

# Town of Maidstone Zoning Bylaw

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## **ARTICLE 1: ENACTMENT AND INTENT**

### **§101 Enactment**

In accordance with the Vermont Planning and Development Act, hereinafter 24 VSA, §4401, there is hereby established a zoning bylaw for the Town of Maidstone which is set forth in the text and map that constitute this bylaw. This bylaw shall be known and cited as “The Town of Maidstone Zoning Bylaw.”

### **§102 Intent**

It is the intent of this zoning bylaw to provide for orderly growth and to further the purposes established in 24 VSA §4302.

## **ARTICLE 2: ESTABLISHMENT OF DISTRICTS AND REGULATIONS**

### **§201 Zoning Map and Districts**

The zoning map officially entitled “Zoning Map of the Town of Maidstone” is hereby adopted as part of this bylaw. The Zoning Map shows a division of the Town of Maidstone into the following districts:

- “RL1” Rural Lands One
- “RL2” Rural Lands Two
- “L” Lake
- “P” Ponds
- “F” Forest
- “AZ” Agricultural Zone
- “SO” Shoreland Overlay

### **§202 Copies of Zoning Map**

Regardless of the existence of other printed copies of the zoning map, the official zoning map shall be located in the Maidstone Town Clerk’s office. The official zoning map shall be the final authority as to the current zoning status of all properties within the Town of Maidstone.

### **§203 District Boundaries**

- (1) If one parcel of land lies in two or more districts, the standard of the district that contains the proposed building envelope will apply.
- (2) If the proposed building envelope crosses a zoning district boundary, then the more restrictive zoning district standards will apply.

### **§204 Uses Not Permitted**

Uses not listed in this zoning bylaw are not permitted in the Town of Maidstone, unless the uses in question are legally exempt from zoning regulation.

### **§205 Uses Exempt from Zoning**

This zoning bylaw shall not regulate public utility power generating plants and transmission facilities, which are regulated under 30 VSA §248.

### **§206 Agriculture and Forestry**

- (1) Nothing contained herein shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under 10 VSA, Sections 1021(f) and 1259(f) and 6 V.S.A., Section 4810.
- (2) No permit shall be required for a farm structure, but anyone intending to build one must notify the Zoning Administrator (or town clerk) in writing.
- (3) Farm structures shall comply with setbacks approved by the Secretary of Agriculture, Food and Markets.

### **§207 Limitations of this Bylaw**

The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (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, convent and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 VSA Chapter 159.
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

### **§208 Other Land Use and Relevant Regulations**

State and federal government may regulate certain aspects of land use; compliance with this zoning bylaw in no way implies compliance with such state or federal regulations. Such regulations include, but are not limited to: on-lot sewage systems and outdoor furnaces, regulated by the Agency of Natural Resources; underground storage tanks, regulated by the Department of Environmental Conservation; setback of farm structures, regulated by the Secretary of Agriculture, Food and Markets; and a shoreland permit, as regulated by the State of Vermont Agency of National Resources as of July 1, 2014

### **§209 Permitted and Conditional Uses**

(See Article 5: Administration and Enforcement for a complete explanation of the permitting process

- (1) Permitted uses are uses that require, at a minimum, Administrative Review by the Zoning Administrator. All permitted uses other than single and two-family dwellings; and their accessory structures and minor sub-divisions, shall also be subjected to Site Plan Review by the Zoning Board of Adjustment after public notice and hearing.
- (2) Conditionally approved uses are uses that require, following Administrative Review by the Zoning Administrator, referral to the Zoning Board of Adjustment for Conditional Use Review after public notice and hearing.

### **§210 District Objectives and Land Use Control**

The following tables state the objectives and regulations of each district. These tables establish permitted and conditional uses, as well as lot area and dimensional requirements for each district.

**Table 210.01: "RL1" Rural Lands 1****Objective**

The purpose of this district is to encourage residential, affordable housing and limited light commercial use.

**Description**

The land within 1000 feet of the road centerline West of Route 102 and all land at 850 feet elevation or more East of Route 102. It also includes those lands 1000 feet either side of the North Road from the Maidstone/Guildhall town boundary to the Wildwood Drive except those lands 1000 feet either side of Tamarack Lane (TH#7), and includes Hall road.

**Permitted Uses**

Agricultural use<sup>1</sup>  
 Dwelling, Accessory<sup>2</sup>  
 Dwelling, Single family<sup>2</sup>  
 Dwelling, Two family  
 Forestry<sup>3</sup>  
 Home occupation<sup>2</sup>

**Conditional Uses**

Auto repair  
 Cemetery  
 Church  
 Clinic  
 Commercial  
 Commercial Storage Facility  
 Dwelling, Multi-family  
 Extraction of Earth Resources  
 Educational Facility  
 Essential Service  
 Gas station  
 Group Homes<sup>2</sup>  
 Hospital  
 Hotel  
 Lodging House  
 Light Industry  
 Mobile Home Park<sup>2</sup>  
 Public Facility  
 Recreational Facility<sup>3</sup>  
 Residential Care  
 Restaurant  
 Travel Trailer<sup>2</sup>

**Area and Dimensions**

Minimum area per family in square feet.....76,230.0  
 Minimum Lot size, in acres.....3.5  
 Minimum yard dimensions  
     Front yard in feet.....100.0  
     Each side yard in feet.....50.0

Rear yard in feet.....	50.0
Road Frontage in feet.....	200.0

Footnotes

<sup>1</sup>See section #205

<sup>2</sup>See Article 3: General Provision

<sup>3</sup>Accepted sivilicultural practices are exempt from local zoning

**Table 210.02: "RL2" Rural Lands 2**

Objective

The purpose of this district is to encourage limited residential uses close to existing public roads and continued forest management practices.

