

TOWN OF WILMINGTON ZONING ORDINANCE & DEVELOPMENT GUIDELINES

November 4, 2025

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(Amended 1/4/2022-Sections 431 and 432 omitted in error, revised to correct 2/8/2022, amended Articles V, VII, VIII, X 9/20/22, revised 4/2/2024, amended Articles VI, IX and X and other revisions 11/4/25)

ARTICLE I ENACTMENT AND PURPOSE

Definitions for terms in this article can be found in Article X, Definitions.

Section 100: Enactment

In accordance with the Vermont Municipal and Regional Planning and Development Act, referred to in this document as the Act 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, herein after 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.
- H. For equal treatment of housing and required provisions for affordable housing.

Section 120: Application of Regulations and Requirements for Zoning Permit

Maintenance and repair are 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 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

Definitions for terms in this article can be found in Article X, Definitions.

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 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.

- 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 the approval of the Development Review Board, until such 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 Assessor’s Office 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 the regulations, for a period of one hundred fifty (15) 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

Ordinance or Amendment has not been adopted by the conclusion of the one hundred fifty (150) day period, or if the proposed Ordinance or Amendment is rejected, the Permit shall be reviewed under all applicable provisions of the Bylaw, pursuant to 24 V.S.A. § 4449(d).

6. Any proposed construction or other development within or which in any part includes a Special Flood Hazard Area can only be done with a Zoning Permit [60.3(b)(1)].
 - 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 Permit [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 Ordinance has been subsequently amended and the Amendment relates in any manner to the application, or if a Site Plan approval 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 issuance of said Permit [24 V.S.A. § 4465].”
- Refer to § 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 § 840, 841, 842, 843, and 844.

Section 214: Administrative Waivers Granted by the Zoning Administrator

- A. Except for Special Flood Hazard Areas, waivers may be granted by the Zoning Administrator (Development Review Board approval is not required) for relief from dimensional requirements for existing buildings under the following conditions:
 1. To improve access for any Person with a Disability
 2. To improve fire safety
 3. To construct an entryway with a footprint of not more than 25 square feet
 4. To construct an exterior stairway
 5. To install weather proofing and exterior insulation
 6. 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.

- B. Waiver Criteria: 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. No front setback is reduced to less than two (2) feet, except in the Historic Design Review District where it may be zero (0).
 3. 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 and Assessment of Penalties by the Zoning Administrator

The commencement or continuation of any Land Development or construction, 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 is responsible for the enforcement of the Zoning Ordinance and for assessing penalties for violations.

The Zoning Administrator shall enforce conformity with the Ordinance addressing any sign that endangers public safety or violates any provision of this Article.

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.

This ordinance shall be enforced in accordance with 24 V.S.A. §§ 1974a, 4451, and 4452. All notices of violation related to the Special Flood Hazard Area shall be provided to the State National Flood Insurance Program Coordinator. No new flood insurance shall be provided for any property which the Federal Insurance Administrator finds has been declared to be in violation of local flood hazard area regulations. If any appeals have been resolved, but the violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended. New and renewal flood insurance shall be denied to a structure upon a finding by the Federal Insurance Administrator of a valid declaration of a violation.

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 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, if 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.

- 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 (2) 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 misinterpretation 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:

- A. Type of Permit issued: Structure, Use, Sign
- B. If Development Review Board approval is required
- C. Incomplete applications
- D. Permits denied
- E. Administrative Waivers granted
- F. Administrative Extensions granted
- G. Complaints received
- H. Violations identified
- I. Notices of Violation issued
- J. Violations rectified
- K. Penalties levied
- L. 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 § 4449I.

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:

- A. The date or approximate date the sign was erected (if available), and
- B. Whether the sign
 - 1. Predated zoning,
 - 2. Obtained a Permit,
 - 3. 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, VT 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:

- A. The date or approximate date the construction was started,
- B. Whether the construction was Permitted,
- C. Whether the construction was completed in conformity with all applicable zoning regulations, and
- D. For development in the Special Flood Hazard Area, as applicable and additionally, any inspection documentation, elevation certificates, floodproofing and environmental conservation.

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 V 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 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 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. § 4414(3) including:
 - 1. Changes in Use or a new Use.
 - 2. New or substantial change to Land Development and structures (as defined in this Ordinance).
 - 3. General and Specific Standards conformity with standards of Land Development including construction, reconstruction, 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. § 4413(3)(B)(5)]
 - 6. Commercial Parking and/or Loading Area requirements applying to all Conditional Uses. [24 V.S.A. § 4413(3)(B)(4)]
- B. Planned Unit Developments (a Conditional Use): Review of all Planned Unit Developments (PUDs) as authorized in 24 V.S.A. § 4417.
- C. Site Plan Review: Review of all Conditional Uses applying Site Plan Review requirements. [24 V.S.A. § 4416]
- D. 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).

- E. Waivers and Variances: Review Waiver or Variance requests. [24 V.S.A. § 4414(8) and 24 V.S.A. § 4469]
- F. Right-of-Way easements: Review Right-of-Way or easement for Land Development without frontage [24 V.S.A. § 4412(3)]
- G. Telecommunications: Review Wireless Telecommunications Facilities. [24 V.S.A. § 4412(12)]
- H. Flood Hazards: Review Flood Hazard compliance consistent with Article VI, Flood Hazard Area Regulations. [24 V.S.A. § 4414(E)(1)(G)]
- I. Review Appeal of the decisions, acts, or failures to act by the Zoning Administrator as provided for in 24 V.S.A. § 4465.

Section 223: Development Review Board Site Plan 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 landscape 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 a 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 to the Development Review board for a public hearing. Refer to § 270-282 for additional information on 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 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:
 - 1. Existing Site Plan: lot layout including lot dimensions, structure dimensions and location, front, side, and rear setbacks.
 - 2. Photographs of existing buildings including structural features and materials.
- B. Existing Conditions of Development
- C. Proposed Changes
 - 1. Proposed Site Plan: lot layout including lot dimensions, structure dimensions and location, front, side, and rear setbacks.
 - 2. Planting and/or Landscaping Plan
 - 3. 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 the Permit.

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 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.

Within 120 days of an application being deemed complete, the Development Review Board shall notice and warn a hearing on the application.

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 decision within this period shall be deemed approved 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 and 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:

- A. Article III Boundary Lines and Subdivision
- B. Article V Historic Design Review District
- C. Article VI Flood Hazard Area
- D. Article VIII Signs
- E. 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 approval shall expire on the same date as the Development Review Board decision expires.

If all authorized activities are not substantially and nearly fully 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 a valid Permit, including an expired Permit, without an approved extension are subject to Penalties as defined in this Article. (See § 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:
 - i. Town or regional growth
 - ii. Agricultural soils
 - iii. Productive forest soils
 - iv. Earth resources
 - v. Extraction of earth resources
 - vi. Energy conservation
 - vii. Private utility services
 - viii. Cost of scattered development
 - ix. Public utility services
 - x. Public investment impact
 - xi. 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 and Industry, the Department of Health, the Agency of Human Services, the Agency of Transportation, the Agency of Agriculture, Food and 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

In the case of proposed development that does not meet the standards of this Ordinance. Waivers may be requested when seeking approval from the Developments Review Board. In applying for a Waiver, the burden of proof is on the Applicant to demonstrate that the Waiver request meets Waiver criteria in § 232 and § 233. 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 Ordinance.

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

Structural enlargements that do not increase the pre-existing degree of nonconformity do not require a Dimensional Waiver.

For example, 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 nonconformity of 15 feet. The degree of nonconformity is measured from the greatest degree of nonconformity for that structure, or in this case 15 feet.

Additions that do not exceed the greatest current nonconformity would not be considered an increase in the degree of nonconformity. Using the same 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 nonconformity, or the 10-foot setback nonconformity of the house could be expanded another 5 feet, up to the 15-foot existing nonconformity, without increasing the degree of nonconformity. No Waiver would be required as the structure is not increasing the degree of nonconformity.

Section 231: Legal Nonconforming Structures, Uses, and Lots

For changes to Structures, Uses or Lots that do not conform to the current Zoning Ordinance but which complied with the Zoning Ordinance in existence at the time the Structure, Lot or Use was created, see Article IV § 430, 431, and 432.

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

The Development Review Board may grant a Waiver to dimensional requirements of this Zoning Ordinance, except to create a lot that does not meet applicable Zoning District requirements (unless part of a PUD) after making findings on the criteria below:

- A. The requested use of the property is reasonable and only possible if the Development Review Board grants a Waiver.
- B. The Waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
- C. The Waiver is for an addition to an existing Principal or Accessory Structure, and said addition 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.
- D. No front setback is reduced to less than two (2) feet (except in Historic Design Review District where it may be a zero (0) setback).
- E. The proposed project will still conform to the Town Plan and the purpose of the Zoning District in which the land development is located.
- F. The proposed project will not have an undue adverse effect on the following:
 1. The appropriate use or development of surrounding properties
 2. The character and aesthetics of the neighborhood, as defined by the purpose of the District in which it is located.
 3. Traffic patterns and circulation
 4. Public health, safety, and utility services
 5. Water and wastewater capacity
 6. The preservation of open space or scenic vistas
 7. The need for a Waiver was not intentionally self-created by past decisions of the applicant
 8. The Waiver does not create undue adverse impact on abutting or neighboring properties
 9. The Waiver is not to the detriment of public welfare, including the safety and maintenance of the Town and State highways.

Section 233: 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 § 850)

Waivers meetings 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. The Waiver is not to the detriment of the public welfare, including the safety and maintenance of the Town and State highways.

Section 234: 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 Article II § 220-236)
- D. The development Review Board shall assess the impact on abutters in deciding whether to grant the Waiver, or to place conditions on the Waiver approval.
- 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 approvals 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 Development Review Board may grant an extension if an Application for an Extension is submitted prior to expiration of the Waiver.

Section 235: Variances Granted by the Development Review Board for Other than Renewable Energy Resources Structures

The Development Review Board shall hear and decide requests for Variances pursuant to 24 V.S.A. § 4469. 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.
- 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 236: Variance Granted by the Development Review Board for Renewable Energy Resource Structures

The Development Review Board shall hear and decide requests for Variances pursuant to 24 V.S.A. § 4469. The development Review Board may grant a Variance and render a decision in favor of the appellant only if all of the following facts are found and the findings are specified in its written decision:

- A. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the Ordinance.
- 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.
- 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 nonaction by the Zoning Administrator must be filed within 15 days following the date 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 proved 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 Article II § 240-245)

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 § 214 of Article II for Zoning Administrator Waivers. A Waiver for dimensional requirements or signs may be granted by the Development Review Board if the case meets the criteria outlined in § 229-234 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 § 270-275.

As a result of the hearing the Development Review Board may:

- A. Uphold the prior decision
- B. Overturn the prior decision
- C. Determine that a variance, without conditions, pursuant to 24 V.S.A. § 4469 and 4469(c), may be allowed for the case, as defined in § 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 Failure 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 (VRECP) 5 §(b)(1) for rules on filing an Appeal to the Environmental Court. Enforcement may be by mandate, injunction, process or 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 251: The Role of the Planning Commission in Adopting Changes to Zoning Ordinances 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, nonvoting 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 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 role 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 unexpired portion of a term of a previously filled position.

The Selectboard received 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 and Town Plan

After the Planning Commission prepares, holds hearing on, and recommends changes to the Town Plan and Zoning Ordinance, they submit the new recommended Zoning Ordinance or Town Plan to the Selectboard. The Selectboard receives recommended changes to Zoning Ordinances from the Planning Commission (see § 251 of this Article). The Selectboard holds hearings on and makes all final determinations on Zoning Ordinance or Town Plan changes and adopts them.

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

In the event of an emergency, within 72 hours (3 days) the Selectboard can 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
- 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 online 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:
 - i. Removing flood deposits to pre-flood river profile levels
 - ii. Filling river beds to pre-flood “armor bed” levels
 - iii. Filling river banks to bankfull width goals, without narrowing of beds
 - iv. River stabilization (armoring, bankfull width channels and flood plains)
 - v. 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 can 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 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. Appeals of a Development Review Board decision are handled by the Superior Court of Vermont, Environmental Division.

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

The public may attend all Public Hearings. Any “Interested Person” has the right to be heard at a Public Hearing. In accordance with 24 V.S.A. § 4465(b), an Interested Person includes:

- A. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by an ordinance, who alleges that the ordinance imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
- B. The municipality that has a plan or an ordinance at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.
- C. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person’s interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or ordinance of that municipality.
- D. Any twenty (20) persons who may be any combination of voters, residents, or real property owners within a municipality listed in subdivision (B) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or an ordinance of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal. For purposes of this subdivision, an appeal shall not include the character of the area affected if the project has a residential component that includes affordable housing.

- E. Any department and administrative subdivision of this State owning property or any interest in property within a municipality listed in subdivision (B) of this subsection, and the Agency of Commerce and Community Development of this State.

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

- A. Pursuant to 24 V.S.A. § 4464(a), public notice of hearing will be given not less than fifteen (15) days prior to hearing for a review of Conditional Uses, Variance, Subdivision, or the Administrative Review decision of the Zoning Administrator.
- B. 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 an approval decision.
- C. The Administrative Review Decisions granted to the Zoning Administrator under this Zoning Ordinance include:
 - 1. Administrative Waivers granted by the Zoning Administrator as defined in § 214.
 - 2. Administrative Permit Amendments in Article VIII § 843 Administrative Amendment to a Zoning Permit.
- D. 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.
- E. 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

- A. 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.
- B. 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.
- C. 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

- A. 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.
- B. 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 public right-of-way most nearly adjacent to the property for which application is made.
- C. 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 tother public right-of-way).
- D. 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 281: Zoning Ordinance Changes and Adoption

The Planning Commission prepares recommended changes to Zoning Ordinances consistent with the Town Plan. Prior to sending a proposed Zoning 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 Zoning 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 Zoning Ordinance proposed to 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 Zoning Ordinances after public hearing, a new hearing will be held on the proposed changes, 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 public 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 recommend language.

Pursuant to 24 V.S.A. § 4442(d), no Selectboard vote for amendment or repeal of a Zoning Ordinance 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 amendment or repeal of a Zoning Ordinance 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 Adoption, Amending or Repeal of Zoning Ordinances

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

- C. 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.
- D. 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 Ordinances

The public may attend all Public Hearings. Any person has the right to be heard at a Public Hearing regarding an adoption, amendment or repeal of a Zoning Ordinance.

ARTICLE III BOUNDARY LINES AND SUBDIVISION

Definitions for terms in this article can be found in Article X, Definitions.

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 and Merged Lots

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, easement or right-of-way, 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.

Development Review Board approval is required in all other circumstances.

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

Section 320: Subdivision of Land

- A. Pursuant to 24 V.S.A. § 4418(1)(B), Subdivision of Land creates two (2) or more lots from a single lot. Each lot resulting from a Subdivision of land shall have a legal means of access by way of:
 1. Public road, private road, highway, easement or -of-way conforming to the Wilmington Highway ordinance adopted August 20, 2019 as updated and amended from time to time, or
 2. Public waters
- B. Subdivision of land applications shall be issued a Zoning Permit by the Zoning Administrator provided:
 1. 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, easement or right-of-way, and
 2. The application creates five (5) or fewer lots, and
 3. Lot size and building setback requirements can be met or every lot (See Article IV § 450 for District site criteria setbacks), and
 4. Frontage requirements
 - i. Can be met for every lot or
 - ii. At least one (1) lot has the requisite road frontage, and a survey, prepared by a Vermont licensed surveyor, shows a right-of-way with 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.
- C. Development Review Board approval shall be required for the Subdivision of land in all other circumstances.
- D. Upon completion of a Subdivision the landowner is responsible for recording new deeds for affected properties in the land records. Subdivision approval shall expire 180 days from that approval or certification unless, within that 180-day period, that plat shall have been duly filed

or recorded in the office of the clerk of the municipality, 24 V.S.A. § 4463. The clerk is not permitted to accept a survey plat that does not include a land surveyor's certification as outlined in 26 V.S.A. § 2596.

E. Subdivision Review

1. Before a plat for a major subdivision is approved, a public hearing on the plat shall be held by the appropriate municipal panel after public notice.
2. A copy of the notice shall be sent to the clerk of an adjacent municipality, in the case of a plat located within 500 feet of a municipal boundary, at least 15 days prior to the public hearing.
3. No plat showing a new street or highway may be filed or recorded in the office of the clerk of the municipality until it has been approved by the appropriate municipal panel, or administrative officer.

Section 330: Dimensional Calculations

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

Dimensional conformity all 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 AND USES

Definitions for terms in this article can be found in Article X, Definitions.

