and character in the neighborhood. In no case less than the minimum setback for that district as defined in Article II.



F. Siting a Structure: Locate buildings and infrastructure to minimize site disturbance, loss of vegetation, and regrading required. Plan for future growth potential including utilities and parking.

BUILDING MATERIALS

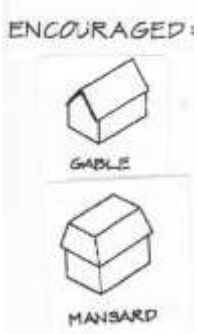
G. Building Siding Materials: Wooden clapboards and trim are the most common building material in Wilmington and help define the town's architectural character. Synthetic materials that are more durable and of high quality in appearance, retaining a very similar look to the materials commonly found in the neighborhood, are a reasonable alternative to wood siding and trim. The look remains consistent with the town's character. Vertical wood siding, shingles, and brick have been used in some cases in the downtown. Rarely used, they have not substantially altered the character of the town, but should be limited in use to only those Structures already using those materials. Renovations, restorations, and maintenance work should match existing materials and textures to the extent possible. Use of clapboard siding and wooden trim will help a new building fit in with its surroundings.

H. Trim: Traditional use of wooden trim, corner-boards, window casings, and frieze boards, will also help a building fit in with the character of the town. To achieve full coverage of the siding trim should be 1" or greater, depending on the thickness of the siding. Corner-boards and door casings should be wider than window casings, anchoring the building visually.

I. Stone on Structure Exteriors: Stone or stone look-alike materials was commonly used in Wilmington as a foundation covering, a chimney covering. Wilmington has no Structures with stone as a whole house primary building covering material or of stone used as a partial wall covering and would, therefore, be inconsistent with the character of the community. Stone or stone look-alike may be used to achieve appropriate stone covering consistent with the character of the community.

ROOF

J. Roof Type and Pitch: Roof style, pitch, and materials should be compatible with the surrounding Structures and should preserve the historic features of the building to the extent possible. Gable, Flat, and Mansard roofs are most predominant in Wilmington. Gambrel and shed roofs are more common on barns. Steeply pitched roofs are not uncommon in snowy New England. New roofs should have a pitch of not less than 8:12 to promote snow drop. Roof design shall consider seasonal requirements such as snow loads, ice and rain management in the planning and design, with particular attention to entryways, porches, and driveways.



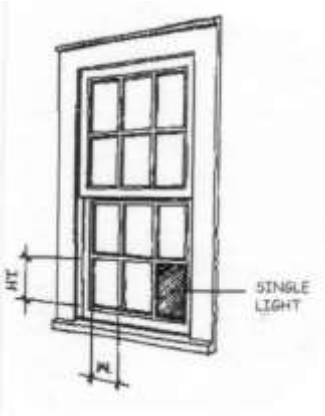
Roof Types:

K. Roof Overhang: Significant roof overhangs are common in the Northeast to keep snow and rain fall away from the building and provide shade in the summer. Overhang sizes vary, but a suggested minimum on a pitched roof is twelve (12) inches. An overhanging extending over the front façade and rear of a building with a slanted roof is known as the "rake". The minimum suggested rake overhang would be eight (8) inches. Flat roofed buildings usually have a decorative feature around the top of the building such as a frieze, cornice, or other three-dimensional detail. This provides visual appeal to cap the building and anchor it visually.

L. Roof Materials: Slate, slate look-alike, and metal roofs are encouraged in historic areas. Roof materials in areas without historic character should complement the type of roofing predominant in the neighborhood. Roof materials on additions should complement existing roof materials.

DOORS AND WINDOWS

M. Placement of Doors and Windows: The placement, style, and design of doors and windows shall reflect the traditional or historic buildings of the design review district. Traditional New England design and historic Structures place doors and windows at consistent and rhythmic intervals. A natural symmetry and order to Structure openings and creating a pattern or order on the façade will provide a visual appeal. Not all visually appealing Structures are symmetrical, but this is a common feature of eye appeal. For renovations, restorations, and reconstructions, Effort shall be made to retain the existing architecture, design and style of traditional or historic Structures.

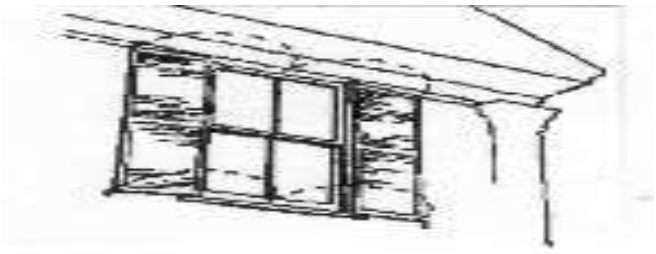


N. Windows: Window shapes are traditionally rectangular with height greater than width and consistent sizing used throughout the building. If using more than one window size it is helpful to maintain consistency on shape, proportion, and trim in order to give the façade a unified appearance. Non- traditional and unusual geometric window shapes do not complement traditional styles, with the exception of occasional use high in the gable end of a house as a decorative element.

O. Divided Lights: Divided light window panes are traditional to Wilmington. "Simulated divided lights" or true divided light panes are favored rather than snap-in grilles for their more authentic appearance and durability.

P. Commercial Buildings Windows: Commercial buildings often provide extra height and larger windows on the first floor. This need not disrupt the symmetry of the building. Many second stories have fewer windows. Divided light windows will help keep larger windows at human scale and complementary to traditional styles. Smaller divided light panes on the upper floors may provide a more private, intimate look to the upper floors.

Q. Shutters: Shutters, when used, should be half the size of the window so as to cover the glass if closed. Shutters which appear to be functional look



more natural to a viewer.

ENTRYWAY

R. Primary Entrance: The primary entrance to the building should be easily identified through scale, access, and entrance details such as porches, awnings, lights, trim and railings.. Commercial signs can be used to identify a primary retail entrance. Secondary entrances should make a significantly less dominant statement on the building.

S. Inviting transition from Sidewalk to Retail Space: Defining an inviting environment for entering the building can be achieved through a recessed doorway, and rain and snow protective covering over the door, awnings, a change in pavement texture, and features such as benches, planters, and decorative lighting can make for a more inviting transition to the inside of a retail space.