Description

The land within 1000 feet of North Road, Masters Road and the Hall Road starting 1000 feet south of Route 102 on the north end to the Wildwood Drive on the south end and to include Tamarack Lane. (Distance measuring from the center of the roadway).

Permitted Uses

- Accessory use
- Agricultural use<sup>1</sup>
- Dwelling, Accessory<sup>2</sup>
- Dwelling, Single family<sup>2</sup>
- Dwelling, Two family
- Forestry<sup>3</sup>
- Home occupation<sup>2</sup>

Conditional Uses

- Club
- Extraction of Earth Resources
- Essential Service
- Light industry
- Lodging House
- Recreational facility
- Travel trailer<sup>2</sup>

Area and Dimensions

Minimum Lot Size

- Area in acres.....15
- Road frontage in feet.....400

Minimum yard dimensions and building coverage

- Front yard in feet.....100
- Each side yard in feet.....50
- Rear yard in feet.....50

**Table 210.3: “L” Lake**

Objective

The Maidstone Lake District provides seasonal and year-round residential development. This definition applies to “Front yard” and/or “frontage” setback from shoreline in both Lake and Ponds Districts, and is made and intended to prevent unlawful structure encroachments along such shoreline whenever the lake level is reduced from normal water level by lowering of lake or pond water levels intentionally, at dam(s) or by reason of act of God.

Description

The land between the mean water level of Maidstone Lake at normal water level and the rear lot line.

Permitted Uses

Accessory use, Lake  
 Dwelling, Single family<sup>2</sup>

Conditional Uses

Dwelling, Accessory Lake<sup>2</sup>  
 Home occupation<sup>2</sup>

Area and Dimensions

Minimum lot size	
Area in acres.....	2
Road frontage in feet.....	200
Minimum yard dimensions and building coverage	
Front yard in feet: <sup>3</sup>	
For structures other than decks.....	25
Each side yard in feet.....	10
Rear yard in feet <sup>4</sup> .....	10
Maximum Height in feet (See definition of Building Height).....	26

Footnotes

<sup>1</sup>See definition and Article 3: General Provisions

<sup>2</sup>See Article 3: General Provisions

<sup>3</sup>Front yard on a shoreland lot is considered the side facing the water. Vegetative buffer strips of at least 25 feet are required along the shoreline. Front yard setbacks are measured in feet from the mean water mark.

<sup>4</sup>Rear yard in the Lake District is measured from the rear survey pins.

**Table 210.4: “P” Ponds**

Objective

To maintain the wilderness character of the pond while providing limited residential development with the continuance of good forestry activities.

Description

The land within 500 feet of lakes and ponds over 10 acres excluding Maidstone Lake.

Permitted Uses

Accessory Use  
 Dwelling, Single Family<sup>1</sup>  
 Forestry<sup>3</sup>

Conditional Uses

Dwelling, Accessory<sup>1</sup>  
 Home occupation<sup>1</sup>

Area and Dimensions

Minimum lot size	
Area in acres.....	2
Frontage of shoreline in feet.....	200
Minimum yard dimensions and building coverage	
Front yard in feet <sup>2</sup> .....	125
Each side yard in feet.....	25
Rear yard in feet.....	25

Footnotes

<sup>1</sup>See Article 3: General Provisions

<sup>2</sup>Frontyard on a shoreland lot is considered the side facing the water. Buffer strips of natural vegetation at least 100 feet are required back from the shoreline. See #211.

<sup>3</sup>Accepted silvicultural practices are exempt from local zoning.

**Table 210.05: "F" Forest**

Objective

The Forest District encourages forestry activities while providing for limited residential development.

Description

All the land not within any of the other districts in the town.

Permitted Uses

- Accessory use
- Agricultural use<sup>1</sup>
- Dwelling, Accessory<sup>2</sup>
- Dwelling, Single family<sup>2</sup>
- Dwelling, Two family<sup>2</sup>
- Forestry<sup>3</sup>
- Home occupation<sup>2</sup>

Conditional Uses

- Travel Trailer<sup>2</sup>

Area and Dimensions

Minimum lot size

Area in acres.....	25
Road frontage in feet.....	800

Minimum yard dimensions and building coverage

Front yard in feet.....	100
Each side yard in feet.....	75
Rear yard in feet.....	75

Footnotes

<sup>1</sup>See section #205

<sup>2</sup>See Article 3: General Provisions

<sup>3</sup>Accepted sivilcultural practices are exempt from local zoning

**Table 210.06: "AZ" Agricultural Zone**

Objective

The purpose of this district is to protect major areas of prime agricultural land while allowing other uses that are secondary to agricultural use.