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 § 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 three (3) Zoning Overlays:

- HDRO =Historic Design Review Overlay (Article V)
- VDRO =Village Design Review Overlay (Article V)
- FLOOD =Special Flood Hazard Area (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 and 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 parcel 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:

- A. Allowed: Not requiring a Zoning Permit
- B. Permitted: Requiring a Zoning Permit issued by the Zoning Administrator
- C. Conditional: Requiring a Development Review Board written decision and approval and a Zoning Permit
- D. Secondary: An additional Use to the Primary Use, requiring a Development Review Board written approval and a Zoning Permit
- E. Not Allowed: A Prohibited Use

Section 421: Uses and Structures Allowed without a Zoning Permit

Uses and Structures allowed without a Permit or Development Review Board written decision and 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, unless the structure is in an area of special flood hazard, see § 603.
- C. Bus Shelters.
- D. Home Occupations as defined in § 460, 461, and 462.
- E. Recreation, Outdoor.

Section 424: Secondary Uses

Conditional Use written decision and approval must be obtained from the Development Review Board for any Secondary Use that is not an allowed nor a permitted use as set forth in this Ordinance. In order for a Use to be allowed as a Secondary Use, it must meet the Conditional Use standards of Article VII § 710, 720, 730, 731, 732, 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 written decision and approval must be obtained from the Development Review Board 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 V.S.A. 1021(f) and 1259(f) and 6 V.S.A. 4810, including but not limited to a Slaughterhouse, Agricultural. Certain uses are not allowed in any District. Uses not allowed are the manufacturing, operation of, processing of or a commercial operation involving or providing bulk storage of:

- A. Ammonia
- B. Asphalt
- C. Blast furnaces
- D. Chlorine
- E. Concentrated animal feeding
- F. Dumps (except municipally operated sanitary landfill or transfer stations)

- G. Explosives
- H. Fertilizer (except for organic compost)
- I. Gas; propane or natural gas
- J. Hide tanning or curing
- K. Machinery wrecking
- L. Petroleum Products
- M. Products producing toxic environmental runoff or emissions
- N. Rendering
- O. Rubber
- P. Slaughterhouses - Commercial (See Definitions, **Slaughterhouse, Commercial**)
- Q. Smelters
- R. Wind energy Commercial facilities of any size (See Article VII, § 732 (K) for Small Wind Turbine provisions.)

Section 426: Uses Not Provided For

Any legal Use not listed or not defined herein that does not appear on the list of Uses Not Allowed (see § 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: Nonconformities [See 24 V.S.A. § 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 developed legally in conformance with the Ordinance in effect that the time it was created or established. This includes:

- A. Structures, Lots and/or Uses improperly authorized as a result of error by the Zoning Administrator. [See 24 V.S.A. § 4303(13) and 4412(7)].
- B. All Structures, parts of Structures, Lots and/or Uses existing prior to January 26, 1968, when the first Wilmington Zoning Ordinance was adopted.

See Definitions and § 705-709 for information on changes to Legal Nonconforming Structures, Lots and Uses.

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 nonconforming structures are allowed to the extent that:

1. The change to the nonconforming element of the structure remains within the footprint of the original nonconforming element or feature, including any overhangs or cantilevering.
2. Evidence of the footprint of the original nonconforming structure must be clearly established and maintained by the property owner seeking to rebuild within the footprint of the original nonconforming 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 nonconformity or encroachment into a setback.
4. A change will be considered a further encroachment of the nonconforming 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 nonconformity.
5. A change will not be considered an increase in the degree of nonconformity 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 nonconformity. 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 nonconforming 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 nonconforming 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 nonconformity.

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:

- i. The lot was legally created.

- ii. 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.
 - iii. 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, except if the lot is served by and able to connect to municipal sewer and water service. 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 § 431 (C) above shall be eligible for reduced setback requirements as follows:
 - i. 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.
 - ii. 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 “Legacy” nonconforming Structure, Lot or Use. All “Legacy” nonconformities of properties changing ownership will be subject to all of the provisions of Nonconforming Structures, Lots, and Uses as defined in § 430 and 431.

Section 440: Districts and District Requirements

For the Districts of the Town:

- Conservation
- Village
- Residential
- Resort-Residential
- Commercial/Residential
- Resort-Commercial/Residential
- Design Review Districts – Overlay Districts
- Flood Hazard District – An Overlay District

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 written decision and approval).
- E. Allowed Uses in the District (those not requiring a Zoning Permit or Development Review Board written decision and 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 Principal 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

Nonconforming Structures and Land Development to Nonconforming Lots shall not exceed thirty (30) feet to the highest point of the ridge line. (See § 705 – 709 for Nonconforming Structures, Lots and/or Uses) Nonconforming Structures and Land Development of Nonconforming Lots are not eligible for Height Limitation Exceptions – Review Options under § 442 of this Ordinance nor for Waivers under § 231 of this Ordinance.

For all other Land Development:

No structures shall exceed thirty-eight (38) feet to the highest point of the ridge line, (see District Requirements of § 450).

All proposed Land Development of a structure exceeding thirty-eight (38) feet to the highest point of the ridge line is eligible for a Height Limitation Exception if, in the opinion of the Development Review Board, the proposed structure meets the requirements of § 442, Height Limitation Exceptions – Review Options. Nonconforming Structures and Land Development of Nonconforming Lots are not eligible for Height Limitation Exceptions – Review Options under § 442 of this Ordinance.

In any area served by municipal sewer and water infrastructure, affordable housing development may exceed density limitations for residential developments by an additional 40 percent, rounded up to the nearest whole unit, which shall include exceeding maximum height limitations by one floor, provided that the structure complies with the Vermont Fire and Building Safety Code.

Section 442: Height Limitation Exceptions – Review Option

The Development Review Board may approve structures exceeding this limit, other than Nonconforming Structures or Land Development to Nonconforming Lots, 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.

Nonconforming Structures and Land Development of Nonconforming Lots are not eligible for Height Limitation Exceptions – Review Options under § 442 of this Ordinance.

All exceptions to exceed the height limitation, except as defined in § 443 below, shall require evidence of written approval from the Wilmington Fire Department. All applications for a Height Limitation Exception under this provision § 442 shall be required to visually demonstrate for 2 weeks where and how high the proposed structure would 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 landmark. 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 and 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

- A. Agricultural (Farm) Structures for an Agricultural Use or Accessory Agricultural Use licensed or permitted by the State of Vermont under 10 V.S.A. 1021(f) and 1259(f) and 6 VSA § 4810 and meeting the criteria outlined in 24 V.S.A. § 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 line, all structures on the lot, setbacks and dimensions, pursuant to 24 V.S.A. § 4413(d)(2). The Required Agricultural Practices (RAPs) are standards to which all types of farms must be managed to reduce the impact of agricultural activities to water quality. 24 V.S.A. § 4413 limits the application of municipal land use regulations on farm operations regulated under the RAP rules, including the construction of farm structures. When asked, the Vermont Agency of Agriculture, Food and Markets (VAAFMM) can determine if your operation meets the basic definition of a farm under the RAPs and will provide its opinion on whether the operation meets minimum thresholds for the applicability of the rule, and the activities on the parcel are farming and agricultural practices.
- B. Accessory On-Farm Business
Accessory On-Farm Businesses may be subject to site plan review and performance standards adopted in the Zoning Ordinances for similar commercial uses (see Section 710 and 730), and eligibility under 24 V.S.A § 4412(11); refer to Article X, Agritourism. No permit or permit amendment is required for the construction of improvements for an accessory on-farm business for the storage or sale of qualifying products or the other eligible enumerated products as defined in 24 V.S.A. § 4412(11)(A)(i)(I). No permit or permit amendment is required for the

construction of improvements for an accessory on-farm business for the preparation or processing of qualifying products as defined in 24 V.S.A. § 4412(11)(A)(i)(I), provided that more than 50 percent of the total annual sales of the prepared or processed qualifying products come from products produced on the farm where the business is located. This subsection shall not apply to the construction of improvements related to hosting events or farm stays as part of an accessory on-farm business as defined in 24 V.S.A. § 4412(11)(A)(i)(II). "Qualifying product" means a product that is wholly:

1. an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;
2. livestock or cultured fish or a product thereof;
3. a product of poultry, bees, an orchard, or fiber crops;
4. a commodity otherwise grown or raised on a farm; or
5. a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

Section 448: Community Facility Development Exceptions

- A. All Community Facility development is subject to the terms of this Ordinance including the application, approval and permitting by the Zoning Administrator and the written decision and approval of the Development Review Board, with the exception that, pursuant to 24 V.S.A. § 4413:
 1. Zoning restrictions may not interfere with the facility's intended functional use, and
 2. 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.
- B. 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.
 6. Emergency Shelter
 7. Hotels and motels converted to permanently affordable housing developments.

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 written decision and approval and a Zoning Permit):
- Accessory Dwelling Unit
 - Agritourism
 - Camp, Recreational
 - Community Facility
 - Dwelling, One-Family or Two-Family
 - Dwelling, Seasonal
 - Parking Lot
 - Recreation Facility, Outdoor
 - Snowmaking Facility
 - Subdivision of land, four or fewer lots
5. Prohibited Uses, Conservation District
Both for-profit Lodging and Short-Term Rentals with any number of guest rooms is prohibited in the Conservation District.
See § 421 for Uses and Structures Allowed without a Zoning Permit.
6. Site Criteria – Conservation District:

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|--|--|
| Density Limits | Maximum of: 1 Camp or A One-family dwelling or two-family dwelling unit plus an Accessory dwelling unit per 25 acres. Each Camp or One-Family dwelling 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 and 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): | 38 ft to the highest point of the ridge line* |

| | |
|---------------------------------|--|
| 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 |

7. 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 § 460 – 463)

*See § 441 – 443 for Structure Height Maximum information and § 706 (D) and 707 (C)(3) for special height limitations to Nonconforming Structures and Lots.

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 Dwelling Unit
 - Accessory Use
 - Boundary Line Adjustment
 - Dwelling, Multi-Family with three or four units
 - Dwelling, One Family, Two-Family or Duplex
 - Family Child Care Home
 - Office

- Short-Term Rental, three or fewer guest rooms
 - Subdivision of land, five or fewer lots
 - Temporary Retail Stand
4. Conditional Uses, Village District (requiring Development Review Board written decision and approval and a Zoning Permit):

| | |
|--|--|
| <ul style="list-style-type: none"> • Affordable Housing Development • Agritourism • Automotive Service Station & Repair Garage • Automotive Services • Bank • Bar or Lounge • Child Care Facility • Community Facility • Dwelling, Seasonal • Dwelling, Multi-Family with five or more units • Educational or Institutional Facility • Entertainment/Cultural Facility • Food Stand/Food Truck • Health Care Facility • Home Industry • Lodging • Maintenance Facility • Manufacturing | <ul style="list-style-type: none"> • Multi-Business Center • Municipal Utility or Safety Related Facility • Nursing Home /Assisted Living Facility • Parking Lot • Place of Worship • Planned Unit Development • Private Club • Recreation, Indoor • Recreation Facility, Outdoor • Restaurant • Retail Business • Service Business • Senior/ADA Compliant Housing • Short-Term Rental, four or more guest rooms • Subdivision of land, six or more lots • Transportation Center • Utility Facility • Wholesale Business |
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Home Business (See § 460 – 463) is allowed without a Zoning Permit in the Village District. See § 421 for additional Uses and Structures Allowed without a Zoning Permit.

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

| | |
|---------------------------------|---|
| Density Limits | No maximum |
| Structures/Uses Per Lot | No maximum |
| Dimensional Requirements | |
| Minimum Lot Size: | 1/8 acre |
| Minimum Lot Frontage: | 40 ft |
| Structure Height (Max): | 38 ft to the highest point of the ridge line* |

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|---------------------------------|---|
| 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 Overlay:

| | |
|---------------------------------|--|
| Density Limits: | Maximum of:12 units per acre See Zoning District Incentives below. |
| 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 | |
| Minimum Lot Size: | 1/8 acre |
| Minimum Lot Frontage: | 70 ft |
| Structure Height (Max): | 38 ft to the highest point of the ridge line* |
| Setback-Front (Min): | 20 ft Measured from edge of the actual or proposed road right-of-way |
| Setback-Side/Rear (Min): | 10 ft Measured from the property line |

See § 441 - 443 for Structure Height Maximum information and § 706 (D) and 707 (C)(3) for special height limitations to Nonconforming Structures and Lots.

6. Zoning District Incentives – Village District. Increased Density Option outside of Historic Design Review District:

- a. Affordable Housing Developments may be constructed, if approved, up to the maximum density specified in Article VII, § 734.
- b. Senior/ADA Compliant Housing may be constructed, if approved, up to the maximum densities specified in Article VII, § 733.

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 Dwelling Unit
 - Accessory Use
 - Boundary Line Adjustment
 - Dwelling, Multi-Family with three or four units served by municipal water and sewer
 - Dwelling, One Family, Two-Family or Duplex
 - Dwelling, Seasonal
 - Family Child Care Home
 - Short-Term Rental, four or fewer guest rooms
 - Subdivision of land, five or fewer lots
 - Temporary Retail Stand
4. Conditional Uses, Residential District (requiring Development Review Board written decision and approval and a Zoning Permit):

- Affordable Housing Development
- Agritourism
- Camp, Recreational
- Campground/Recreational Vehicle Park
- Cemetery
- Child Care Facility
- Community Facility
- Dwelling, Multi-Family, three or more units not served by municipal water or sewer
- Dwelling, Multi-Family, five or more units served by municipal water or sewer
- Educational or Institutional Facility
- Golf Course
- Home Business

- Home Industry
- Mobile Home Park
- Municipal Transfer Station
- Municipal Utility or Safety Related Facility
- Office
- Parking Lot
- Place of Worship
- Planned Unit Development
- Quarry Operation
- Recreation Facility, Outdoor
- Short-Term Rental, five or more guest rooms
- Subdivision of land, six or more lots
- Utility Facility
- Wildlife Refuge

See § 421 for additional Uses and Structures Allowed without a Zoning Permit.

5. Site Criteria – Residential District:

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|-----------------------|---|
| Density Limits | <p>Maximum of 25% Lot Coverage:</p> <p>A One-family dwelling or two-family dwelling unit, plus an Accessory Dwelling Unit per acre. For properties connected to municipal sewer and water, density is increased to 5 units per acre.</p> <p>Fences are not counted toward density limits.</p> |
|-----------------------|---|

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| 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 | |
| Minimum Lot Size: | 1 Acre; Properties served by Municipal Wastewater and Water: 1/5 acre |
| Minimum Lot Frontage: | 150 ft |
| Minimum Lot Depth: | 150 ft |
| Structure Height (Max): | 38 ft to the highest point of the ridge line* |
| 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 – Residential District:

Affordable Housing Developments may be constructed, if approved, up to the maximum density specified in Article VII, § 734.

*See § 441 – 443 for Structure Height Maximum information and § 706 (D) and 707 (C)(3) for special height limitations to Nonconforming Structures and Lots.

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.”
3. Permitted Uses, Resort-Residential (requiring a Zoning Permit):
 - Accessory Dwelling Unit
 - Accessory Use
 - Boundary Line Adjustment
 - Dwelling, One Family, Two-Family or Duplex
 - Dwelling, Seasonal
 - Family Child Care Home
 - Short-Term Rental, four or fewer guestrooms

- Subdivision of land, five or fewer lots
 - Temporary Retail Stand
4. Conditional Uses, Resort-Residential (requiring Development Review Board written decision and 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, Multi-Family
- Educational or Institutional Facility
- Golf Course
- Home Business
- Home Industry

- Mobile Home Park
- Municipal Transfer Station
- Municipal Utility or Safety Related Facility
- Office
- Parking Lot
- Place of Worship
- Planned Unit Development
- Quarry Operation
- Recreation Facility, Outdoor
- Senior/ADA Compliant Housing
- Short-Term Rental, five or more guest rooms
- Subdivision of land, six or more lots
- Utility Facility
- Wildlife Refuge

See § 421 for additional Uses and Structures Allowed without a Zoning Permit.

5. Site Criteria: Resort-Residential District:

| | |
|---------------------------------|--|
| Density Limits | <p>Maximum of:</p> <p>25% Lot Coverage.</p> <p>A One-family dwelling or two-family dwelling unit, plus an Accessory Dwelling Unit per acre. Fences are not counted toward density limits.</p> |
| Structures/Uses Per Lot | <p>Maximum of:</p> <p>1 Principal Structure and 1 Principal Use.</p> <p>Home Business and Home Industry are not considered Principal Uses.</p> <p>A second dwelling in a separate Principal Structure may be constructed on any Lot with more than three acres.</p> <p>Fences are not counted toward Structure limits.</p> |
| Dimensional Requirements | |
| Minimum Lot Size: | 1 Acre; Properties served by Municipal Wastewater and Water: 1/5 acre |

| | |
|---------------------------------|---|
| Minimum Lot Frontage: | 150 ft |
| Minimum Lot Depth: | 150 ft |
| Structure Height (Max): | 38 ft to the highest point of the ridge line* |
| 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 § 441- 443 for Structure Height Maximum information and § 706 (D) and 707 (C)(3) for special height limitations to Nonconforming Structures and Lots.

6. Zoning District Incentives – Resort-Residential District:
 - i. Affordable Housing Developments may be constructed, if approved, up to the maximum density specified in Article VII, § 734.
 - ii. Senior/ADA-Compliant Housing may be constructed, if approved, up to the maximum densities specified in Article VII, § 733.