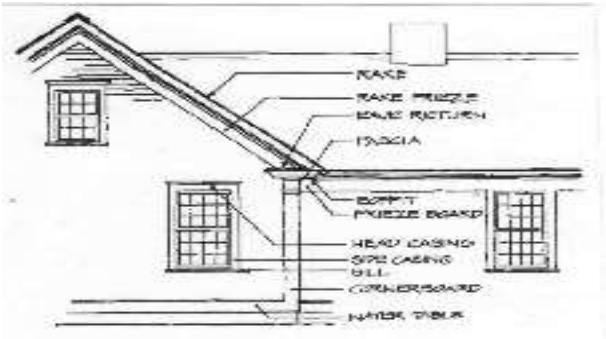
T. Open Porches: Whether new or on older homes, are inviting features and are best left open, not enclosed. These act as welcoming transitional zones as well as protection from the weather. A front porch can help bring a recessed building up to the street front to achieve a common setback for buildings along a stretch of street.

U. Columns: Large and substantial columns can also provide a transitional covered area inviting pedestrians into a Structure. Columns should be substantial and large enough to convey a sense of strength and support. Columns that are too small to present a substantial appearance are visually uncomfortable. Likewise, columns wider than a person are also visually heavy and uncomfortable to an observer. Spacing of columns is typically no greater than 1 ½

times the height of the column and no less than ¾ of the height of the column.

ARCHITECTURAL DETAIL

V. Architectural Details: For new construction, architectural details characteristic of the particular architectural style proposed should be incorporated into the design. New construction, renovation, and restoration architectural detail and style shall reflect one of the historic styles of the village or traditional New England design. Renovations should retain existing architectural details.

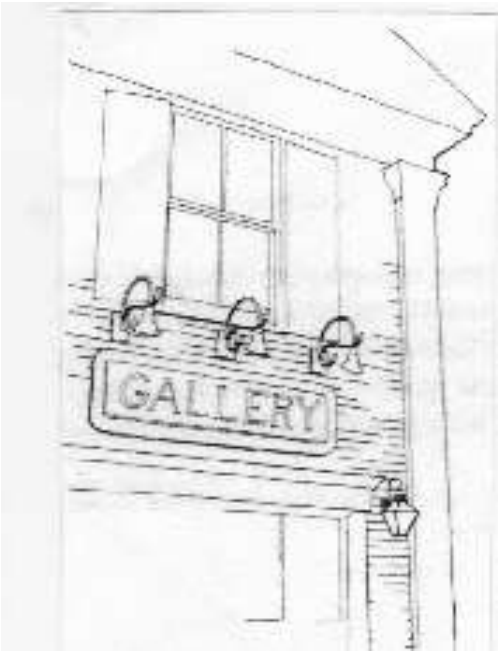


W. Skylights: The Historic Preservation Trust and this ordinance discourages placement of skylights on historic Structures as it compromises the historic features of the building. Dormers are allowed. Please referred to Appendix II for a listing of Wilmington Structures listed on the National and State register of historic places.

X. Cupolas: Cupolas may be appropriate on buildings of barn-like scale that have non-residential detailing. Cupolas, in their design, should apply the same considerations as a building, including overhangs, trim, and composition, just on a smaller scale. The size of the cupola should not dominate the look of the building. It should be a sparing adornment on the overall look of the Structure.

Y. Color: White siding and trim was the predominant color used in Wilmington. Use of colors should consider the surrounding buildings to provide a pleasing mix of compatible colors. Lighter tones mix more easily with a variety of colors. White trim or a shade lighter than the siding color can accentuate the architectural features of a building. Roofs are traditionally grey or earth tones. This helps ensure the building façade will draw more attention than the roof.

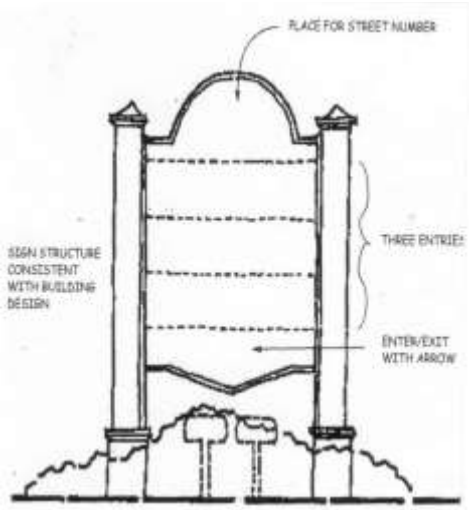
Z. Lighting: Size and color should complement the architectural style and color of the building and be simple in design. Placement on the Structure should complement the composition of the façade. Dark colored fixtures are preferred for pole mounted lights. Effective built-in lighting will engage and welcome visitors.



Fixtures should cast light only where needed, only as much as is needed to suit the task or purpose, be no brighter than necessary, and use down-lighting so as to not create glare or unnecessary lighting where not needed. Lighting should not be excessively bright and should maintain a consistent, uniform level of lighting using energy conserving features. Bare bulbs or direct light should not be visible to the human eye. Use of "cut-off" light fixtures which cast light only on the area needed, in the amount needed, will best achieve this goal.

Use shielded, downcast and directed light fixtures that shine light only where it is needed to preserve the night sky by eliminating excess or unnecessary light and light scatter. Light used only for decorative purpose should be kept to a minimum. Avoid lighting that creates high contrast bright vs. dark areas. Consider neighboring properties. Consistent light levels and use of consistent fixtures are recommended. Energy efficient lighting is preferred. Warm color effect is preferred over cool color lighting

AA. Signs: As with lighting, size and color should complement the architectural style and color of the building. Sign lighting should be a down-lighting fixture. Lighting from below allows light "spill" beyond the sign surface and the potential for glare.



Whether a sign is to be hung off the front of a Structure or mounted directly on the façade, planning for placement of the sign should occur during the design phase and be included in the elevation planning, leaving spacing for the sign placement. Placement of the sign and lighting on the Structure should complement the composition of the façade.

In the village, signs projecting from the façade on a street-front help pedestrians see retail opportunities along the street, essentially drawing them along the street through the village. Overhanging signs also give the street a more intimate, human feel. Please refer to Article VIII for additional information on signs.

