

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 fit 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 substantial 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.

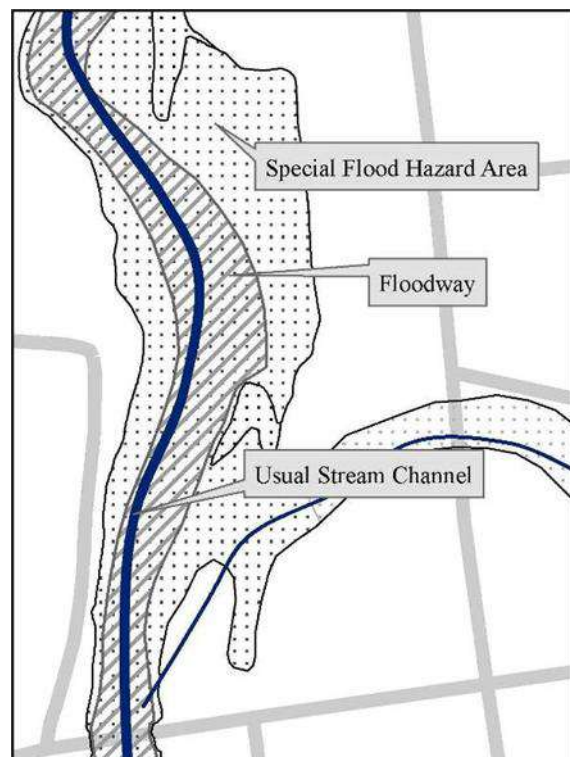
Flood Insurance Rate Map (FIRM): the official map of a municipality, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the municipality.

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-habitation. 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.