E. Commercial/Residential District (COM/RES)

1. Purpose: The purpose of this District is to: encourage clustered commercial and residential development while preserving designated open spaces and historic village settlement patterns thus preventing sprawl and roadside strip development. PUDs are encouraged within the Commercial/Residential 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 Dwelling Unit
 - Accessory Use
 - Boundary Line Adjustment
 - Dwelling, One-Family
 - Dwelling, Two-Family or Duplex
 - Dwelling, Multi-Family with three or four units
 - Dwelling, Seasonal
 - Family Child Care Home
 - Short-Term Rental, four or fewer guestrooms
 - Office
 - Subdivision of land, five or fewer lots
 - Temporary Retail Stand
 - Wildlife Refuge

4. Conditional Uses, Commercial/Residential (requiring Development Review Board written decision and approval and a Zoning Permit):

- Affordable Housing Development
- Agritourism
- Automotive Service Station and Repair Garage
- Automotive Services
- Bank
- Bar or Lounge
- Camp, Recreational
- Campground/Recreational Vehicle Park
- Cemetery
- Child Care Facility
- Community Facility
- Dwelling, Multi-Family five or more units
- Educational or Institutional Facility
- Entertainment/Cultural Facility
- Food Stand/Food Truck
- Golf Course
- Health Care Facility
- Home Industry
- Kennel
- Lodging
- Maintenance Facility
- Manufacturing
- Mini-Storage Facility

- Mobile Home Park
- 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
- Private Club
- Quarry Operations
- Recreation, Indoor
- Recreation Facility, Outdoor
- Restaurant
- Retail Business
- Service Business
- Senior/ADA Compliant Housing
- Short-Term Rental, five or more guest rooms
- Slaughterhouse, Custom Processor
- Snowmaking Facility
- Storage Facility
- Subdivision of land, six or more lots
- Transportation Center
- Utility Facility
- Warehouse
- Wholesale Business

Home Business (See § 460 – 463) is Allowed without a Zoning Permit in the Commercial/Residential District. See § 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 | Properties Served by Municipal Wastewater and Water System Maximum of: 50% lot coverage. 8 units per acre Properties not served by Municipal Wastewater and Water Maximum of: 25% Lot Coverage. A One-family dwelling or two-family dwelling unit, plus an Accessory Dwelling Unit 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: | Properties served by Municipal Wastewater and Water: 1/5 acre Properties not served by Municipal Wastewater and Water: 1 Acre | |
| Minimum Lot Frontage: | Properties served by Municipal Wastewater and Water: 100 feet Properties not served by Municipal Wastewater and Water: 150 ft | |
| Structure Height (Max): | 38 ft to the highest point of the ridge line* | |
| 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:

- a. 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 for commercial uses and residential uses not served by municipal wastewater and water.
- b. Senior/ADA Compliant Housing may be constructed, if approved, up to the maximum densities specified in Article VII, § 733.
- c. Affordable Housing Developments may be constructed, if approved, up to the maximum density specified in Article VII, § 734.

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/Residential 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.”
3. Permitted Uses, Resort-Commercial/Residential (requiring a Zoning Permit):
 - Accessory Dwelling Unit
 - Accessory Use
 - Boundary Line Adjustment
 - Dwelling, One-Family
 - Dwelling, Two-Family or Duplex
 - Dwelling, Multi-Family with three or four units
 - Dwelling, Seasonal
 - Family Child Care Home
 - Short-Term Rental, four or fewer guest rooms
 - Office
 - Subdivision of land, five or fewer lots
 - Temporary Retail Stand
 - Wildlife Refuge

4. Conditional Uses, Resort-Commercial/Residential (requiring Development Review Board written decision and approval and a Zoning Permit):

- Affordable Housing Development
- Agritourism
- Automotive Service Station and Repair Garage
- Automotive Services
- Bank
- Bar or Lounge
- Camp, Recreational
- Campground/Recreational Vehicle Park
- Cemetery
- Child Care Facility
- Community Facility
- Dwelling, Multi-Family, five or more units
- Educational or Institutional Facility
- Entertainment/Cultural Facility
- Food Stand/Food Truck
- Golf Course
- Health Care Facility
- Home Industry
- Kennel
- Lodging
- Maintenance Facility

- Manufacturing
- Mini-Storage Facility
- Mobile Home Park
- 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
- Private Club
- Quarry Operations
- Recreation, Indoor
- Recreation Facility, Outdoor
- Restaurant
- Retail Business
- Service Business
- Senior/ADA Compliant Housing
- Short-Term Rental, five or more guest rooms
- Snowmaking Facility
- Storage Facility
- Subdivision of land, six or more lots
- Transportation Center
- Utility Facility
- Warehouse
- Wholesale Business

Home Business (See § 460 – 463) is Allowed without a Zoning Permit in the Resort-Commercial/Residential District. See § 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. A One-family dwelling or two-family dwelling unit, plus an Accessory Dwelling Unit 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): | 38 ft to the highest point of the ridge line* | |
| 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:

- i. 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 for commercial uses and residential uses not served by municipal wastewater and water.
- ii. Senior/ADA Compliant Housing may be constructed, if approved, up to the maximum densities specified in Article VII, § 733.
- iii. Affordable Housing Developments may be constructed, if approved, up to the maximum density specified in Article VII, § 734.

*See § 441 – 443 for Structure Height Maximum information and § 706 (D) and 707 (C)(3) for special height limitations to Nonconforming Structures and Lots.

Section 460: Business Uses within a Dwelling or Accessory Structure

Some businesses within a dwelling or Accessory Structure are Allowed Uses and do not require a Permit. Those businesses not defined to be Allowed Uses will require a Permit and/or written decision and approval of the Development Review Board as a Conditional Use. These sections define which Business Uses in a dwelling or Accessory Structure are Allowed Uses 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 nonfamily member, nonresident 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.

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 § 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.” See [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.

In compliance with 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 a residential area is not considered a Home Occupation.

Businesses drawing customers, clients, or deliveries in excess of more than one (1) visit per day 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 Businesses 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 written decision and approval: All Business Use in a Dwelling or Accessory Structure not falling within these three (3) categories or not meeting the criteria of § 461 above will be a Conditional Use subject to Development Review Board written decision and approval.

Section 463: Districts Allowing Business Use within a Dwelling

| | 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 a written decision and approval of the Development Review Board

ARTICLE V
HISTORIC DESIGN REVIEW DISTRICT
AN OVERLAY DISTRICT
DESCRIPTION, USES AND REGULATIONS

Definitions for terms in this article can be found in Article X, Definitions.

Section 500: Authority

An Overlay Districts: As provided for in 24 V.S.A. § 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 V.S.A. § 4411(F) and high risk of flood hazard, 24 V.S.A. § 4411(G).

A Design Review District: As provided in 24 V.S.A. § 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 V.S.A. § 4414(E)]

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

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

Within the Village Design Review Overlay and the Historic Design Review Overlay no structure may be erected, reconstructed, altered, restored, moved, demolished or changed in Use or type of occupancy, except as otherwise provided for in § 531 (A) and (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 V.S.A. § 4464 (C).

Section 510: Village Design Review Overlay Purpose

The basis for a Design Review Overlay District is to preserve the natural beauty, vistas and the visual character of the Village of Wilmington. The visual aspects of the Design Review Overlay 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 Overlay 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 Overlay (HDRO) 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 HDRO 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 Overlay 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 Overlay 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 Overlay 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:

East – West Perimeter:

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)

North – South Perimeter

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 Overlay.

Section 522: Goals of the Historic Design Review District

The Site Plan and Design Goals of the Wilmington Historic Design Review Overlay 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 Overlay 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 Overlay 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 § 531, all development in a Design Review Overlay 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 Overlay and the Village Design Review Overlay:

- 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 Overlay (not applicable to the Village Design Review Overlay)

- 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 §§ 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. Zoning Permit from Zoning Administrator not required; no Development Review Board written decision and approval required:

As provided in 24 V.S.A. § 4414(1)(E) within a designated Design Review Overlay 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 § 870.
 2. Resurfacing of driveways and 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. Accessibility 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 from a public area or way may be removed with approval of the Zoning Administrator for health and 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 seasonal outdoor dining for a period of no more than 120 days from the date of approval by the Zoning Administrator. Areas must not restrict access to public rights of way and must be in compliance with all other regulations of this Ordinance, as well as state and local regulations governing capacity and/or licensing for outdoor dining areas.

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

Section 540: Site Plan and Design Review Standards

- A. All development and land improvements within a Design Review Overlay 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 Overlay shall preserve the character of the village and conform to the Goals of this District as defined in § 513.
- C. All development and land improvements within the Historic Design Review Overlay 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 § 730, 731, and 732 of this Ordinance.

ARTICLE VI
FLOOD HAZARD AREA OVERLAY
FLOOD AND FLUVIAL EROSION HAZARD REGULATIONS
Definitions for terms in this article can be found in Article X, Definitions.

Section 600. Statutory Authorization and Effect

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 § 4411, § 4412, § 4414, § 4424, and 24 V.S.A. Chapter 59, there is hereby established a Zoning Ordinance for areas at risk of flood damage in the Town of Wilmington, Vermont.

Section 601. Statement of Purpose

- A. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
- B. Ensure that the selection, design, creation, and use of development in flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property in a flood hazard area and does not impair stream equilibrium, or floodplain services (inclusive of exterior and interior changes, repairs, remodels), and
- C. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753, 24 V.S.A. § 4424, and the Local Hazard Mitigation Plan; and make the Town of Wilmington, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

Section 602. Other Provisions

Warning and Disclaimer of Liability: This Zoning Ordinance does not imply that land outside of the areas covered by this Zoning Ordinance will be free from flood or erosion damages. This regulation shall not create liability on the part of the Town of Wilmington, or any town official or employee thereof, for any flood or erosion damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

Section 603. Lands to Which these Regulations Apply

A. Identification

The Special Flood Hazard Areas include: The Special Flood Hazard Areas (SFHA) as mapped in the Town of Wilmington, Vermont identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this ordinance. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district.

B. Interpretation

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate. If uncertainty exists with respect to the boundaries of the SFHA or the floodway, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, he or she may

appeal to the Development Review Board. The burden of proof shall be on the appellant. A Letter of Map Amendment (LOMA) from the FEMA shall constitute proof.

C. Description of FEMA Identified Special Flood Hazard Areas

The FEMA identified floodplain area shall consist of the following specific areas:

1. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway (AE with Floodway) and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those SFHAs where no floodway has been identified in the FIS and FIRM.
2. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in base flood elevations (BFEs) or velocity within the municipality during the occurrence of the base flood discharge.
3. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which BFEs have been provided. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which BFEs have been provided but no floodway has been determined.
4. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no BFEs have been provided. For these areas, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or state or federal agencies to administer this ordinance. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.
5. The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

D. Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Development Review Board where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the SFHA, approval must be obtained from FEMA in the form of a Letter of Map Change (e.g. LOMC/LOMA/LOMR). Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a municipality shall notify FEMA of the changes to the SFHA by submitting technical or scientific data. See § 607 (C) for situations where FEMA notification is required.

Section 604. Administration

A. Designation of the Floodplain Administrator

The Zoning Administrator shall: (1) Fulfill the duties and responsibilities set forth in these regulations, (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (3) Enter into a written

agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.

Administration of any part of these regulations by another entity shall not relieve the municipality of its responsibilities pursuant to the participation requirements of the NFIP as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Town Manager.

B. Duties and Responsibilities of the Zoning Administrator

Prior to the issuance of any permit, the Zoning Administrator shall inform any person applying for a permit or authorization that the person should contact the ANR in order to assure timely action on any other related state or federal permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state and federal permits. The applicant shall provide the Zoning Administrator with a copy of the ANR Permit Navigator Sheet for awareness of what other permits are required.

1. Per 24 VSA § 4424, a permit for development within the SFHA may be issued only following receipt of comments from the Vermont ANR, or the expiration of thirty (30) days from the date the application was mailed to the Agency, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at ANR.
2. No permit shall be issued until all other necessary government permits required by state and federal laws have been obtained.
3. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable local laws and bylaws. He/she shall make as many inspections before, during and upon completion of the work as are necessary, including, but not limited to, once the site has been staked out or demarcated but before actual start of construction, after the foundation is completed and at construction completion.

C. Changes

After the issuance of a permit, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning Administrator. If changes are deemed necessary, requests for such a change shall be in writing, and shall be submitted by the applicant to the Zoning Administrator for consideration. The Zoning Administrator shall determine if the change requires a new permit application, or if an amendment can be made to the existing permit. The Zoning Administrator may require the applicant to hire a professional engineer, or other professional of demonstrated qualifications, to determine if the change will cause any change to the Base Flood Elevation (BFE), but that may not be the only consideration taken by the Zoning Administrator in determining if a new application is required.

D. Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the permit. Work in the SFHA shall also be completed within twenty-four (24) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Zoning Administrator.

The actual start of construction 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. In the SFHA, 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, footings, 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, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Zoning Administrator to approve such a request, and the original permit is compliant with the Zoning Ordinance and FIRM/FIS in effect at the time the extension is granted.

Section 605. Permit Application Guidelines

- A. If any proposed construction or development is located entirely or partially within any FEMA defined SFHA (including both interior and exterior changes), applicants shall provide all the necessary information listed below in sufficient detail and clarity to enable the Zoning Administrator to determine that:
 1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 3. adequate drainage is provided so as to reduce exposure to flood hazards;
 4. structures will be anchored to prevent floatation, collapse, or lateral movement;
 5. building materials are flood-resistant;
 6. appropriate practices that minimize flood damage have been used; and
 7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- B. If any proposed construction or development is located entirely or partially within any FEMA defined SFHA, applicants shall provide the following data and documentation, in addition to that mentioned above:
 1. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood;
 2. detailed information concerning any proposed floodproofing measures and corresponding elevations;
 3. document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development;
 4. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any SHFA (see § 603.C), when combined with all other existing and anticipated development, will not cause any increase in

- the base flood elevation in any identified Floodway and will not cause any increase in the BFE in any SFHA outside the Floodway; and
5. If a Vermont ANR Permit Navigator was completed and submitted to ANR, this shall also be included in your application to the Town. The ANR Permit Navigator is a tool that identifies all State and Federal agencies from which permit approval *may* be required for the proposal. Regardless of whether a Permit Navigator tool is completed, all required state and federal permits shall be submitted to the Zoning Administrator and attached to the permit before work can begin in any FEMA defined SFHA.
- C. For applicants seeking conditional use approval, approval under nonconforming structures and uses, or a variance, for development within any SFHA, the following also need to be provided, in addition to that mentioned:
1. A description of the alternatives considered to the proposed development, including alternate locations on the parcel or site, especially outside of the hazard area;
 2. Such pertinent information as identified in the regulations or deemed necessary by the Development Review Board for determining the suitability of the proposed development for the site;
 3. For a variance, then the application must include responses to the regulations set forth in 24 VSA § 4469, and CFR 60.6 (only if located in the FEMA Identified SFHA), and § 608 of this Zoning Ordinance;
 5. Copies of the application sufficient for the Development Review Board members, the State NFIP Coordinator, and additional parties such as the VT Department of Environmental Conservation (DEC) Stream Alteration Engineer and adjacent municipalities if affected.
- D. It is the responsibility of the applicant to provide material necessary for the Zoning Administrator, Development Review Board, and any other designated Town official, to fully understand the development proposal and to be able to make appropriate determinations using the data and materials provided by the applicant. Costs incurred for the development of application materials are the responsibility of the applicant.
- E. Referrals
1. Upon receipt of a complete application for a substantial improvement or new construction, the Zoning Administrator shall submit a copy of the application and supporting information to the State NFIP Coordinator at the Vermont ANR, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of thirty (30) days from the date the application was mailed to the Agency, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at ANR.
 2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, applicant shall provide the adequate number of copies of the application for the Zoning Administrator to submit copies to the adjacent communities, the Stream Alteration Engineer at the Vermont ANR, and the Army Corps of Engineers. Copies of such notice shall be provided to the State NFIP Coordinator at the Vermont ANR, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont ANR, or the expiration of thirty (30) days from the date the application was mailed to the Vermont ANR, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at ANR.

Section 606. Development in Special Flood Hazard Areas

A. Permitted Development

For the purposes of review under these regulations, the following development activities in the SFHA, where outside of the floodway and meeting the Technical Provisions in § 607 of this Zoning Ordinance, require only an administrative permit from the Zoning Administrator:

1. Non-substantial improvements of less than a 500 square foot footprint to existing residential and non-residential structures, providing the improvements do not decrease the pre-existing distance between the unaltered structure and the top of bank;
2. Accessory structures built in accordance with § 607(A)(8);
3. Development related to on-site septic or water supply systems in accordance with § 607(A)(9)(10);
4. Building utilities in accordance with relevant Technical Provisions in § 607;
5. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater;
6. Stream crossings in the SFHA that do not require Stream Alteration Permits, span top-of-bank to top-of-bank, and are to be used exclusively for recreational uses;
7. At-grade parking for existing buildings; and,
8. Storage or parking of recreational vehicles, not to exceed 180 days, provided they are fully licensed and ready for highway use.
9. The following open space uses, provided that they do not require the erection of structures, creation of impervious ground surface, storage of materials and equipment, importing of fill, obstruction of flood flows and will not increase flood level or velocity during the occurrence of the base flood or increase off-site damage potential:
 - a. Recreational Uses, such as parks, campsites, picnic grounds, golf courses and boat launching sites.
 - b. Residential lawns, gardens, unpaved areas and play areas.