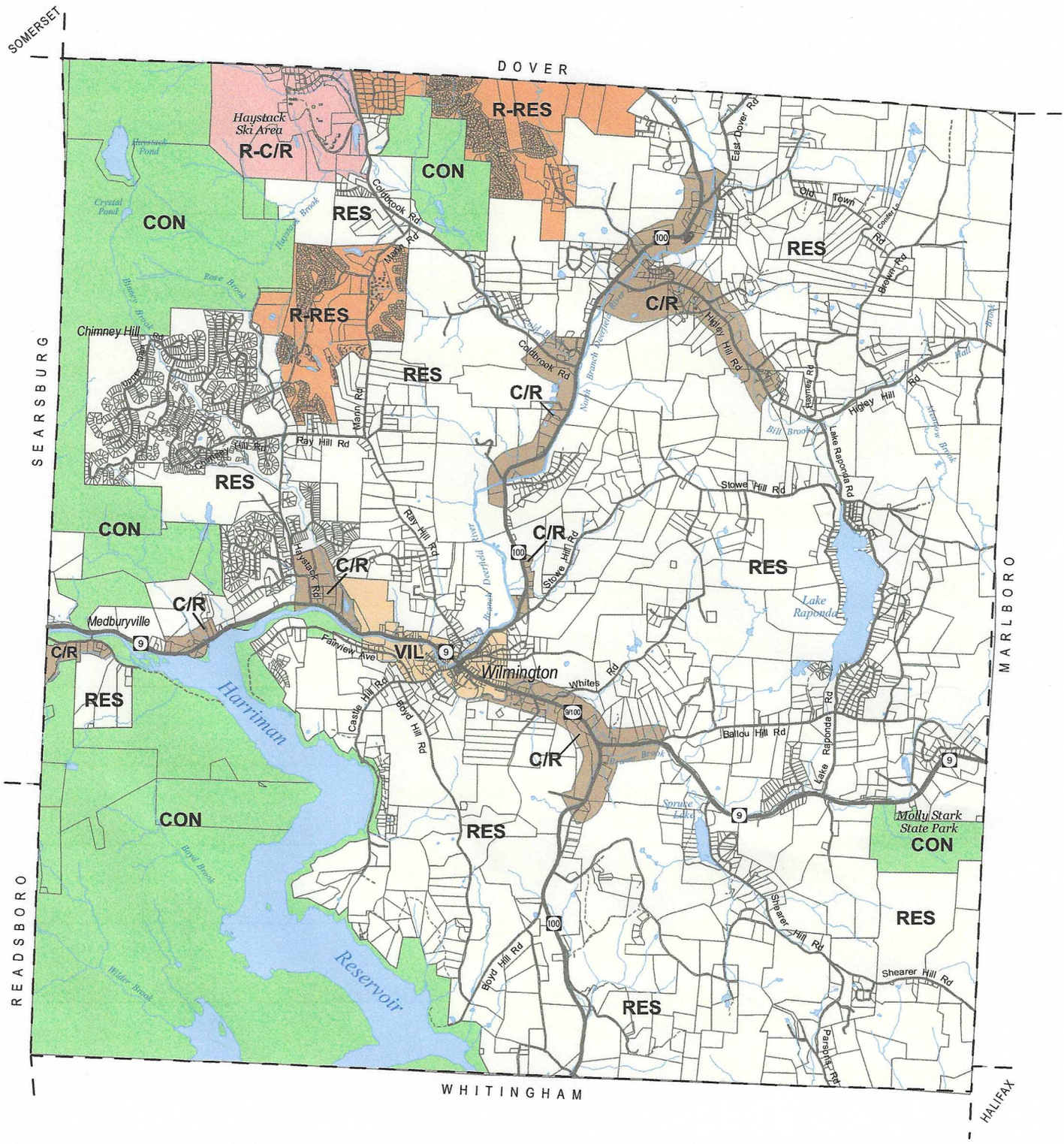
Signs overhanging a state highway right-of-way require a state Permit.

APPENDIX II
Structures Listed on the National or State Register of Historic Places

Entity/Building	National Register	VT Reg	Arch. Style	Approx. Year built
Wilmington Village	X	X		
3 South Main St (C& D offices)	X	X	Greek Revival	1835
7 South Main St (Pub)	X	X		1910
9 South Main St (apts)	X	X		1870-1880
16 South Main St (Library)	X	X	Colonial Revival	1906
14 South Main St (Church)	X	X	Greek Revival	1835
10 S Main (behind church)	X	X		1800
12 South Main St (Ponchos)	X	X	Greek Revival	1854
behind Poncho's(barn)	X	X		1854
8 South Main St (Anchor)	X	X	Greek Revival	1850
6 South Main St (Houston)	X	X	Greek, Italiante influence	1855
4 South Main St (Streeter)	X	X	Greek Revival	1840
1 East Main St (Home Center)	X	X	French 2nd Empire	1880
3 East Main St (Heritage)	X	X	Greek Revival	1900
3 East Main St (twice blessed)	X	X	Greek Revival	1860
7 East Main St(Masonic Hall)	X	X		1890
9 East Main St (Grey bldg)	X	X		1890
13 East Main St (church)	X	X	Queen Anne	1883
17 East Main St (apt bldg)	X	X		1880
part of 17 East (barn)	X	X		1880
19 East Main St (red bldg)	X	X		1910
21 East Main St (corner Beaver St)	X	X	Greek Revival	various
24 East Main St (Laterre)	X	X	Queen Anne	1880
20 East Main St (Hamilton apts)	X	X	Colonial Revival	1885
14 East Main St (Mazelli)	X	X		1865
10 East Main St (white house)	X	X		1870
8 East Main St (white house)	X	X	Carpenter Gothic	1870
2 East Main St (Town Clerk)	X	X	Greek Revival	1850
2 East Main St (Town offices)	X	X	Italianate	1850
3 North Main St (Brewery)	X	X		1850
5 North Main St (Sedell)	X	X	Greek Revival	1840
7 North Main St (Palmer)	X	X	Greek Revival	1840
2 Lisle Hill Rd (corner N Main)	X	X		1890-1900
17 North Main St (Eldred)	X	X		1890-1900
17 North Main (Outbuilding)	X	X		
18 North Main (Old Red Mill)	X	X		1828/1902
8 North Main (Church)	X	X	Greek Revival	1833

Entity/Building	National Register	VT Reg	Arch. Style	Approx. Year built
6 North Main (Beyond Imag)	X	X	Greek Revival	1840
7 West Main St (Antiques)	X	X		1865
9 West Main St	X	X		1900
11 West Main St (Quaigh)	X	X	Greek Revival	1839
15 West Main St (VT House)	X	X	Greek Revival	1850
17West Main St (Bartleby's)	X	X		1840-1850
21 West Main St (Chamber)	X	X	*	1925/1970
27 West Main St (Hayseed/Fash Plate)	X	X		1840/1850
31 West Main St (apts)	X	X		1865
33 West Main St (Folly Foods)	X	X		1919
35 West Main St (Rafuse)	X	X	Greek Revival	1840
37West Main St (Bauman)	X	X	Greek Revival	1840
36 West Main St (Zoars)	X	X	*	1880
34 West Main St (Liquor)	X	X	*	
30 West Main St (Norton)	X	X	Colonial/Cape	1760
28 West Main St (Country store)	X	X		1836
24 West Main St (Sotheby's)	X	X	Greek Revival	1840
22 West Main St (Pickwells/McGrath)	X	X	Greek Revival	1836
20 West Main St (Roost)	X	X	Greek Revival	1840
16 West Main St (Incurable)	X	X	Greek Revival	1845
behind 16 W Main barn	X	X		1900
14 West Main St (Memorial Hall)	X	X	Colonial Revival	1902
10 West Main St (Crafts Inn)	X	X	Colonial Revival	1898
36 Sturgis Drive (crows Nest)	X	X		
31 town Hwy (Medburyville Bridge)	X	X		
1 School St. (High School)		X		
29/30 Shafter St (Round House)		X		

* Indicates that this building does not contribute to the Historic Village.



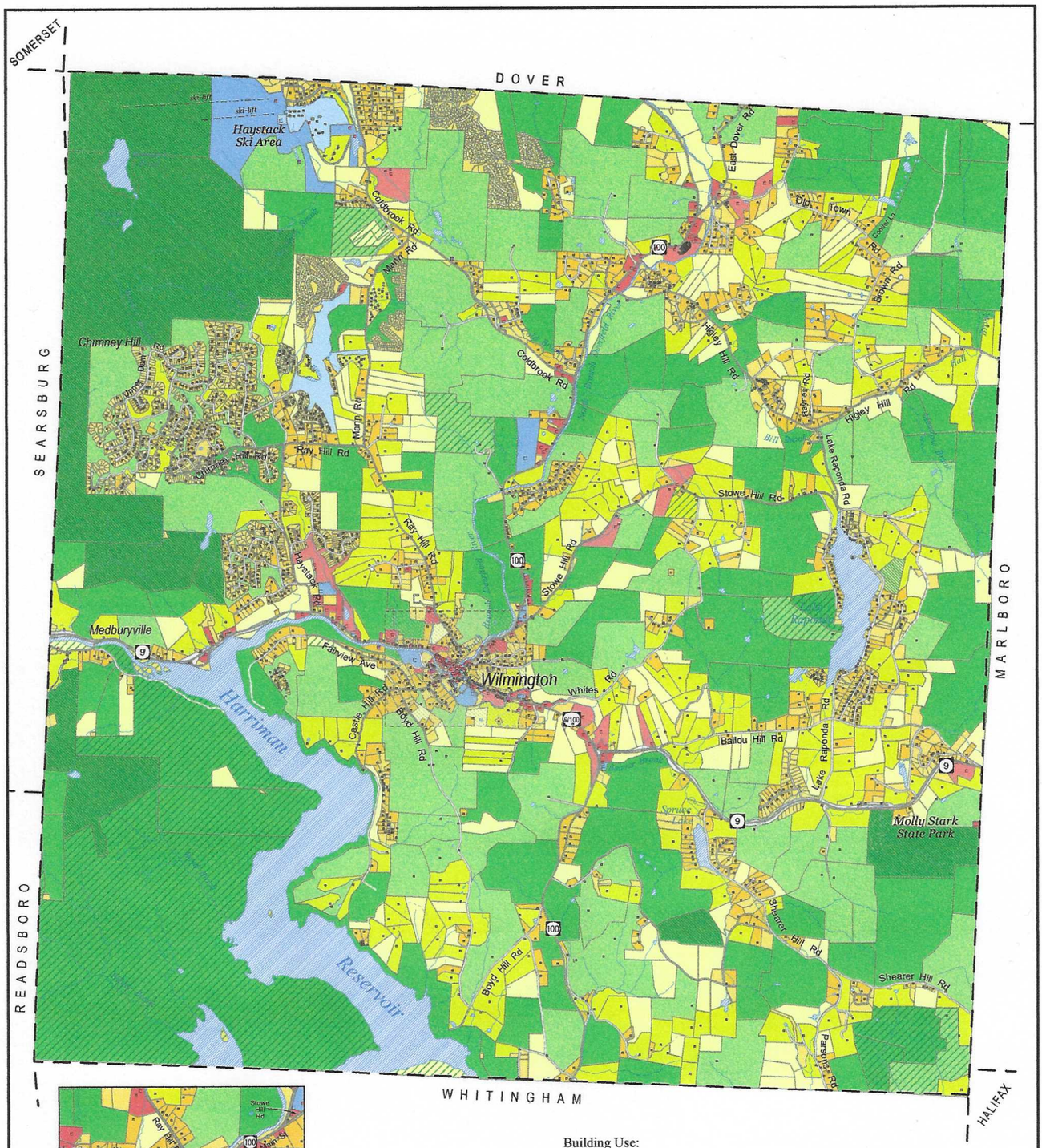
Town of Wilmington, Vt. Zoning Districts

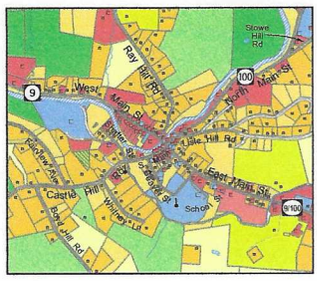
adopted 7/20/2016

0 0.5 1 1.5 2 Miles

R-C/R	Resort-Commercial/Residential
R-RES	Resort-Residential
C/R	Commercial/Residential
VIL	Village
RES	Residential
CON	Conservation

map by Windham Regional Commission, Brattleboro, Vt.
July 2016; c:\towns\wilmngtn\maps\zoning_2016_8x11.mxd





Wilmington Village

Existing Land Use by Parcel, 2016
Town of Wilmington, Vt.

Building Use:

- Commercial
- Industrial
- Public/Institutional
- Residential

Data sources:

- Parcel lines are from GIS data developed by Cartographic Technologies, Inc. (CTI) Brattleboro, Vt. from Wilmington's 1:5000-scale parcel maps. The data are current to 2015.

- Building locations are from the Vermont Enhanced 9-1-1 program and are current to 2016.

- Land use categories and densities were developed by WRC from the Wilmington grand list, E911 data, and other sources.