B. Prohibited Development in Regulated Flood Hazard Areas

For the purposes of review under these regulations, the following development activities are prohibited in any SFHA, and would only be allowed via issuance of a variance:

1. New residential or non-residential structures (including the placement of new manufactured homes);
2. Any improvement to an existing structure that decreases the pre-existing distance between the unaltered structure and the top of bank;
3. Storage of junk or junkyards (or salvage yards);
4. New fill, except as necessary to elevate existing structures above the BFE, and placed in accordance with § 607;
5. Accessory structures in the Floodway;
6. Critical facilities as identified by the Town of Wilmington in all areas affected by mapped flood hazards, including the 500-year or .2% annual chance flood; and,
7. All development not otherwise exempted, permitted, or conditionally permitted.

C. Conditional Use Review

Conditional use review and approval by the Development Review Board, is required prior to the issuance of a permit by the Zoning Administrator for the following proposed development, which shall be undertaken in accordance with all relevant technical provisions described in § 607 of this Zoning Ordinance:

1. Substantial improvement, elevation, relocation, or flood-proofing of an existing residential or non-residential structure that does not expand the footprint of the existing structure more than 500 square feet and does not decrease the pre-existing distance between the unaltered structure and the top of bank;
2. Any improvement to an existing residential or non-residential structure that does expand the footprint of the existing structure more than 500 square feet and does not decrease the pre-existing distance between the unaltered structure and the top of bank;
3. New or replacement storage tanks for existing structures placed in accordance with § 607(A);
4. Any improvements to existing residential and non-residential structures in the floodway;
5. Grading, excavation, or the creation of a pond;
6. Improvements to existing roads or streets, in accordance with § 607(A)(12);
7. Construction or repair of stream crossing structures (bridges and culverts), associated transportation and utility networks, dams, dry hydrants, and other functionally dependent uses that must be placed in or over rivers and streams that are located in the SFHA and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder;
8. Subdivision of land in the SFHA in accordance with § 607(A)(13);
9. Building utilities placed in accordance with the relevant standards of this Zoning Ordinance;
10. Power generation Facilities and telecommunications infrastructure not otherwise regulated by 30 V.S.A. § 248 or § 248a.

D. Exempted Activities

The following are exempt from regulation under this Zoning Ordinance:

1. Previously Developed Sites:
 - a. Pre-existing development may continue.
 - b. A pre-existing building or developed site may be used for any purpose allowed in the zoning district.
2. Maintenance of existing roads, parking areas and stormwater drainage, not including any expansions;
3. Maintenance of existing trails, and the expansion or development of new trails that do not include any type of channel management or stabilization;
4. Maintenance of existing bridges, culverts, and channel stabilization activities, not including expansions;
5. Silvicultural activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
6. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices, see § 447.

E. Nonconforming Structures¹

The Development Review Board may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a SFHA provided that:

1. The proposed development is in compliance with all the Technical Provisions in § 607;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed in place only in circumstances when the structure cannot be relocated to a less hazardous

¹ A nonconformity, located in a SFHA, that the Town deems to be a public nuisance or public health risk or hazard may be abated or removed as per 24 V.S.A. § 4412.7(C)

location on the parcel, provided it is outside of the Floodway. A nonconforming structure cannot be rebuilt in the floodway. The lowest floor of the reconstructed residential structure must be rebuilt with the lowest floor elevated to two feet or more above the base flood elevation, and a non-residential structure must be floodproofed according to § 607(A)(4), and the structure must otherwise comply with all requirements of the NFIP and this Zoning Ordinance;

3. Nonconforming structures shall be considered abandoned where such structures are discontinued for not less than 12 months; and
4. An individual manufactured home remaining occupied in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this Zoning Ordinance.

| | Activity | Hazard Zone | |
|----|--|---|--------------------------------|
| | | Floodway (with no increase to BFE) | SFHA outside of Floodway |
| | P Permitted C Conditional Review X Prohibited A Exempt | | |
| 1 | New Structures (including new manufactured homes) | X | X |
| 2 | Non-substantial improvement (<50% FMV ²) of less than 500 sq ft to an existing structure that is no closer to waterway (both interior and exterior renovations, repairs, and/or remodels, i.e. kitchen or bath remodels are included in this regulation) | C | P |
| 3 | Substantial improvement (>50%FMV) of less than 500 sq ft to an existing structure that is no closer to waterway (both interior and exterior renovations, repairs, and/or remodels, i.e. kitchen or bath remodels are included in this regulation) | C | C |
| 4 | Any improvement of more than 500 sq ft to an existing structure that is no closer to waterway | C | C |
| 5 | Any improvement to an existing structure that decreases pre-existing distance to waterway | X | X |
| 6 | Accessory structure ³ not meant for human habitation and not larger than 500 sq ft | X | P |
| 7 | Accessory structure ⁴ built for human habitation and/or larger than 500 sq ft | X | X |
| 8 | On-site septic and water supply systems | X | P |
| 9 | At-grade parking for existing buildings | C | P |
| 10 | Open fencing and elevated signage | C | P |
| 11 | RV parking, fully licensed and ready for highway use | X | P |
| 12 | RV parking, unlicensed or not drivable | X | X |
| 13 | Storage or junk yards | X | X |
| 14 | Fill | X | X |

² FMV = Fair Market Value

³ See appropriate Technical Provisions in this Zoning Ordinance.

| | Activity | Hazard Zone | |
|----|--|---|--------------------------------|
| | | Floodway (with no increase to BFE) | SFHA outside of Floodway |
| | P Permitted C Conditional Review X Prohibited A Exempt | | |
| 15 | Critical facilities | X | X |
| 16 | New or replacement storage tanks | X | C |
| 17 | Grading, excavation or creation of a pond | C | C |
| 18 | Maintenance of existing road/bridge/culvert/channel stabilization, not including expansions | A | A |
| 19 | Road improvements/expansions | C | C |
| 20 | Exclusively recreational stream crossings that do not require a SAP and span top-of-bank | P | P |
| 21 | Bridges, culverts, channel management, and functionally dependent uses ⁶ that have coverage under a SAP | C | C |
| 22 | Subdivision of land ⁶ | C | C |
| 23 | Trail maintenance on natural grades | A | A |
| 24 | Building utilities ⁶ | C | P |
| 25 | Power generation infrastructure and facilities not otherwise regulated by 30 V.S.A. § 248 | X | C |
| 26 | Nonconforming structure repair, relocation, replacement or enlargement | C | C |
| 27 | Removal of structure in whole or part ⁴ | P | P |
| 28 | Silvicultural activities ⁵ | A | A |
| 29 | Agricultural activities ⁶ | A | A |
| 30 | All development not otherwise noted | X | X |

Section 607. Technical Provisions

The criteria below are the minimum standards for development in SFHA. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

A. Special Flood Hazard Area Development Standards

1. All development shall be:
 - a. Reasonably safe from flooding and fluvial erosion risk;
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - c. Constructed with materials resistant to flood damage⁷;
 - d. Constructed by methods and practices that minimize flood damage;
 - e. Constructed with electrical, heating (including furnaces), ventilation, plumbing, air conditioning equipment, and other service facilities designed, elevated, and/or located two feet above the BFE in order to prevent water from entering or accumulating within the components during conditions of flooding;
 - f. Adequately drained to reduce exposure to flood hazards; and

⁴ In conjunction with an approved stabilization plan.

⁵ Conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practice.

⁶ Conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices (RAP).

⁷ Refer to *FEMA Technical Bulletin 2-9: Flood Resistant Materials Requirements*

- g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes.
- 2. Within any SFHA, no development shall be permitted without first determining the base flood elevation (BFE) and demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachments in the municipality, will not cause any increase in the BFE. This demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and is certified by a licensed professional engineer.
- 3. Residential Structures, including Manufactured Homes, Tiny Homes, etc., to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least two-feet above base flood elevation. This must be documented in as-built condition, with a FEMA Elevation Certificate.
- 4. Non-residential structures in the SFHA to be substantially improved shall:
 - a. Meet the elevation standards for Residential Structures outlined above in § 607(A)(3) of this Zoning Ordinance; or,
 - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities designed so that two feet above 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. A permit for flood-proofing shall not be issued until a licensed 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.
- 5. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- 6. Fully enclosed areas that are above grade on all sides, but below the lowest floor, below BFE and/or are subject to flooding, shall:
 - a. Be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, and such a condition shall clearly be stated on any permits; and,
 - b. Be designed and constructed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: (1) A minimum of two openings on two walls 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; (2) The bottom of all openings shall be no higher than one foot above grade; and (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 7. Recreational vehicles must be fully licensed and ready for highway use.
- 8. Accessory structures
 Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
 - a. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity;
 - b. floor area shall not exceed 500 square feet;
 - c. the structure will have a low damage potential;
 - d. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters;
 - e. power lines, wiring, and outlets will be elevated to two feet above the base flood elevation;

- f. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited;
 - g. sanitary facilities are prohibited; and
 - h. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - i. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - ii. the bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
9. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
 10. 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.
 11. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 12. Streets finished elevation shall be no more than one (1) foot below the base flood elevation.
 13. Subdivisions, Manufactured Home Parks, and Planned Unit Developments must be accessible by dry land access outside the SFHA. All subdivision proposals and development proposals containing at least fifty (50) lots or at least five (5) acres, whichever is the lesser, in FEMA Identified SFHAs where BFE data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine BFEs and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant. If such a subdivision is proposed in a flood prone area, assure that:
 - a. Such proposal minimizes flood damage;
 - b. Is proposed to be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 - c. Adequate drainage is provided to reduce exposure to flood hazards.
 - d. New parcels created by subdivision require a reasonable development envelope that conforms to all natural-hazard and dimensional standards in this Zoning Ordinance without requiring a variance.
 14. Storage of all materials that are buoyant, flammable, explosive or in times of flooding, could be injurious to human, animal, or plant life, shall be stored at or above one foot above the base flood elevation or floodproofed to the maximum extent possible, including being firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 15. Existing residential and non-residential buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.
 16. Anchoring

- a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- b. All air ducts, large pipes, storage tanks, and other similar objects or components located below the BFE shall be securely anchored or affixed to prevent flotation.

17. Floors, Walls and Ceilings

- a. Wood flooring used at or below the BFE shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- b. Plywood used at or below the base flood elevation may be of a "marine" or "water-resistant" variety.
- c. Walls and ceilings at or below the base flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
- d. Windows, doors, and other components at or below the base flood elevation shall be made of metal or other "water-resistant" material.

18. Paints and Adhesives

- a. Paints and other finishes used at or below the base flood elevation may be of "marine" or "water-resistant" quality.
- b. Adhesives used at or below the base flood elevation may be of a "marine" or "water-resistant" variety.
- c. All wooden components (doors, trim, cabinets, etc.) used at or below the base flood elevation may be finished with a "marine" or "water-resistant" paint or other finishing material.

19. Electrical Components

Electrical distribution panels shall be at least two feet above the base flood elevation. Separate electrical circuits shall serve lower levels and shall be dropped from above.

20. Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall be located at least two feet above the BFE.

21. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. All components located below the base flood elevation shall be securely anchored or affixed to prevent flotation or unmooring. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

B. Floodway Areas

1. Encroachments or development above grade and less than one foot above the BFE, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
 - a) Not result in any increase in flood levels (0.00 feet) or velocities during the occurrence of the base flood;
 - b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

C. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent towns which may be affected by such action have been notified by the town, and until all required permits or approvals have first been obtained from the Vermont ANR.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not decrease stream stability, or reduce or impede the flood carrying and sediment transport capacity of the watercourse in any way.
3. In addition, FEMA shall be notified prior to any alteration or relocation of any watercourse.

D. Any new construction, development, uses or activities allowed within any SFHA shall be undertaken in strict compliance with the provisions contained in this Zoning Ordinance and any other applicable codes, bylaws and regulations.

Section 608. Enforcement

A. In addition to the Enforcement provisions contained in Article II, copies of a Notice of Violation will be mailed to the Vermont NFIP Coordinator within thirty (30) days.

B. Within any FEMA Identified SFHA, if any appeals have been resolved, but the violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance to the violator. 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 Zoning Ordinance, (c) a clear statement that the Zoning Administrator 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 609. Variances

Variances may be granted in writing by the Development Review Board only in accordance with all the criteria in 24 V.S.A. § 4469 after a public hearing noticed in accordance Section II.C [Public Notice] consistent with 24 V.S.A. § 4464. If the proposed development is located within any Flood Hazard Overlay District, the proposal shall comply with 44 C.F.R. § 60.6.

Any variance issued in the SFHA shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the BFE increases risk to life and property and will result in increased flood insurance premiums. Such notification shall be maintained with a record of all variance actions.

ARTICLE VII STANDARDS

Definitions for terms in this article can be found in Article X, Definitions.

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. 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. May be altered, renovated, changed, or developed in accordance with the requirements of § 706, 707, and 708.
 - 4. Are not eligible for Waivers under § 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 § 215 and 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 § 442 of this Ordinance nor for Waivers under § 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 the change to the nonconforming element of the structure:
 - 1. Remains within the footprint of the original nonconforming element or feature, including any overhangs or cantilevering, or
 - 2. 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.
- 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 requires a written decision and approval from the Development Review Board.
- G. Determining Footprint of Original Structure: evidence of the footprint of the original Nonconforming Structure shall be clearly established and maintained by the property owner seeking to rebuild within the footprint of the original Nonconforming 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.

- H. 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 nonconformity of 15 feet. The degree of nonconformity is measured from the greatest degree of nonconformity for that structure, or in this case 15 feet. Additions that do not exceed the greatest current nonconformity would not be considered an increase in the degree of nonconformity.

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 nonconformity, or the 10-foot setback nonconformity of the house could be expanded another 5 feet, up to the 15-foot existing nonconformity, without increasing the degree of nonconformity. No Waiver would be required as the structure is not increasing the degree of nonconformity.

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 Article X: **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, except if the lot is served by and able to connect to municipal sewer and water service. 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:
 - i. 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.
 - ii. 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 § 442 of this Ordinance nor for Waivers under § 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 “Legacy” Nonconforming Structure, Lot or Use. All “Legacy” 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 § 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 § 723, however, the Development Review Board shall not withhold approval based solely on the applicant's noncompliance with § 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 §§ 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 § 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 §§ 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 recreate vanished or non-surviving portions of a property for interpretive purposes.

See the Vermont State recommended guidelines for historic preservation online:
Secretary of the Interior's Standards for Rehabilitation
Guidelines for Rehabilitating Historic Buildings
The Preservation Briefs

- 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: An historic structure that may reasonably be preserved, rehabilitated, or restored/renovated (See § 723(B)) by the current owner seeking application for Land Development; and the owner 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:

- Lands Over 2500 Feet in Elevation
- Surface Waters
- Water Source Protection Areas
- Flood Hazard Areas
- Deer Wintering Areas
- Wildlife Crossings
- Rare and Threatened Plants
- Scenic Areas
- Scenic Roads
- Impact on Community Facilities and Utilities
- Impact on Transportation Systems
- Shoreland

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 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, Residential 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 nine (9) feet by eighteen (18) feet. For the purpose of residential parking, a municipality shall define a standard parking space as not larger than nine feet by 18 feet, however a municipality may allow a portion of parking spaces to be smaller for compact cars or similar use. A municipality may require a larger space wherever American with Disabilities Act-compliant spaces are required. 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 any Person with a Disability, safety, and pedestrian concerns when smaller spaces are allowed.
 3. Electric Vehicle Charging Stations (EVCS) are allowed as an Accessory Use in all Districts, in approved off street parking areas.
 4. Minimum Number of Spaces: The minimum number of required spaces are:
 - i. Dwelling, Multi-Family: One (1) parking space for every Dwelling unit
 - ii. Lodging: One and one-quarter (1.25) parking space for every guest room.
 - 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. Short-Term Rentals: Three-quarters (.75) parking space for every guest room.
 - viii. Spaces with Electric Vehicle Charging Stations (EVCS) shall be included in the Minimum Number of Spaces designated above.
 5. 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.
 6. Minimize the Visual Impact of Parking and 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 § 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.

sufficient to minimize their physical and aesthetic impact on other land Uses, properties in the area, the Town and public or private roads.