Parcel status:

- Development restriction, private land with conservation easement **
- Public land managed for recreation, conservation, and/or open space

** - not all parcels with other development restrictions mapped

Parcel use:

size of parcel - small → large
intensity of use - high → low

small parcel size: < 6 acres
large parcel size: > 27 acres

- commercial recreation
- public services/cultural
- industrial/utility
- commercial (high density/small parcel) — commercial (low density/large parcel)
- residential (higher density) — rural (very low density residential)
- vacant residential — open land

size of parcel - small → large
intensity of use - high → low

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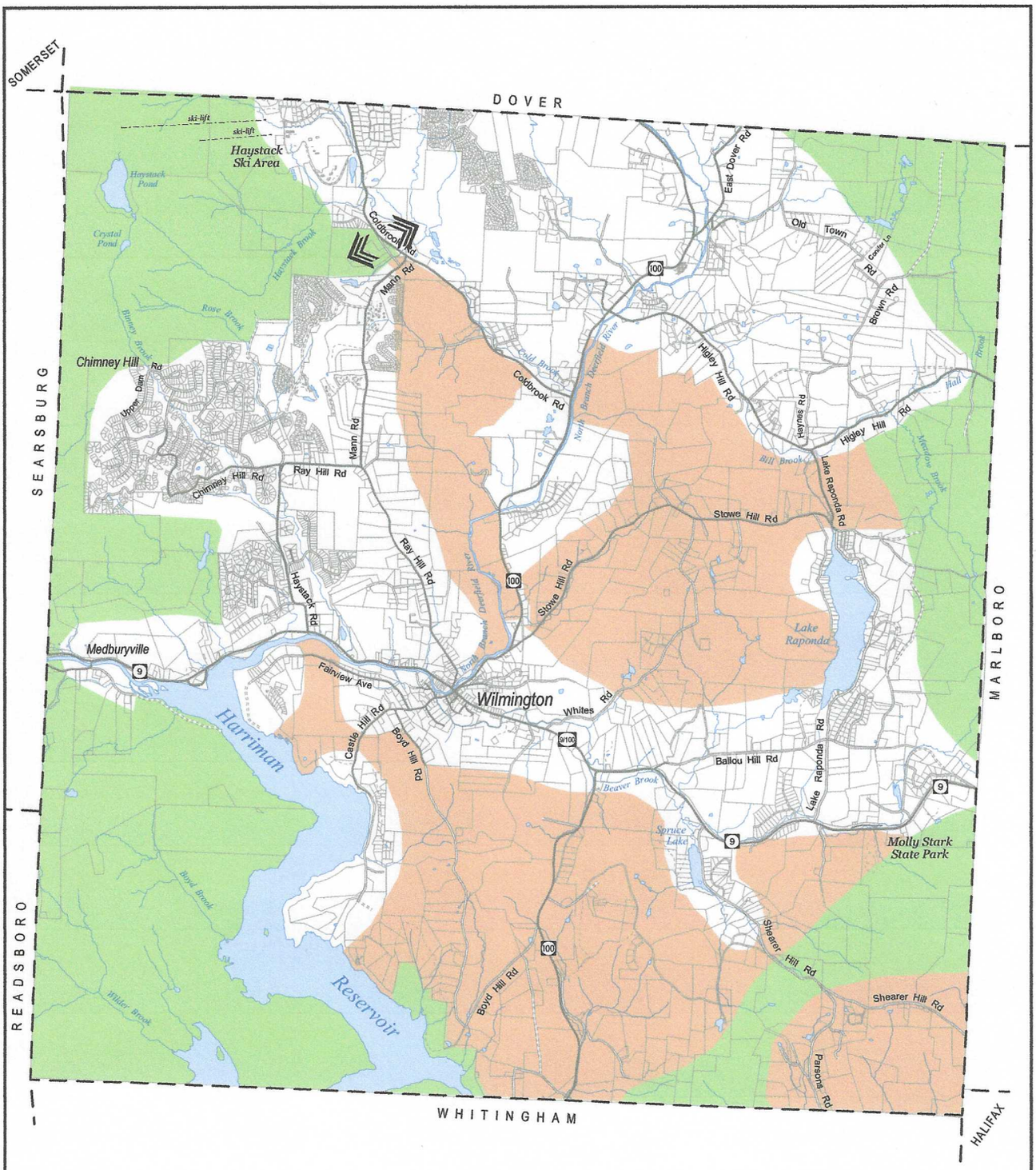
0.5 0 0.5 1 1.5 Miles

Map scale = 1:42,000

Stream
River or pond

January 2017: u:\GIS\Towns\Wilmngtn\Maps\TP2018_ELU_detailed.mxd



Special Resource Areas
Town of Wilmington, Vt.
January 2017

High Natural Resource Value

Productive Rural Lands

Important Wildlife Crossing
(not all are mapped)

Stream

River or pond

Data sources:

- Parcel lines are from GIS data developed by Cartographic Technologies, Inc. (CTI) Brattleboro, Vt. from Wilmington's 1:5000-scale parcel maps. The data are current to 2015.

- Future land use district boundaries were delineated by the Wilmington Planning Commission.

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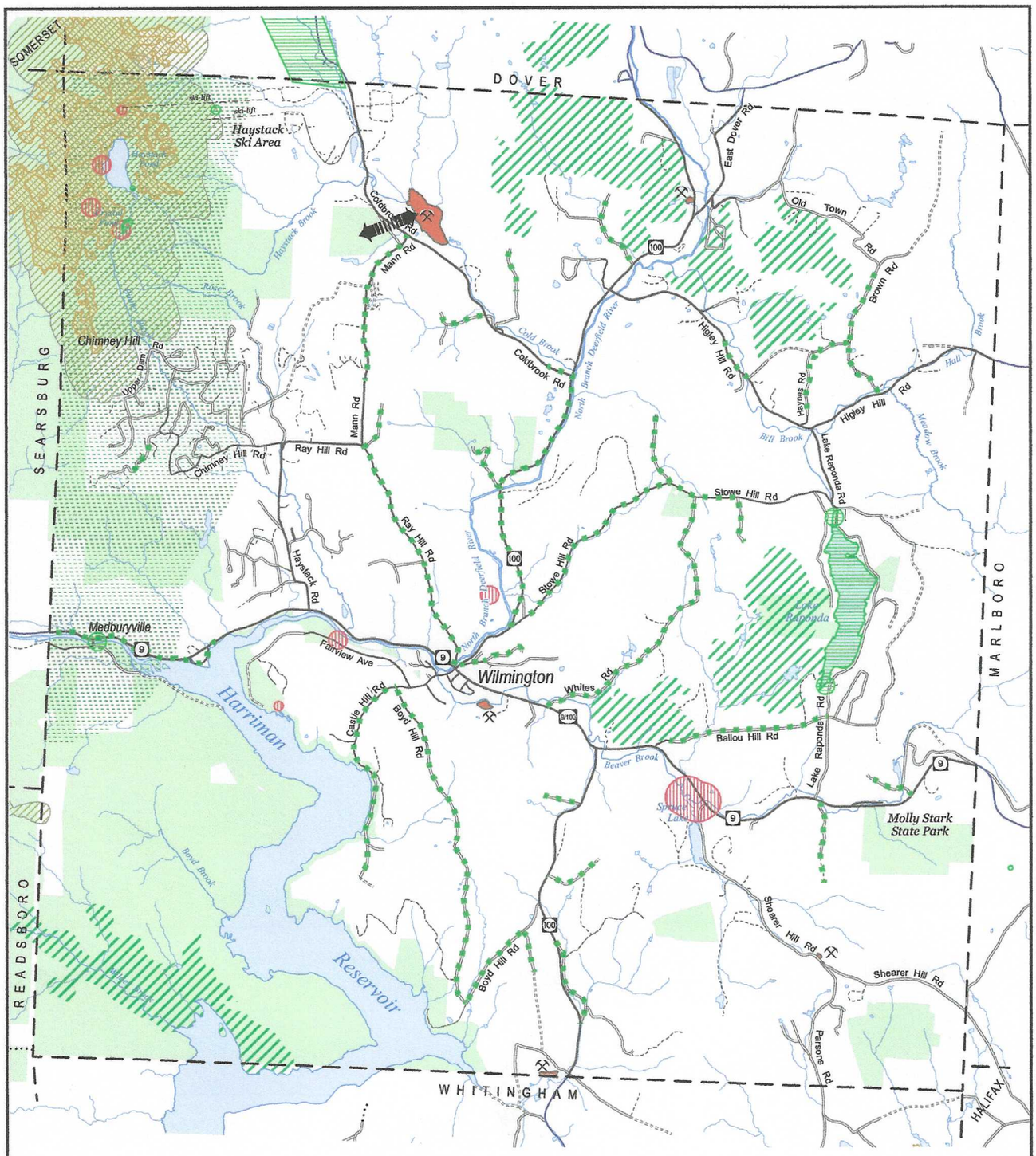

Natural Resources
Town of Wilmington, Vt.
January 2017

- Rare or uncommon animal
- State threatened, rare, or uncommon plant
- Significant natural community
- Scenic road
- Gravel pit (active and inactive)
- Deer Wintering Area
- Lands above 2500 feet
- Scenic area
- Public or conserved land

Data sources:

- Natural Heritage data are from VT Dept. of Fish and Wildlife, Nongame and Natural Heritage Program's Natural Heritage Inventory Database. This includes data on Rare, Threatened and Endangered Species and Significant Natural Communities database (VGIS layer RTENATCOM), and on uncommon species and other features (VGIS layer UNCOMSPOF), 2015.

- Scenic roads and areas were identified by the Wilmington Planning Commission.

- Gravel pits were identified by the Wilmington Planning Commission and located by WRC using orthophotos.

- Deer wintering areas are from the VGIS data layer DEERWN. Source information is from the Vt. Fish and Wildlife Dept. (VFWD), and dates back to the 1970's. Original data includes lines drawn on state highway maps, topographic maps, overlays to 1977 infrared photos, written material, and verbal information from VFWD biologists. The data have been updated in selected areas only in 2006, 2008, and 2010.

- Lands over 2500 feet in elevation were digitized by VT ANR from 1:24000 USGS topographic maps. Note: all waters above 2500 feet are by default classified as Class A(1) waters.

- Public and conservation lands data are from the Vermont Conservation Lands Database developed by UVM Spatial Analysis Laboratory and WRC. Boundaries were extracted by WRC from Wilmington's digital parcel data.

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Map scale = 1:42,000

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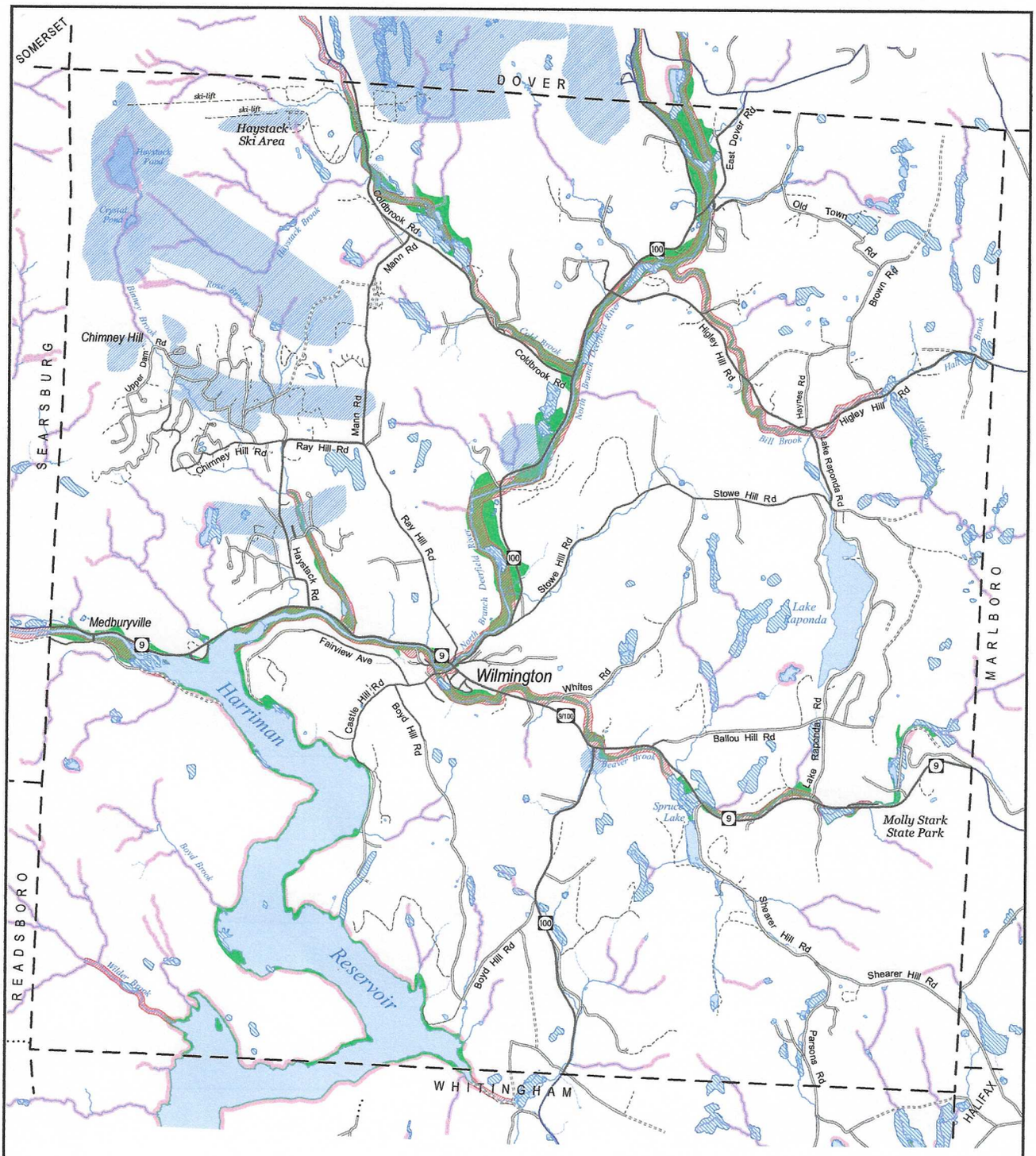

Water Resources

Town of Wilmington, Vt.