7. Buffer Area to Parking: See § 730 E (b) Screening and Buffer Areas for Parking.
 8. 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 VSA § 1111.
 9. 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 § 730 (F) through (K) and salt melt in a fashion that will not damage vegetation or water sources.
 10. 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:
 - i. Visibility at intersections
 - ii. Pedestrian safety
 - iii. Convenience
 - iv. Access in case of emergency
 11. 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 § 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 and 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 and 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 and 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 and 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 and 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 is encouraged. All reasonable effort should 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 should 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:
1. 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.
 2. Preventing water pollution.
 3. Making appropriate provision for management of erosion, preservation of rivers and streams, river/stream banks, wetlands, waterways, channels, and agricultural lands.
 4. 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 10 V.S.A. Chapter 49A, 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). Any new development, redevelopment, or clearing activity within the Shoreland, including but not limited to the creation of impervious surfaces (*e.g.*, buildings, driveways, parking lots) or cleared areas (*e.g.*, vegetation removal or disturbance of natural ground cover) shall require a Conditional Use Permit from the Wilmington Development Review Board (DRB), unless otherwise exempted under these bylaws or state law. Applications for a Conditional Use Permit shall include a site plan, project description, documentation of compliance with the Shoreland Protection Act, and applicant must obtain approval from the Vermont Department of Environmental Conservation prior to issuance of a local Conditional Use Permit
- 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 § 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 and § 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 § 710 through 740 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.
- K. Cottage Cluster Development Specific Standards

The purpose of this section is to address the need for smaller and more affordable housing choices in response to changing household demographics and living preferences. In the case of any conflict between the Cottage Cluster Development Specific Standards and the PUD Specific Standards, the Cottage Cluster Development Specific Standards shall take precedence.

1. Applicability: Cottage Cluster Developments are permitted in the Village District and Commercial/Residential District.
2. Minimum Acreage: There shall be no minimum acreage requirement for a Cottage Cluster Development provided that all other standards are met.
3. Density Standards: The maximum density for a Cottage Cluster Development shall be 200 percent the residential density allowed in the applicable Zoning District.
4. Dimensional Standards: The Development Review Board may:
 - i. Modify lot size, frontage, and setback requirements within the site except that the development shall meet setback standards for the applicable Zoning District around the perimeter of the site.
 - ii. May increase the maximum lot coverage to 50 percent if the standard in the applicable Zoning District is less.
5. Use Standards. Nonresidential Principal Uses are prohibited within a Cottage Cluster Development, irrespective of the standards of the applicable Zoning District.
6. Cluster Size: The development shall be designed as one or more clusters of cottages composed of 4 to 12 cottages arranged around a common open space.
7. Cottage Design: A cottage shall be a Single-Family detached dwelling that meets the following requirements:
 - i. Maximum of 2 stories in height.
 - a. All portions of the building more than 18 feet in height shall be within the roof pitch.
 - b. No portion of the building may exceed 25 feet in height.
 - ii. Maximum building footprint of 1,400 square feet.
 - a. Attached garages shall be included in the footprint calculation.
 - b. Attached garages shall not have a footprint of more than 576 square feet.
 - iii. Pitched roof with a minimum slope of 6:12. Secondary roofs, such as porches, sheds, or dormers, may have a lower slope.
 - iv. Includes a roofed, open porch at least 60 square feet in size that offers a view of common open space.
 - v. Provides at least 300 square feet of private, contiguous, usable yard area abutting the cottage with no dimension less than 10 feet.
8. Common Open Space: The development shall include one or more common open space areas in accordance with the following:
 - i. A minimum of 400 square feet of common open space is required per cottage.

- ii. Each cottage shall have a principal entrance that faces a common open space.
 - iii. A minimum of 50 percent of the cottages shall directly abut a common open space and each cottage shall be connected to a common open space by a walkway no more than 60 feet long.
 - iv. A common open space shall have cottages abutting on at least two sides.
- 9. Accessory Buildings: Private garages, carports, sheds, or similar accessory structures shall have a footprint of not more than 576 square feet and a height of not more than 18 feet, except:
 - i. A private, detached carriage house that includes an accessory dwelling unit may have a footprint of not more than 60 percent of the associated cottage.
 - ii. Shared or common accessory buildings shall have a footprint of not more than 1,200 square feet and a height of not more than 18 feet.
- 10. Community Buildings: The development may include one or more community buildings that are incidental to the cottages and serve the residents by providing amenities, including, but limited to, multi-purpose recreation or entertainment, food preparation and dining, library, laundry, day care, guest quarters, or storage or workshop space as follows:
 - i. A community building shall be commonly owned by the residents.
 - ii. A community building shall be compatible in scale, design, and height to the cottages.
- 11. Vehicular Access and Parking: The development shall provide vehicular access and parking in accordance with the following:
 - i. The development may provide one or more off-street parking areas or structures with pedestrian walkways connecting the parking and the cottages.
 - ii. Vehicular access and parking shall not be located within the front yard or the common open space, or between the cottages and the common open space.
 - iii. Vehicular access and parking should be:
 - a. Located primarily around the periphery of the development or each cottage cluster.
 - b. Designed to have minimal visibility from the common open space and from public vantage point beyond the development.
 - iv. Shared driveways, rear alleys, and narrow lanes should be used to the maximum extent feasible.
 - v. Unless otherwise approved by the Development Review Board, vehicular access and parking shall meet all applicable site design, setback, buffering and landscaping requirements of these regulations.

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 § 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. 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 (.5 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.
- B. 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 § 730 (F) of this Ordinance.
- C. 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 V.S.A. Chapter 153]
- D. 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:
- a. A Project Review Sheet from the State Permit Office.
 - b. 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.

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.
- E. Quarry Operations - Extraction of Soil, Sand, Gravel and 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.
- F. 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.
- G. Solar Projects: Pursuant to 24 V.S.A. § 4414(15) the Public Service Board shall enforce the requirements of this Ordinance. There are no setback requirements for solar development with plant capacity of less than 15 kilowatts.
- 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:

1. For development plans with a plant capacity of 15 – 150 kilowatts:
 - i. 40 feet from any state or municipal highway, and
 - ii. 25 feet from each property boundary that is not a state or municipal highway, or
2. For development plans exceeding 150 kilowatts:
 - i. 100 feet from any state or municipal highway, and
 - ii. 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 guidelines see § 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, and comply with existing height limits.

Solar ground installations are discouraged in the following locations: 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.

- H. 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.

- I. 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 one-half (1.5) times its own height from all property lines.

Section 733 Senior/ADA Compliant Housing Specific Standards

Senior ADA Compliant Development is designated as a Conditional Use in the following Districts: Village District including Historic and Design review Overlays, Commercial/Residential, Resort Residential and Resort Commercial/Residential, and must satisfy the standards of a Conditional Use as defined in Sections 710-730 above, with projects subject to review and approval of the Development Review Board. In addition to meeting the Standards of a Conditional Use, a Senior/ADA Compliant Housing Development must meet the Specific Standards that follow. In the case of any conflict between the Specific Standards of the Senior/ADA Compliant Housing Development and other Standards of this Ordinance, the more Specific Senior/ADA Compliant Housing Development Standard shall take precedence over any similar or conflicting Standard of this Ordinance.

- A. Qualified occupants: In a development approved for Senior/ADA Compliant Housing Development, the principal occupant of each dwelling unit must be sixty-two (62) years of age or up. All age restricted occupancy must be established in accordance with the Federal Housing for Older Persons Act (HOPA) of 1995 and all other state and Federal Fair Housing regulations.
- B. Restriction on Alternative Use: Any lot developed or used for senior housing pursuant to receiving approval from the DRB for development as Senior/ADA Compliant Housing shall not thereafter be used for any purpose other than the provision of senior housing unless the alternative use satisfies all applicable land use regulations pertaining to the underlying zoning of the District in which the parcel is located.
- C. Senior/ADA Compliant Housing Developments may be designed and constructed as multi-story apartment buildings, duplexes, cottage-style living, and/or mixed-use buildings in a walkable, neighborhood-like setting. Developers must ensure that proposed Adult Living Communities are

planned as a cohesive unit with a comprehensive site plan. The site plan standards referenced below shall govern the layout and design of the buildings in the community.

- D. Single Family developments with up to five (5) units per acre are allowed, except if the underlying District allows for a higher density. Possible development types include designs with zero-entry (no stairs to first floor) dwelling units with one or two bedrooms and an upstairs study in a one and one-half (1.5) story cottage design.
- E. In the Village (outside the Historic Design Review District), Commercial/Residential, and Resort/Residential Districts, larger Multi-Family or attached buildings are also allowed, with a density of up to twenty (20) units per acre, except if the underlying Zoning District allows for a higher density. In developments proposing adaptive reuse of existing buildings, an additional five (5) units per acre are permissible with Development Review Board approval.
- F. Developments must provide a minimum of one (1) parking space per dwelling unit, except for in the Village District where no minimum number of spaces are required. Parking requirements may be adjusted downward to reflect proximity to public transit as well as access to bicycle and pedestrian facilities. Developments that propose fewer than one (1) parking spaces per dwelling unit must be approved by the Development Review Board. Parking spaces shall not be less than eight (8) feet wide by sixteen (16) feet deep or as approved by the Development Review Board. For developments containing accessory Commercial Uses, refer to the below § 733 (K).
- G. Any development contemplating greater than a two-story elevation for age restricted Residential Uses will be required to provide internal elevators and all buildings greater than two stories used for residential purposes must include fire suppression systems.
- H. Development contemplating the assemblage of adjoining parcels is allowed, with Development Review Board approval.
- I. Residential-Scale: Attached or detached dwellings no greater than two (2) stories allowing up to five (5) dwelling units per acre, except if the underlying Zoning District allows for a higher density. Prescribed setbacks for the Zoning District where the development is proposed shall be honored in the designs contemplated. The dwelling will be designed as zero-entry access doorways and ADA compliant amenities within. Internal elevators will be required for second-floor access in addition to a code compliant stairway.
- J. Institutional-Scale: Development is encouraged to provide a common entry point to the property for public/private access. Scale of building between one and three floors. Up to twenty (20) dwelling units per acre allowed with Development Review Board approval, except if the underlying Zoning District allows for a higher density. In developments proposing adaptive reuse of existing buildings, an additional five (5) units per acre are permissible with Development Review Board approval.
- K. Within the Commercial/Residential and Village Districts, developments may provide for some accessory Commercial Uses on the first floor of residential buildings, which are accessible to residents and the public alike. Uses open to the public shall be located on the first floor and shall have an exterior entrance. Mixed-Use occupancies that offer services/support for seniors are encouraged. Refer to Article VII, § 730 (D) for additional parking requirements for Commercial Uses.
- L. Site Plan: The applicant shall submit a site plan, drawn to scale, which demonstrates compliance with the specific Building Design Standards as outlined in items A-H above, as well as all applicable General Standards set out in Article VII, § 700-723 and the Site Plan and Design Guidelines in Appendix 1.

Section 734: Affordable Housing Development Standards

Affordable Housing Development is designated as a Conditional Use in the following districts: Residential, Village, Commercial/Residential, Resort-Residential, and Resort-Commercial/Residential. Affordable Housing Developments must satisfy the standards of a Conditional Use as defined in Sections 710-730 above, with projects subject to review and approval of the Development Review Board. In the case of any conflict between the Specific Standards of Affordable Housing Developments and other Standards of this ordinance, the more Specific Affordable Housing Standard shall take precedence over any similar or conflicting Standard of this ordinance.

- A. Density Bonus. The purpose of this provision is to increase the amount of affordable housing located in the downtown area and surrounding neighborhoods as well as the ski resort area located in the area of Coldbrook Road.
 - 1. Applicability: A density bonus may be granted by the Development Review Board for properties located in the following districts: Village (Outside of the Historic Design Review District), Commercial/Residential, Resort Residential, and Resort Commercial/Residential.
 - 2. Affordable Housing Developments that qualify as affordable as defined in these regulations may apply for a density bonus of up to 20 units per acre. In developments proposing the adaptive reuse of an existing building, an additional 5 units per acre are permissible with Development Review Board approval.
- B. Parking requirements may be adjusted downward to reflect proximity to public transit as well as access to bicycle and pedestrian facilities. Developments that propose fewer parking spaces than as required by these regulations must be approved by the Development Review Board.
- C. Nothing within these bylaws shall prohibit Affordable Housing Developments in any area served by municipal sewer and water infrastructure from exceeding density limitations for residential developments by an additional 40 percent, rounded up to the nearest whole unit, and exceeding the maximum height limitations by one floor, provided that the structure complies with the Vermont Fire and Building and Safety Code.

Section 735: Accessory Dwelling Unit Standards

Any property classified as a one-family dwelling unit may have one accessory dwelling unit (ADU), provided the ADU meets the following requirements:

- A. The ADU is clearly subordinate to, and distinct from, the primary dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.
- B. The ADU may be located within the one-family dwelling, attached to it, or located in a detached structure.
- C. Either the one-family dwelling or the ADU must be owner-occupied.
- D. An ADU in a detached structure, other than a pre-existing accessory building such as a garage or carriage house, must meet the following additional requirements: the ADU does not exceed 30 percent of the habitable floor area of the one-family dwelling or 900 square feet, whichever is greater.
- E. Additional parking spaces are not required for an ADU.

ARTICLE VIII SIGNS

Definitions for terms in this article can be found in Article X, Definitions.

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:

- A. Allowed/Exempt: Not requiring a Zoning Permit.
- B. 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.
- C. Conditional Waivers: Requiring Development Review Board Waiver and requiring a Zoning Permit issued by the Zoning Administrator.
- D. 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 § 870, 871, 872, 873 and 874 of this Article.
- C. Do not count toward Area and Number Calculation of Signs as defined in § 874.

Section 821: Subject to a Maximum of Three (3) Square Feet in Total Area Per Side

Allowed/Exempt Signs (Not Requiring a Permit):

- A. For Rent: One (1) "for rent" sign displayed on the rental property, only while the property is available for rent. "For rent" signs are subject to Time Limitations as defined in § 872.
- B. Fuel Pumps: 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 § 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 § 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) Exterior Banner or Poster exclusive of window area. Banners and Posters are subject to Time Limitations as defined in § 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 § 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.
- 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 § 872. See § 832 (B).
- 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. 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 § 872. [See 10 V. S.A. § 493(3)]
- H. 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 § 870 (F).
- I. 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 § 872.
- J. Vending Machines: internal illumination is allowed on outdoor vending machines.

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.
 - 1. 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.
 - 2. 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 § 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 § 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 § 872.
 - H. 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. Maximum size is twenty (20) square feet. Public Event Signs are subject to Time Limitations as defined in § 872
 - 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:
 - 1. A valid food service license, and
 - 2. 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.

- K. Window Signs: any number of signs (as defined in Article X) may be displayed in or on windows, provided that no more than 30% of the total window area per establishment, on the side of the building where such signs are located is covered. 70% of the total open window area per side per establishment, must be free and clear of window signage. The total signage area pertains to both permanent signs (such as stencil and/or lettering affixed to or painted on glass), and indoor non-permanent signs. Sign dimension is determined by the smallest rectangle that can be drawn over the perimeter of the signage. Window signs shall not be internally illuminated or require power. Non-permanent signs are subject to Time Limitations as defined in § 872.

Section 830: Permitted Signs (Requiring a Zoning Permit)

Signs, other than those defined in § 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 § 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 Article X for definitions):

- A. Freestanding (of all types including poles, pedestals, posts, and plaza signs).
- B. 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 § 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 § 873 (E), hanging sign (including flags), in all Districts, shall provide at least seven (7) feet of unobstructed area down vertically to any pedestrian walkway.
- 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.
- F. Menu boards in the Village District are restricted to a quantity of one (1) with a maximum size of four (4) square feet and must be permanently mounted to a structure. Menu boards outside the Village District are restricted to a quantity of five (5) with a maximum total size of twenty-five (25) square feet and must be permanently mounted to a structure.

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 §§ 833 and 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 § 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 § 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, § 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, as expressly prohibited in 10 V.S.A. § 495(5).
- B. Billboards as defined and regulated in Title 10 V.S.A. § 488, 494 are not allowed in the state of Vermont.
- C. Off-premises signs regulated in Title 10 V.S.A. § 488, 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 § 870 below.
- E. Advertising flags or pennants on premises, also known as feather flags or feather banners, are expressly prohibited in Wilmington.

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 § 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 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, have "Legacy" status and are considered "Permitted" under § 803 (2) of this Article VIII and may remain "as-is." Sign changes require full compliance with this Article VIII, (see § 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:
 - 1. Auctions, campaigns, drives, civic, philanthropic, or religious events, pursuant to 10 V.S.A. § 494(9)
 - 2. 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.
 - 1. Banners and Posters
 - 2. Short Term Sales, Specials or Rates
 - 3. Yard Sales
 - 4. 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 § 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 § 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, § 215 and 216 for additional information on enforcement and Penalties of the provisions of this Article VIII, Signs.

Section 881: Appeals and 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, § 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 § 850 of this Article, (see also Article II, § 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 TELECOMMUNICATIONS FACILITIES

Definitions for terms in this article can be found in Article X, Definitions.

Section 901: Purpose

The purpose of Article IX is to ensure appropriate review and oversight of wireless telecommunications towers and associated infrastructure, to protect the scenic, historic, environmental, and residential resources and qualities of the community, and to minimize the visual and environmental impacts of these facilities.

In accordance with 24 VSA §4412(8)(A), the provisions of Article IX shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit and receive communications signals on the property owner's premises so long as the aggregate area of the largest face of the antennae is not more than fifteen (15) square feet, and the antennae and any mast support do not extend more than twelve (12) feet above the roof of that portion of the building to which the mast is attached.