January 2017

Source Protection Area (ground and surface)
Perennial stream
Intermittent stream
Wetland
River corridor *
Special Flood Hazard Area
River, lake, or pond
Undeveloped stream > 1/4 mile
Undeveloped shoreland > 1/4 mile

Data sources:

- Source protection areas include surface water and well head protection areas. Locations are from VT ANR Water Supply Division digital data. These data are current to 2011.

- The wetlands shown are those included in the Vermont Significant Wetlands Inventory (VGIS data layer VSWI).

- Lands over 2500 feet in elevation were digitized by VT ANR from 1:24000 USGS topographic maps. Note: all waters above 2500 feet are by default classified as Class A(1) waters.

- Special Flood Hazard Area data boundaries are from FEMA (Federal Emergency Management Agency) D-FIRM (Digital Flood Insurance Rate Map) data created on July 27, 2007.

- Statewide River Corridors are from VT ANR Rivers Program 2015 data (VGIS data layer RIVERCORRIDORS).

- Undeveloped streams and shorelands were determined by WRC using road data and E911 structures data. The portions shown are at least 1/4 mile long and at least 250 feet from mapped roads and buildings.

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Map scale = 1:42,000

* Official source of River Corridor data is tinyurl.com/floodreadyatlas. Where river corridors are not mapped, the corridor is taken to be the area within 50 feet of a perennial stream.

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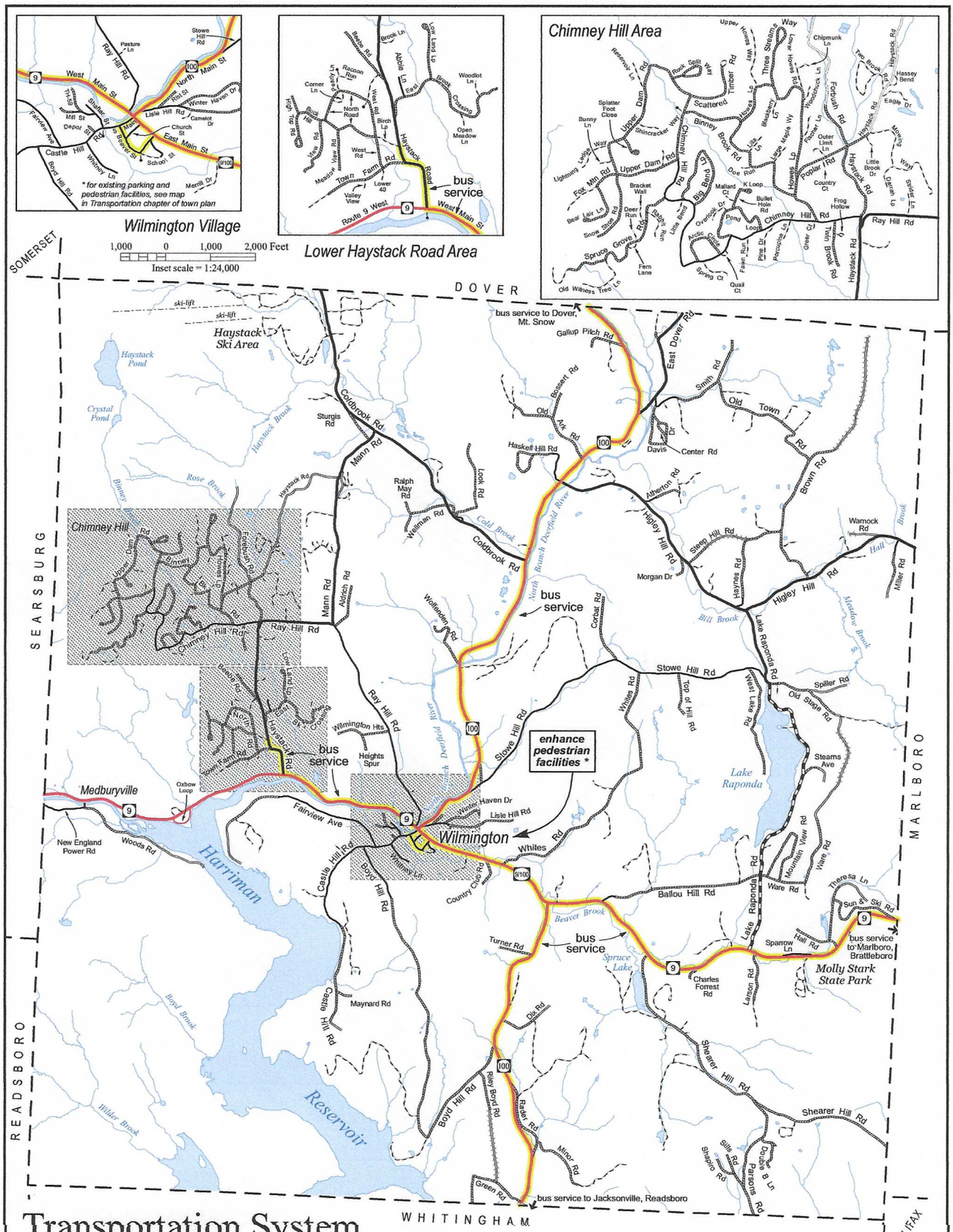

Transportation System

Town of Wilmington, Vt.

January 2017

* for existing parking and pedestrian facilities in the village, see map in Transportation chapter of town plan

- Federal or state highway
- Class 2 town highway - paved
- Class 3 town highway - paved
- Class 2 town highway - unpaved
- Class 3 town highway - unpaved
- Class 4 town highway (unpaved)
- Private road/drive
- Impassable road
- Symbol denotes change in road name
- Bus service - route of The Moover (Deerfield Valley Transit Association)
- Stream
- River or pond

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0.5 0 0.5 1 1.5 Miles

Map scale = 1:42,000

Data sources:

- Highway data are from Vt. Agency of Transportation sources (VGIS data layer RDSnnnnn). Data were corrected and updated by Windham Regional Commission in 2006, 2009, 2012, and 2016 using information provided by the Town of Wilmington, data from Vermont's Enhanced 911 Board, and Vermont digital orthophotos.

- The route of the Moover (bus service of the Deerfield Valley Transit Authority) is from DVTA information.

- Surface waters are from the Vermont Hydrography Dataset (VGIS data layer SWnnnnnnnn). The dataset was generated at a scale of 1:5000 and was developed using digital orthophotos, topographic maps, color infra-red aerial photography and other ancillary data sources.

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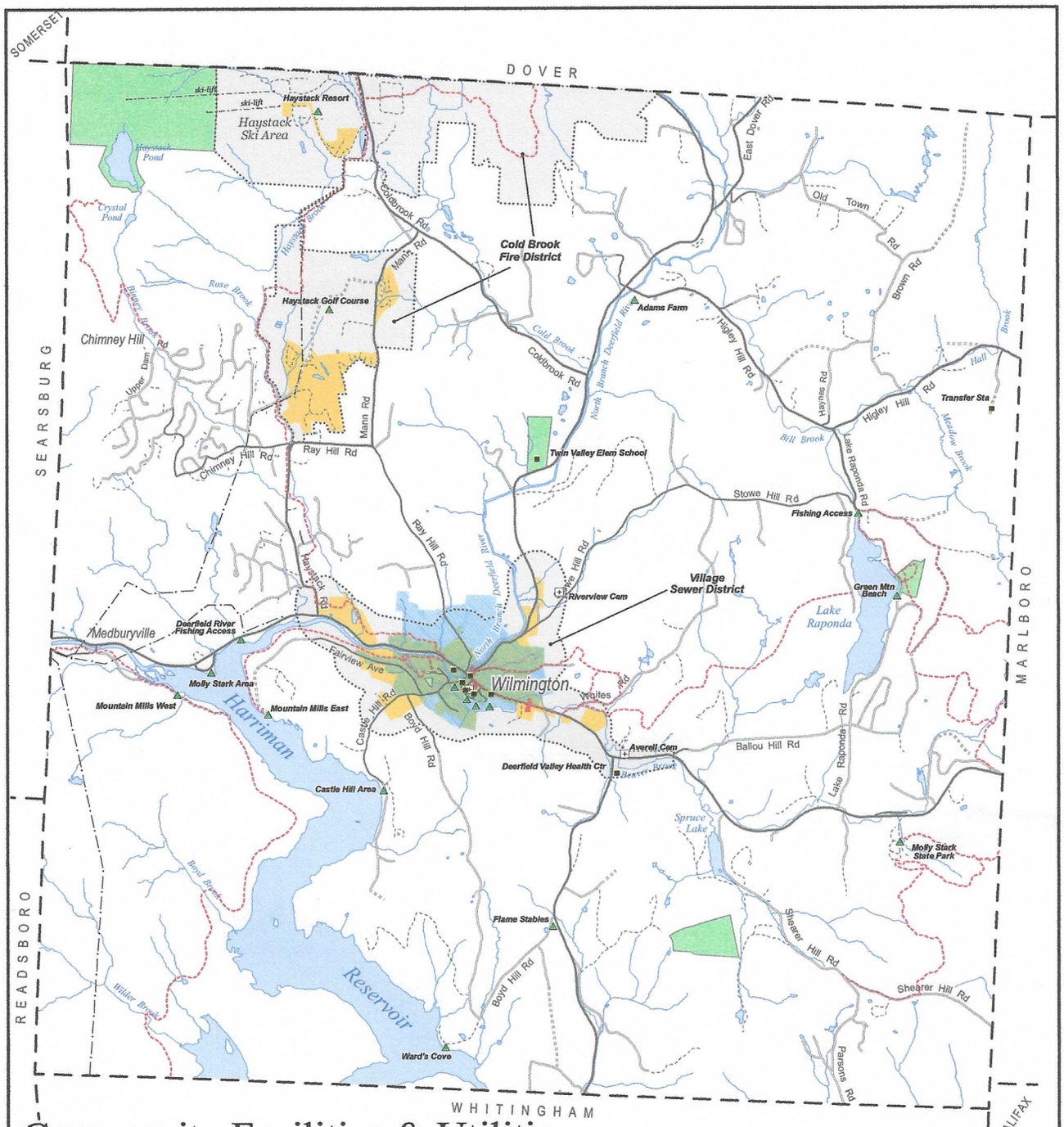

Community Facilities & Utilities

Town of Wilmington, Vt.

January 2017

Data sources:

- Wilmington village sewer and water service area boundaries were developed with the assistance of staff from the Wilmington Town Office in 2003. Parcel data were used as a reference to for the service area boundary.

- Wilmington village sewer district boundary from the Town of Wilmington, 2010.

- Cold Brook Fire District boundary and sewer service area was developed from parcel data, Wilmington tax maps, and information from Fire District employees.

- Community facilities, cemeteries, churches, and recreation sites were identified by the Wilmington Planning Commission. Locations were determined by WRC using 1:5000 base GIS data, 1:5000 orthophotos and E911 data.

- Town-owned conservation/open space parcels were extracted from 2009 parcel data created by CTI.

- Trails data are from WRC data, and from Jason Saltman, Wilmington Trails Committee, updated in 2016 by WRC.

- Electric transmission lines are taken from VGIS ELTRN data layer.

- Community facility
- Recreation site
- Cemetery
- Church
- Public walking/skiing trail
- Electric transmission line
- Sewer service area
- Town-owned conservation/open space
- Water service area (village)
- Sewer districts (Village or Cold Brook Fire District)

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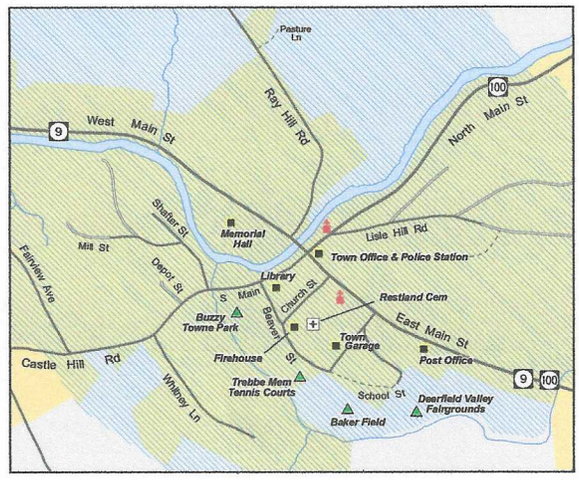

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