These regulations are consistent with the Federal Telecommunications Act of 1996, in that they do not prohibit the provision of wireless telecommunication services, do not discriminate among service providers, and do not pre-empt Federal Communications Commission (FCC) regulations governing radio frequency emissions.

Section 910: Review Procedure

Conditional use approval is required for any wireless telecommunication facility that is licensed and regulated by the FCC, along with any associated equipment, buildings, and infrastructure, unless a project imposes no or *de minimis* impact as defined in Section 913. Prior to granting any conditional use approval, the Development Review Board shall make affirmative conclusions upon all of the conditional use criteria in Sections 721 and 722 of this ordinance.

No permit shall be required for a wireless telecommunication facility that is subject to or has received a Certificate of Public Good under 30 VSA §248(a).

Section 911: Independent Review

The Development Review Board may engage independent consulting assistance to review the application for conformance with this ordinance and the Town Plan. Consistent with federal law, the applicant will be required to pay any costs associated with an independent review. Payment shall be received prior to the Development Review Board issuing a decision on the application.

Section 912: Noise Study

The Development Review Board may require the applicant provide a study from a qualified engineer on the maximum projected noise from the proposed facility. The study shall include existing or ambient noise measurements, plus noise that may be created or caused by the proposed facility. Noise measurements and projections shall be provided at the location of the tower facility and at the property lines.

Section 913: *De Minimis* Impact

The Zoning Administrator may administratively approve and issue a zoning permit, or modification to an existing permit, for an application for a wireless telecommunication facility if they determine it conforms to all applicable provisions in this ordinance and imposes no or *de minimis* impact on any criteria established in Article IX. The Zoning Administrator may only consider an application to have no or *de minimis* impact if the application meets all of the following criteria:

- A. The height and width of the facility or support structure, excluding equipment, antennae, or ancillary improvements, will not increase;
- B. The total amount of impervious surface, including access roads or support structure, will not increase by more than three-hundred (300) square feet;
- C. Any addition, modification, or replacement of antenna or other equipment will not extend vertically more than ten (10) feet above and horizontally more than ten (10) feet from the facility or support structure; and
- D. Any additional or replacement equipment, antennas, or ancillary improvements, excluding cabling, will not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the facility or support structure by more than seventy-five (75) square feet.

Any addition of equipment or facilities, or change in size or materials of equipment or facilities, not meeting the above criteria shall require review and approval by the Development Review Board.

Section 914: Application Requirements

Application shall include a Site Plan with elevations and other documents stamped by a qualified engineer that:

- A. Describe the height, design, and elevation of the all proposed support structures, buildings, security fencing, and access roads;
- B. Document the height, dimensions, and color of all proposed antenna and mounting positions on a support structure;
- C. Describe the support structure's proposed capacity, including number, height, and type(s) of antennae that the support structure is expected to accommodate;
- D. Demonstrates that the proposed support structure has been designed so that, in the event of structural failure, the facility will collapse within the boundaries of the lot on which it is located;
- E. Document the need for the proposed site and structures, and demonstrate why no other alternative or site will provide adequate coverage or capacity;
- F. Include photographs of existing conditions at the proposes site, and accurate photo simulations showing post-construction conditions on the site;
- G. Provide a copy of the FCC license or executed contract between the applicant and the FCC licensee for the proposed facility; and
- H. Other information as determined by the Development Review Board or an independent reviewer as necessary to evaluate the application.

Section 920: Location

Wireless telecommunication facilities shall not be located:

- A. In the Historic Design Review Overlay District;
- B. In the Village Design Review Overlay District;
- C. In the Conservation District; or
- D. Within three-hundred (300) feet of any residence or a school.

Section 921: Use of Existing Structures

Applicants are encouraged to locate antennae on or within existing buildings or structures, such as church steeples or barn silos. In these instances, the standards of Article IX may be modified or waived by the Development Review Board.

Section 922: Co-location

The applicant shall demonstrate as part of their application that there are no other existing tower sites that can accommodate the proposed facilities. If other sites do exist, the applicant must demonstrate that they are technically inadequate, or that negotiations with that landowner have failed.

Any permit granted shall include a condition requiring that other wireless service providers shall be allowed to co-locate their facilities on any new or existing tower. The applicant shall provide a shared use plan that commits the owner of the support structure to accommodate future collocations where reasonable and feasible.

Section 923: Setback

The minimum setback requirement for any telecommunication tower or other support structure shall be the required setback in the applicable zoning district, plus an additional setback equal to the height of the tower or support structure to account for the fall zone. Where a tower is mounted on an existing structure, and the tower does not increase the height of the structure by more than ten (10) feet, then the additional fall zone setback is not required.

Section 924: Environmentally Sensitive Areas

The Town Plan and this ordinance describe environmentally sensitive areas, including, but not limited to, steep slopes, wetlands, flood and fluvial erosion hazard areas, unique natural features, wildlife habitat, historic sites and buildings, high elevations, ridgelines, scenic resources, and major view corridors. A wireless telecommunication facility and associated infrastructure shall avoid undue adverse impacts on these areas to the greatest extent possible. Where there may be adverse impacts, the project shall be designed to mitigate these impacts to the greatest extent possible.

Section 930: Height

In addition to the other standards in Article IX, no wireless telecommunication tower or structure shall exceed one hundred and thirty (130) feet in height. No tower or structure may be higher than ten (10) feet above the average height of buildings within three-hundred (300) feet of the proposed facility. If there are no buildings within three-hundred (300) feet, then the tower or structure shall not be higher than ten (10) feet above the average tree canopy height measured in the area of the proposed facility.

Section 931: Lighting

Wireless telecommunication towers with lighting shall not be permitted, unless the Development Review Board determines it is the only viable alternative to meet reasonable facility requirements of a communications service provider. Only lighting that is required by the FCC or the Federal Aviation Administration may be permitted.

Section 932: Visual Impact

All towers and associated infrastructure and equipment shall be designed to minimize the visual impact of height and mass. The type, style, and color of materials shall be selected so as to blend into the site, minimize glare, and not result in undue adverse visual impacts to the natural landscape or the built environment.

Any access roads or above ground utilities shall follow the contour of the land, and be sited and constructed to minimize visual impacts to the greatest extent possible.

Section 933: Screening and Security Fencing

Screening shall be required at the perimeter of the site, unless it is demonstrated by the applicant that existing natural vegetation is sufficient. Screening is recommended to be at least ten (10) feet in depth and at least ten (10) feet in height, with the potential to grow to significant size at maturity.

A security fence at least eight (8) feet in height must enclose the base of the support structure and associated equipment enclosures.

Section 940: Monitoring and Compliance

At the request of the Zoning Administrator or Development Review Board, the owner/operator shall provide a report on the status of the facility, including adherence to permit conditions, operations, appearance, structural integrity, safety, noise, screening, landscaping, service roads, utility connections, and compliance with all applicable federal regulations or permit or license conditions.

Section 941: Maintenance

Facilities shall be maintained. Maintenance shall include, but not be limited to, assurance of structural integrity of the support structure, antennae, security fencing, painting, and care of planted vegetative screening.

Section 942: Abandonment or Discontinuation

At least thirty (30) days prior to the abandonment or discontinuation of use of the facility or site, the owner/operator shall submit a zoning permit application to the Town for the removal, abandonment, or discontinuation of use. Upon abandonment or discontinuation of use, the Development Review Board may require the owner/operator to remove all structures and facilities and return the site to predevelopment condition within a clear and reasonable time frame. If there is anticipated reuse by another provider, removal may not be required, as determined by the Development Review Board.

Section 943: Bonding

As a condition of approval, the Development Review Board may require a bond or other means of security to ensure that sufficient funds will be available to remove all structures and restore a site in the case of abandonment or discontinuation, should the owner/operator be unwilling or unable to do so.

ARTICLE X GENERAL DEFINITIONS

Definitions for Sections VI Flood Hazard District and Section IX Telecommunications 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 Dwelling Unit: A distinct unit that is clearly subordinate to a Single-Family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

Accessory Structure: a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

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 nonmotorized 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.

ADA Compliant Housing: Housing intended for occupancy by any Person with a Disability, available for lease or sale, and advertised as conforming to the standards set out in the "2010 ADA Standards for Accessible Design". Examples include zero-entry (no step or rise to entry) entrance doors, ramps for entry, door widths adequate to accommodate wheelchair, grab bars for bath and shower, stair lift or elevator to second floor and above, and more. For more complete description see the current version of the Fair Housing Accessibility Guidelines.

Administrative Officer: Zoning Administrator

Affordable Housing: As defined in 24 V.S.A. § 4303, "Affordable Housing" means either of the following:

1. Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the Windham County median income, as defined by the U.S. Department of Housing and Urban Development;

2. Rental Housing for which the total annual cost of renting, including rent, utilities and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the Windham County median income, as defined by the U.S. Department of Housing and Urban Development.

Affordable Housing Development: As defined in 24 V.S.A. § 4303, an “Affordable Housing Development” means a housing development of which at least 20 percent of the units, or a minimum of five units, whichever is greater, are affordable housing units. Affordable Housing 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.

Agricultural (Farm) Structure: A structure for an Agricultural Use or Accessory Agricultural Use licensed or permitted by the State of Vermont under 10 V.S.A. 1021(f) and 1259(f) and 6 V.S.A. 4810 and meeting the definition outlined in 24 V.S.A. 4413(d)(2)(A). 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)(2)(A).

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:

- A. On-site processing, storage, sampling and tasting of crops or farm products including livestock not principally produced on the farm.
- B. Retail sales of crops or farm products not principally produced on the farm.
- C. 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.
- D. Education, cultural, recreation programming – e.g., classes, day camp, corn maze, petting zoo, etc.
- E. Event hosting as long as such events are clearly subordinate to the farming operation – e.g., wedding venue, dinner/dance venue, theater production, etc.
- F. 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): [See 24 V.S.A. § 4303(3) and 4460]

Area of Special Flood Hazard: synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

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 banks.

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

Base Flood: the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood” or one-percent (1%) annual chance flood).

Base Flood Discharge: the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

Base Flood Elevation (BFE): the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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.

Bedroom/Guest Room: A room in a Dwelling Unit planned and intended for sleeping and is separable from other rooms by a door. An area open to other parts of the Dwelling Unit, such as a Loft, may be used as a Bedroom/Guest Room provided it is clearly marked on all plans and statements required by these Zoning Ordinances. A Loft used as a Bedroom/Guest Room shall count toward Dwelling Unit Capacity. The number of Bedrooms/Guest Rooms in a Dwelling Unit are determined as above unless otherwise determined by the unit's applicable Wastewater Permit or Sewer Allocation. Should an owner be unable to provide a Wastewater Permit on a system installed before 2007, which has not failed and can pass under the Department of Environmental Conservation's Clean Slate Rule, the bedroom occupancy shall be limited to a maximum of two (2) people per bedroom for the first three bedrooms, and one (1) person per bedroom for any additional bedroom.

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 areas 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 regraded 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**. "Building" in regards to work in the Special Flood Hazard Area, is a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

Bulk Storage: the storage of large quantities of materials in containers such as bins, tanks, silos, or similar containers. See materials listed in Section 425, Uses Not Allowed.

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 substantially similar to the prior Use, even if within the same category of use (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.

Channel: an area that contains continuously or periodically flowing water that is confined by banks and a streambed.

Channel Width: (or bankfull width) is the width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, once every 1 to 2 years.

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) and 33 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: any State or area political subdivision thereof, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Community Facility: A Structure or Use as defined in § 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.

Cottage Cluster Development: A group of small, detached dwelling units centered around a common open space.

Critical Facilities: includes police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the municipality identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery store or gas station.

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.

Designated Center: a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. Chapter 76A.

Development/Developed: 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, 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.

Electric Vehicle (EV): A class of automobiles that use electric motors powered by energy drawn from the grid or off-grid electric sources into a battery system for propulsion. This definition includes all battery electric (BEV) and plug-in hybrid electric vehicles (PHEV).

Electric Vehicle Charging Station (EVCS): A public or private parking space(s) served by electric vehicle supply equipment (EVSE), including all signs, information, pavement, surfaces, surface markings, fee collections systems, and protective equipment in which a vehicle is recharged.

Electric Vehicle Supply Equipment (EVSE): The protective system which communicates with electric vehicles and monitors electrical activity to ensure safe charging, inclusive of all components: the conductors; the undergrounded, grounded, and equipment grounding conductors; electrical vehicle connectors; attachment plugs; and all other fittings devices, power outlets, or apparatus installed specifically for the purposes of delivering energy from the grid to an electric vehicle.

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.

Existing Manufactured Home Park or Subdivision: in regards to work in the Special Flood Hazard Area, 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 municipality.

Expansion to an Existing Manufactured Home Park or Subdivision: the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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. No zoning or subdivision bylaw shall have the effect of prohibiting unrelated occupants from residing in the same dwelling unit

Family Child Care Home: See **Child Care Facilities**

F.I.A.: Federal Insurance Administrator.

Fill: any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site. See also, **Landfill**.

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.

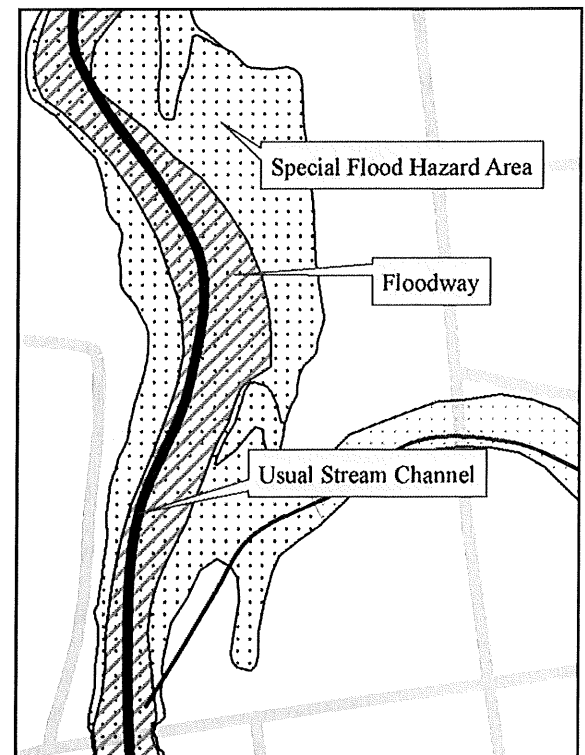
Flood Insurance Rate Map (FIRM): the official map of a municipality, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the municipality.

Flood Insurance Study (FIS): an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.

Floodplain or Flood-prone Area: a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

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.

Fluvial Erosion: erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

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

Food Stand/Food Truck: 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.

Functionally Dependent Use: a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

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.

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

Highest Adjacent Grade: the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

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

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

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

Identified Floodplain Area: an umbrella term that includes all of the areas within which the municipality has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include

additional areas identified by the municipality. See Section 603.A of this Zoning Ordinance for what areas the community has included in the Identified Floodplain Area.

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**

Junk: old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.

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.

Junkyard: Any land or structure used for the collection, storage, or sale of wastepaper, 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.

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: Any human-made change to improved or unimproved real estate, including but not limited to (i) the construction, reconstruction, conversion, Structural alteration, relocation, renovation, repair or expansion of any building or other structure; (ii) the placement of manufactured homes; (iii) paving, including streets; (iv) the demolition, destruction, or razing of a structure, whether intentional or unintentional; (v) any change in the Use of any building or other Structure, Land, or Use; (vi) the Subdivision of a parcel into two (2) or more parcels; (vii) any mining, dredging, drilling, filling, grading or excavation; (viii) storage of equipment or materials; and/or (ix) 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. See also, **Fill**.

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

Letter of Map Amendment (LOMA): an official amendment, by letter from FEMA, to an effective National Flood Insurance Program map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area. LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain, but a licensed engineer or surveyor is able to show that the property or structure is actually above the base flood elevation.

Lodging: Means a place where overnight accommodations are regularly provided to the transient, traveling, or vacationing public, including hotels, motels, inns, and bed and breakfasts. "Lodging establishment" shall not include short-term rentals. See, 18 V.S.A. § 4301(a)(9).

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**

Lowest Floor: the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant partially enclosed area, used solely for parking of vehicles, building access or incidental storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not designed and built so that the structure in violation of the applicable non-elevation design requirements of this Zoning Ordinance.

Maintenance: Performing 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 (or Mobile home): a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle", and recreational vehicles shall not be allowed as a permanent dwelling.

Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. 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 manufactured (or mobile) homes.

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.

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.

Minor Repair: in regards to work in the Special Flood Hazard Area, is the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.

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.

New Construction: in regards to work in the Special Flood Hazard Area, are structures for which the start of construction commenced on or after the effective start date of this Zoning Ordinance and includes any subsequent improvements to such structures. Any construction started after May 1, 1978 and before the effective start date of this Zoning Ordinance] is subject to the Zoning Ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

New Manufactured Home Park or Subdivision: in regards to work in the Special Flood Hazard Area, means 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 most recent effective date of floodplain management regulations adopted by a community.

Nonconforming Structure/Nonconforming Lot/Nonconforming Use: As applicable, (i) a Structure or a part of a Structure; (ii) a Lot or a parcel; and/or (iii) a Use, in each case that does not conform to the present Zoning Ordinance, but which was created or established legally in conformance with all applicable laws, bylaws, and regulations in effect at the time it was created or established. [See 24 V.S.A. § 4303(13 - 16) and 4412(7)]

This includes:

- A. Structures, Lots and/or Uses improperly authorized as a result of error by the Zoning Administrator.
- B. All Structures, parts of Structures Lots existing prior to January 26, 1968, when the first Wilmington Zoning Ordinance was adopted.

However, for purposes of Article VI (Flood Hazard District - An Overlay District), the following are considered violations and are not a Nonconforming Structure or Nonconforming Use:

- A. Structures that were in violation of the flood hazard regulations at the time of their creation and remain so.
- B. Uses that were in violation of the flood hazard regulations at the time of their creation and remain so.

Nonconformity: a nonconforming use, structure, lot, or parcel.

Non-residential: a commercial or mixed-use building where the primary use is commercial or non-habitational. This includes, but is not limited to: small businesses, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

Non-substantial Improvement: any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost is less than 50 percent of the market value of the structure before the “start of construction” of the improvement.

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 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.

Parking Space: Refers only to off-street space used for the temporary location of one licensed motor vehicle, which is at least nine (9) feet wide and eighteen (18) feet long, not including the access driveway and having direct access to a street or alley.

Permitted Use: A Use that is allowed only through issuance of a Permit by the Zoning Administrator.

Person: An individual, public or private association or corporation, partnership, incorporated or unincorporated organization or group, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

Person with a Disability — an individual will be considered as a person with a disability should he or she meet the definition of a person with a disability pursuant to 9 V.S.A. § 4501(2).

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 (PUD): 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.

Post-FIRM Structure: a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the effective date of the community's first Flood Insurance Rate Map (FIRM), whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

Pre-FIRM Structure: a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the effective date of the community's first Flood Insurance Rate Map (FIRM), whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

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 Art: A fountain, monument, sculpture, painting, mural or similar art object that:

- A. Is accessible to public view;
- B. Is intended for the enjoyment of the general public; and
- C. Does not identify or draw attention to a business, profession or industry, to the type of products sold, manufactured or assembled, or to the type of services or entertainment offered or available on the premises

Public Road: For the purposes of this Ordinance, a Public Road is:

- A. any thoroughfare, road, or highway of any length, maintained or owned by the State, Town, or other municipal corporation, and
- B. 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 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) intended to be used as temporary living quarters for recreational, camping, travel, or seasonal use (and not as a dwelling unit of any kind).

Regulated Flood Hazard Areas: a term that refers to all areas defined in Section 603.A of this Zoning Ordinance and regulated by this Zoning Ordinance, and is the total land to which these regulations apply. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district.

Remodel: To renovate.

Renovation: The process of restoring or improving a structure.

Repair: To mend or restore to good condition.

Repetitive Loss: flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

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: Any place of outdoor storage or deposit used (i) for storing, keeping, processing, buying, and/or selling junk; (ii) as a scrap metal processing facility; or (iii) for operation of an automobile graveyard. A Salvage Yard does not include a garage where wrecked or disabled motor vehicles are stored for fewer than 90 days for inspection or repairs.

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**

Senior Housing: Housing designed with mobility accommodations consistent with ADA standards and/or designed for occupancy where the principal occupant is sixty-two (62) years of age or up, consistent with the Federal Housing for Older Persons Act (HOPA) of 1995 and all other State and Federal Fair Housing standards and requirements.

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.

Shoreland: all land within 250 feet of the mean water level of any lake or pond greater than 10 acres in size, as measured horizontally from the mean water level, except where a municipal or state road separates the land from the lake. Land on the non-lake side of a municipal or state road, even if within 250 feet of the mean water level, is exempt from these regulations, but land on the non-lake side of a private road remains subject to this ascendency.

Short-Term Rental (STR): A furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient or vacationing public for fewer than 30 days per stay, rented for more than 14 days in any one calendar year. *See*, 18 V.S.A. § 4301(a)(14).

Should: "Should" means that any requirement stated in this document 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. This definition specifically excludes public art. Types of signs include:

- A. **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.
- B. **Banners and Posters** - A temporary sign of lightweight fabric, vinyl, cardboard, or other material.
- C. **Flush Mounted** - A sign affixed to and mounted parallel to or painted on the face of the building or structure.
- D. **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.

- E. **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,
- F. **Header** - A sign appearing directly above a plaza sign, identifying the name of the plaza complex.
- G. **Panel** - Smaller signs attached to a plaza sign, representing individual businesses.
- H. **Structure Mounted** - A sign attached to or painted on a structure, including Flush Mounted and Hanging.
- I. **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.

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 V.S.A. 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 that does not meeting the definition of **Slaughterhouse, Agricultural** nor **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.

Special Flood Hazard Area (SFHA): means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

Start of Construction: 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: (i) land preparation, such as clearing, grading and filling; (ii) the installation of streets and/or walkways; (iii) excavation for a basement/footing/piers/foundation or the erection of

temporary forms; or (iv) 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, it means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless of whether that alteration affects the external dimensions of the building.

Start of Construction – Special Flood Hazard Area: In addition to the definition of what constitutes “Start of Construction”, for the purposes of floodplain management, this definition determines the effective map or bylaw that regulates development in the Special Flood Hazard Area. The “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 and shall be completed within twenty-four (24) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator.

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: in regards to work in the Special Flood Hazard Area, means, for regulatory purposes under this Zoning Ordinance, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

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. Temporary Structures are exempt from Setbacks and Permit requirements. 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. Temporary Structures are exempt from Setbacks and Permit requirements. See **Structure Height**

Structure Height: see Article IV

Subdivision of Land: The division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development. Notwithstanding the foregoing, the subdivision by lease of

land for agricultural purposes into parcels of more than five acres not involving any new street or easement of access or any residential dwelling shall be exempted from this definition.

Substantial Damage: damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 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 after the date of adoption of this bylaw, the cost of which, over three years or over the period of a common plan of development, cumulatively 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”.

Temporary: Unless otherwise defined in a specific section, temporary means limited to under six months.

Temporary Outdoor Retail: Outdoor retail business operating for not more than two (2) months per calendar year.

Top of Bank: means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

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.

Violation: means the failure of a structure or other development to be fully compliant with this Zoning Ordinance. Furthermore, a structure or other development in the Special Flood Hazard Area without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Warehouse: All buildings, structures, or other protected enclosures used for storage of articles of value, with or without compensation. See **Mini-Storage Facility** 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 in 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

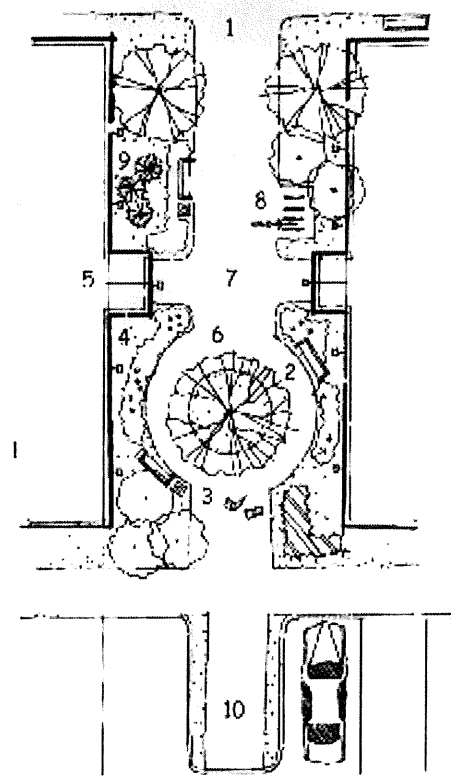
Prepared by
Land-Works, 211 Maple St, The Marble Works, Middlebury, VT 05753
and
Smith & Vasant, Architects, 15 River Rd, Norwich, VT 05055

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

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):



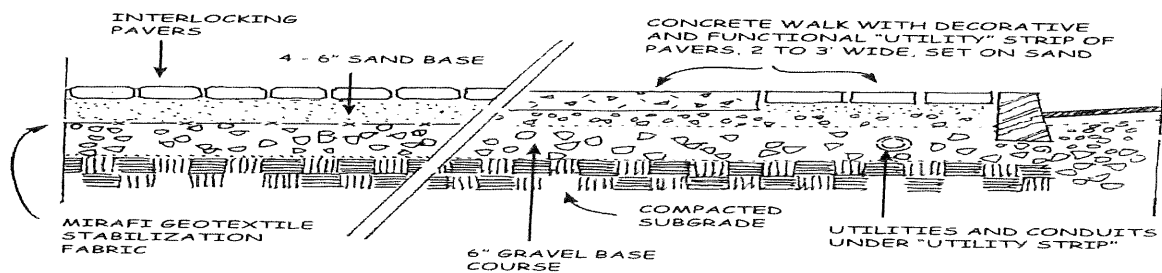
1. Well defined circulation in parking & to buildings
2. Benches/Seats (backs 16" to 20" high)
3. Trash barrels
4. Downcast lighting on paths/entries
5. Paths leading to weather protected entryways
6. Existing specimen trees protected
7. Ample pedestrian & vehicle circulation
8. Bike racks
9. Landscaping for color, shade & interest
10. Sidewalk access from parking including accessible parking.



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 an 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.

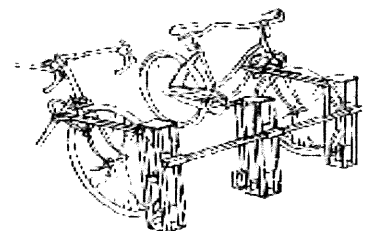


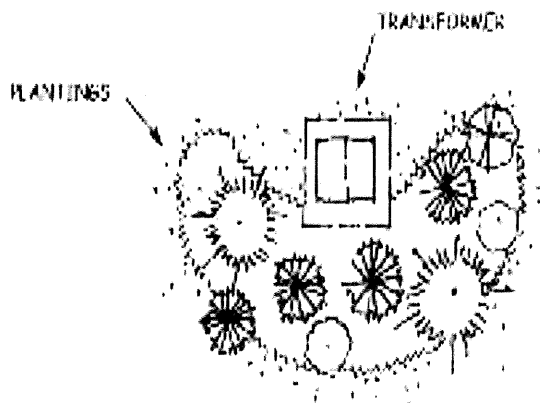
G. Underground Utilities: When possible, underground utilities will enhance the beauty of the landscaping and pedestrian areas created. Where underground is not feasible, coordinate utilities with public utility spaces if possible to minimize the visual disruption. Underground utility conduits should 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.

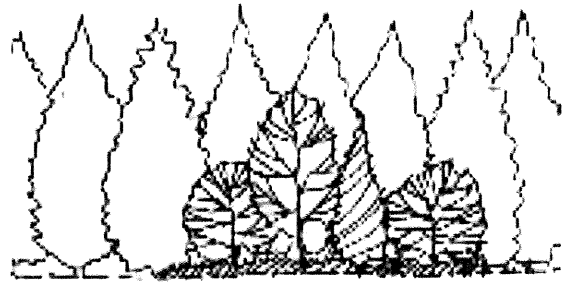
J. Bicycles as Alternate transportation: Provide for bicycle racks to encourage alternate forms of transportation and health promoting exercise.





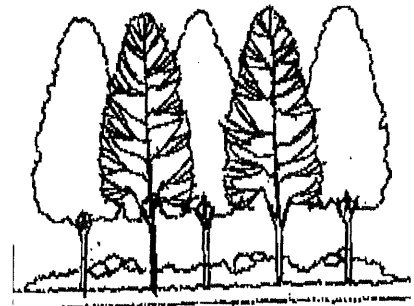
Whether set against a building or within the landscape, natural screening and buffers can be an effective means of drawing attention away from transformers and utilities. Planting deciduous and evergreen accent trees in front of a hedge or buffer can soften the linear look of a continuous line of trees.

- 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:
- At least a minimum of two (2) inches caliper.
 - 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.



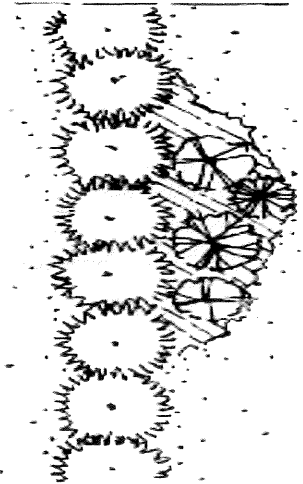
- N. Landscaping: Extensive landscaping is encouraged using hardy, native materials. Locate buildings and infrastructure to minimize disturbance of desirable natural features and vegetation.

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.

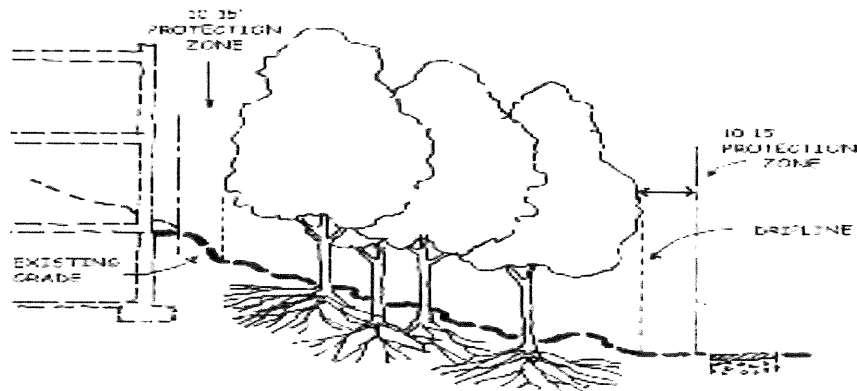


- K. Natural Screening and Buffers: Use buffers of natural vegetation such as trees and shrubs to screen unwanted elements and soften architecture. Trees and shrubs to create a linear hedge or buffer should be planted so that tree canopies will almost touch when they reach full growth. Spacing will vary 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".

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

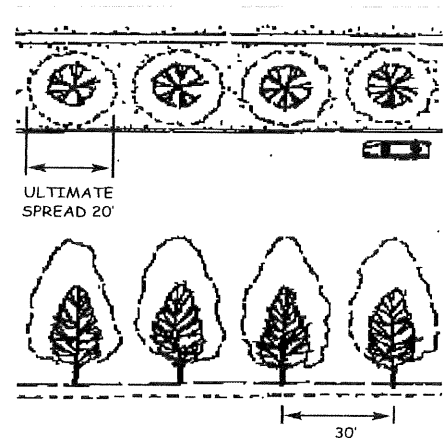


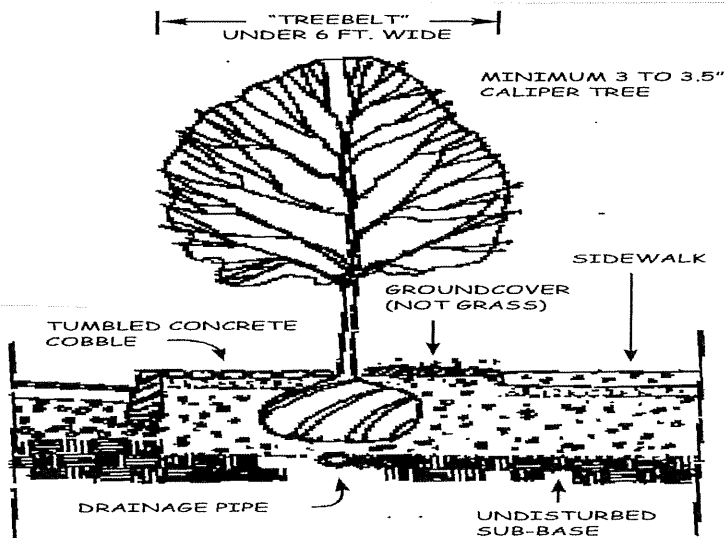
Be sure to plan for drainage and run-off, as well as front protection zones 10'-15' from the perimeter of the drip line.



PRESERVE AND PROMOTE TREES

- O. Preserve trees: 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. Spacing Trees: 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'.

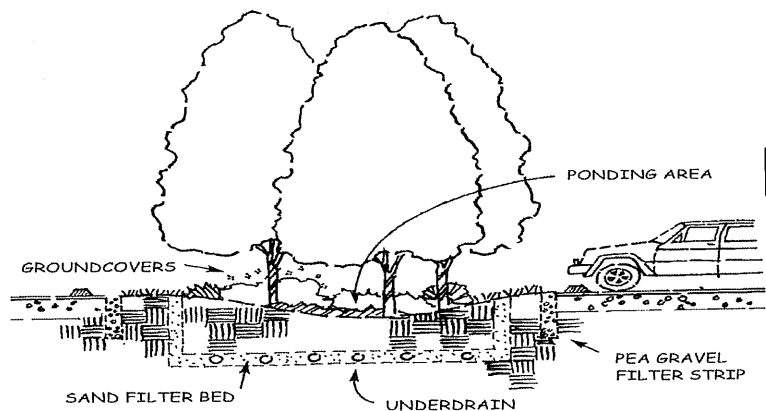




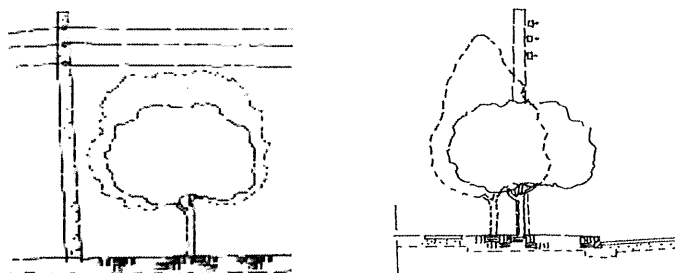
Q. Planting Trees: Trees perform best with a pervious cover around the base. Examples of suitable materials are cobble, ground cover, flowing or evergreen shrubs or gravel. Grass and mulch is not the best solution under a tree for tree health and longevity. Sturdy stakes guying trees can be used on young 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

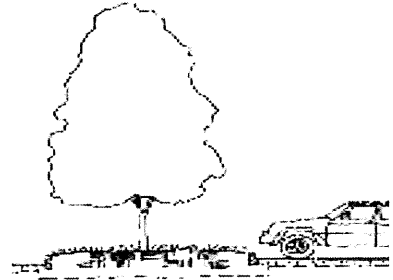
| Common Name (Botanical Name) *Ornamental | Min Area Required | Salt Tolerance |
|--|----------------------|-------------------|
| <u>Less than 23' In Height</u> | | |
| (For Small Areas, Close to Buildings, or Overhead Wiring) | | |
| Tartarian Maple (Acer tataricum) | 6' - 8' | M |
| American Hornbeam (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 |
| <u>Less than 25' in Crown Diameter (Columnar Trees)</u> | | |
| (For Narrow spaces or Close to Buildings) | | |
| Freeman Maple (Acer xfreemanii) | 8' x 8' | T |
| Green Ash 'Empire' (Fraxinus Pennsylvanica) | 8' x 8' | T |
| Ginko (Ginko Bilboa) seedless variety | 8' v 8' | T |
| Sargent Cherry (Prunus Saengetii) Columnaris | 8' x 8' | M |
| English Oak (Quercus Robur) | 8' x 8' | T |
| <u>Greater than 50' in Height</u> | | |
| 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

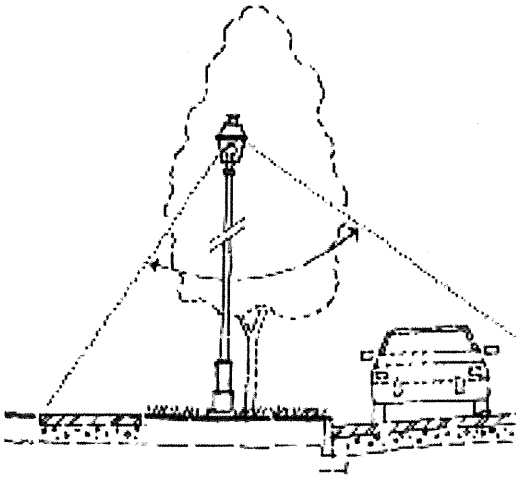
M = Moderate Salt Tolerance

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.

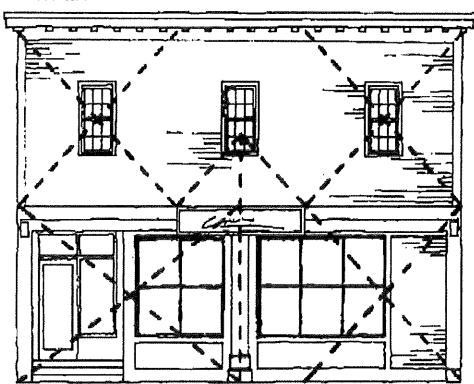
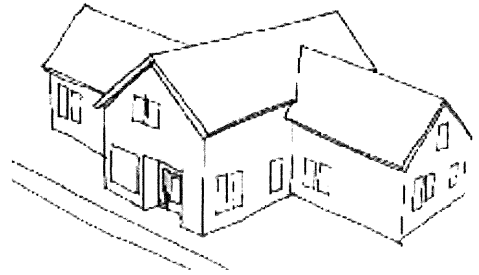
- X. Snow Removal/Storage: Plan landscaping for safe snow removal and storage at the edge of lots or on parking islands will not compromise traffic fields of vision or pedestrian walkways (5 foot wide minimum).

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.

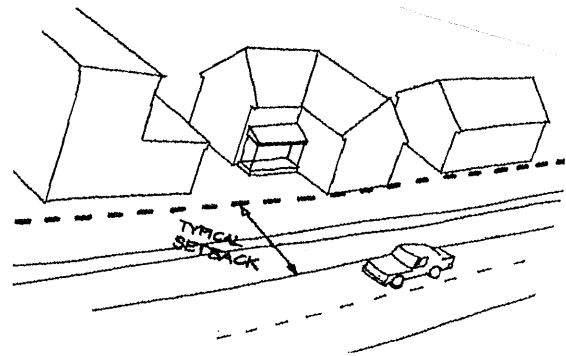
- C. Scale: Building a structure that is "human scaled" with doors, windows, building materials that make it feel cozy and textured will enhance the building. Other elements that contribute to and create a "human scale" comfort for pedestrians are porches, recessed entryways, divided light windows, and 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.

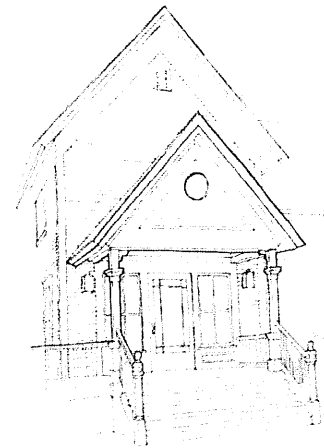
- E. Setbacks: Site a new building in such a way that it conforms to the neighbors' typical setback from the street. This helps to maintain a consistent street edge and character in the neighborhood. In no case less than the minimum setback for that District as defined in Article II.

- 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

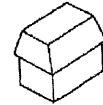
- J. Roof Type and Pitch: Roof style, pitch, and materials should be compatible with the surrounding structures and should preserve the historic features of the building to the extent possible. Gable, Flat, and Mansard roofs are most predominant in Wilmington. Gambrel and shed roofs are more common on 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:

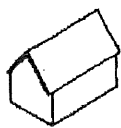
ENCOURAGED:



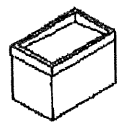
GABLE



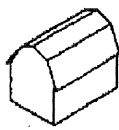
MANSARD



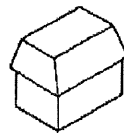
GABLE



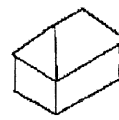
FLAT



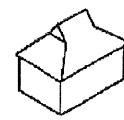
GAMBREL



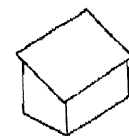
MANSARD



HIPPED

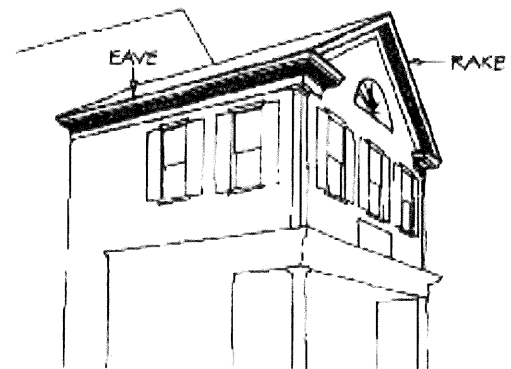


HIPPED -
GABLE



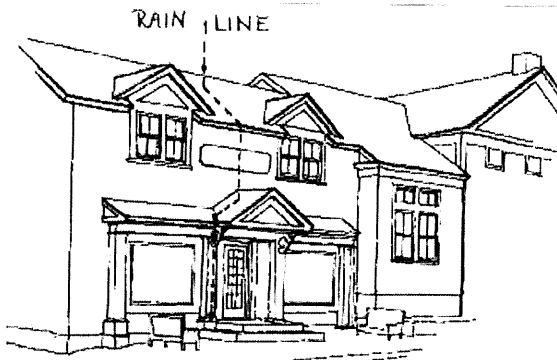
SHED

- 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.

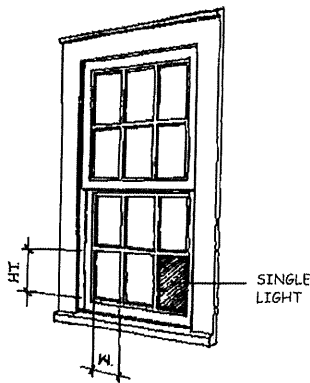


- L. Roof Materials: Slate, slate look-alike, and metal roofs are encouraged in historic areas. Roof materials in areas without historic character should complement the type of roofing predominant in the neighborhood. Roof materials on additions should complement existing roof materials.

DOORS AND WINDOWS



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.



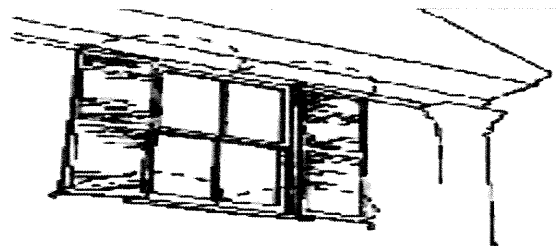
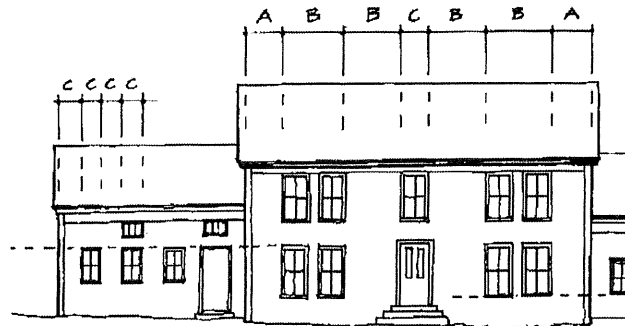
N. Windows: Window shapes are traditionally rectangular with height greater than width and consistent sizing used throughout the building. If using more than one window size it is helpful to maintain consistency on shape, proportion, and trim in order to give the façade a unified appearance. Nontraditional 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.

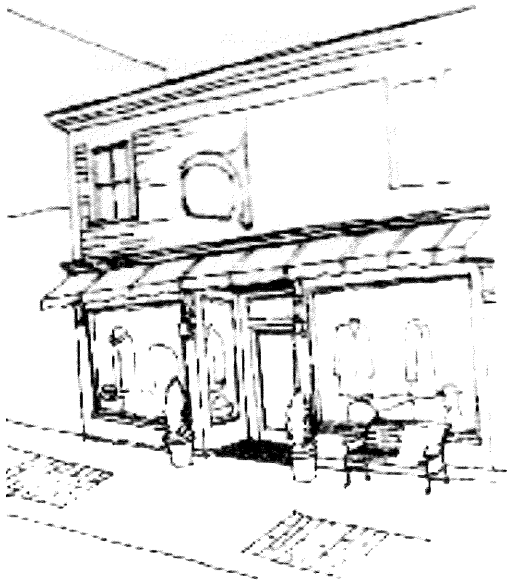
- P. Commercial Buildings Windows: Commercial buildings often provide extra height and larger windows on the first floor. This need not disrupt the symmetry of the building. Many second stories have fewer windows. Divided light windows will help keep larger windows at human scale and complementary to 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.

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.



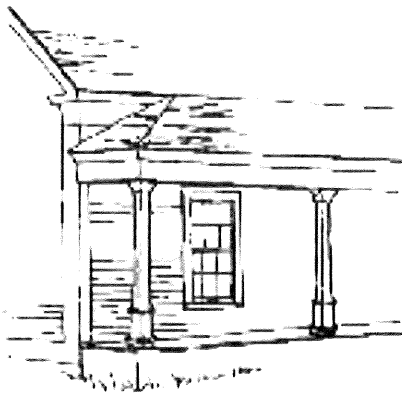
ENTRYWAY



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.

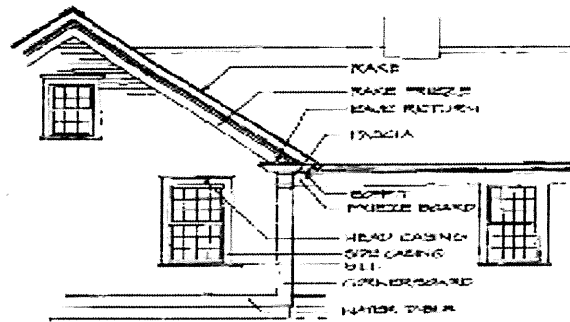
T. Open Porches: Whether new or on older homes, are inviting features and are best left open, not enclosed. These act as welcoming transitional zones as well as protection from the weather. A front porch can help bring a recessed building up to the street front to achieve a common setback for buildings 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 $1\frac{1}{2}$ times the height of the column and no less than $\frac{3}{4}$ of the height of the column.

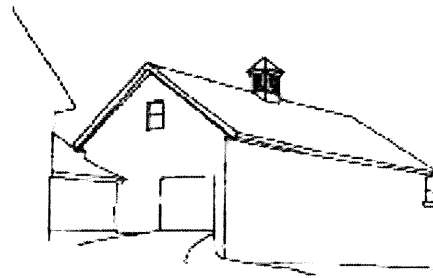
ARCHITECTURAL DETAIL

- 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 nonresidential 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 were 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.

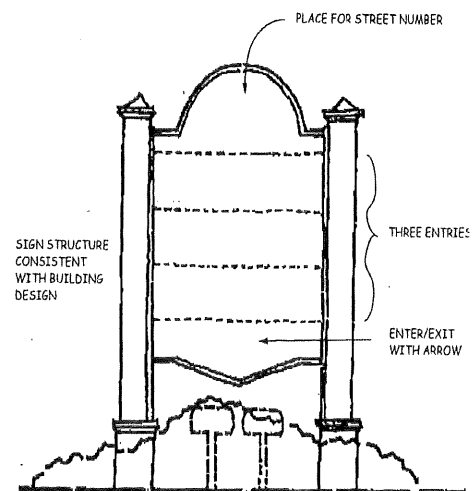
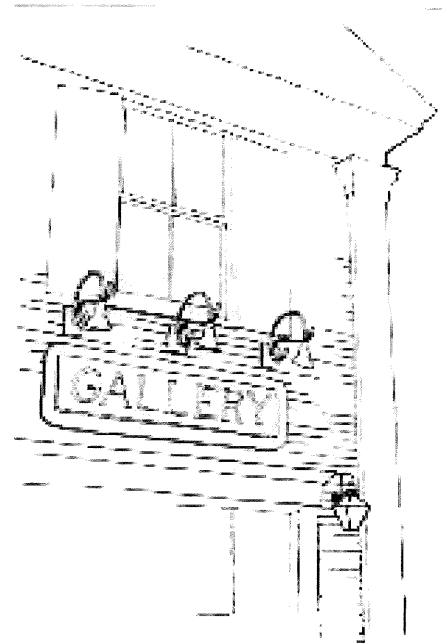
Use shielded, downcast and directed light fixtures that shine light only where it is needed to preserve the night sky by eliminating excess or unnecessary light and light scatter. Light used only for decorative purpose should be kept to a minimum. Avoid lighting that creates high contrast bright vs. 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 Register | 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 |
| 12 South Main St (behind church) | X | X | | 1800 |
| 10 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, Italianate 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 E Main (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 (Suddell) | X | X | Greek Revival | 1840 |
| 7 North Main St (Palmer) | X | X | Greek Revival | 1840 |
| 2 Lisle Hill (corner N Main) | X | X | | 1890-1900 |
| 17 North Main St (Eldred) | X | X | | 1890-1900 |
| 17 North Main St (Outbuilding) | X | X | | |
| 18 North Main St (Old Red Mill) | X | X | | 1828/1902 |
| 8 North Main St (Church) | X | X | Greek Revival | 1833 |

| Entity/Building | National Register | VT Register | Arch Style | Approx Year Built |
|---------------------------------|-------------------|-------------|------------------|-------------------|
| 6 North Main St (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 |
| 17 West Main St (Bartleby's) | X | X | | 1840-1850 |
| 21 West Main St (Chamber) | X | X | * | 1925/1970 |
| 27 West Main St (Hayseed/Fash) | 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 |
| 37 West 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 (Pick/McGr) | 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 West 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 Dr (Crows Nest) | X | X | | |
| 31 Town Hwy (Medbryville Brge) | X | X | | |
| 1 School St (High School) | | X | | |
| 29/30 Shafter St (Round House) | | X | | |

This Ordinance is hereby adopted by the Wilmington Selectboard on the fourth day of November 2025, and shall, unless a petition is filed as provided by law, become effective November 25, 2025, which is twenty-one days from this date.


Wilmington Selectboard




Thomas Fitzgerald




Vince Rice



Tony Tribuno



Charlie Foster



John Lebron