Description

The land along the Connecticut River as indicated on the official zoning map. The land East of Route 102 must be at an elevation of 850 feet or more for any use other than Agricultural or Forestry.

Permitted Uses

- Agricultural use<sup>1</sup>
- Dwelling, Single family<sup>2</sup>
- Dwelling, Accessory<sup>2</sup>
- Forestry<sup>3</sup>
- Home occupation<sup>2</sup>

Area and Dimensions

Minimum lot size

Area in acres.....	15
Road frontage in feet.....	400

Minimum yard dimensions and building coverage

Front yard in feet.....	100
Each side yard in feet.....	50
Rear yard in feet.....	50

One Time Exception

In this district, any lot legally in existence and on record as of June 1, 2007 that exceeds the minimum lot acreage requirements by at least two acres may be divided with one of the resulting lots having a minimum lot acreage of two acres

Footnotes

<sup>1</sup>See section #205.

<sup>2</sup>See Article 3: General Provisions

<sup>3</sup>Accepted silvicultural practices are exempt from local zoning

**§211 Shoreland Overlay**

The Shoreland Overlay District is designed to protect all surface water quality and applies to all lakes, ponds, rivers, brooks and streams in or bordering the Town of Maidstone.

(1) All districts except Lake:

On all dwelling lots the area of natural vegetation and trees at least 50 feet in width along any shoreland shall not be cut.

Dead or dangerous leaning or broken trees may be cut in this area and pruning of branches and small underbrush is permitted for view and air movement.

A path of impermeable surface of not more than 8 feet wide and stairs not exceeding 4 feet wide may be cut through it to provide access to the water, provided that the path or stairs are perpendicular to the water as possible.

There shall be no application of fertilizer, pesticides, or nutrients in the buffer zone.

(2) Lake District:

A 25-foot vegetative buffer, consisting of grass, shrubs and/or trees, shall be maintained adjacent to the shoreline, except that stairs not exceeding 4 feet wide may be cut through it to provide access to the water, provided that the stairs are perpendicular to the water as possible. Protection of the water quality is of prime importance. Eroded soil is the number one pollutant to Vermont lakes and ponds as sediment carries the nutrient phosphorus to lakes. During construction keep land disturbance well back from the water. Every attempt, including silt or filter screens, must be taken to prevent silt getting into the lake. Disturbed land must be replanted by September 15<sup>th</sup> to allow time for roots to set before a frost.

There shall be no application of fertilizer, pesticides, or nutrients, including hydroseeding, in the 25 foot buffer zone.

No asphalt or impermeable surface on any driveway or right of way in the Lake District is allowed.

(3) Encroachment prohibited:

For dock regulations, see Vermont Statutes Chapter 11 §403.

(4)Community Beach

No community in the Lake District is allowed.

All lake front lots are to be used solely by the owners of record and not as community property.

No right of ways or easement to the lake are to be granted over these lots.

No marina or other commercial development other than Home Occupation on the Lake or in the Lake District is allowed.

Maximum allowable use of gas caddies and/or gas storage devices at the waterfront is 30 gallons.

**ARTICLE 3: GENERAL PROVISIONS****§301 Dwellings Per Lot**

- (1) Single unit dwellings and accessory, when permitted, shall be limited to one each per lot.

**§302 Equal Treatment of Housing**

- (1) This bylaw shall not have the effect of excluding low-and moderate-income housing from the municipality.
- (2) Pursuant to 24 VSA §4412(1)(B), mobile homes, modular homes, and prefabricated homes shall be considered single-family dwelling, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under this bylaw.
- (3) An **accessory dwelling unit** that is located within or appurtenant to an owner occupied single family dwelling shall be a permitted use. An accessory dwelling unit shall be defined as an efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single family dwelling that is clearly subordinate to a single family dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:
- A. The property has sufficient wastewater capacity.
  - B. The unit does not exceed either 30% of the total habitable floor area of the single family dwelling or 600 sq. ft. whichever is larger.
  - C. Applicable setback, coverage requirements specified in the bylaws are met.
- (4) An **accessory dwelling, Lake** must meet the following restrictions as well as those in (3) above.

An accessory dwelling unit shall be defined as a permanent/full-time, not temporary or seasonal, efficiency or one-bedroom apartment located within or appurtenant to a year round owner occupied single family dwelling that is clearly subordinate to a single-family

- dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following: See (3) above. Temporary or seasonal use is NOT allowed as a permitted use.
- (5) Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when one or more of the following is involved:
- A. A new accessory structure, constructed after the enactment of these bylaws,
  - B. An increase in the height or floor area of the existing dwelling, or
  - C. An increase in the dimensions of the parking area.
- (6) **Mobile home parks** are a conditional use in the Rural Lands 1 district.
- A. Mobile home parks shall have no more than two access points onto public roads.
  - B. Internal roads serving the mobile home park must have a right of way at least 50 ft. in width, have a crushed gravel surface at least 24 ft. in width, and be appropriately marked for emergency vehicular access.
  - C. Individual lots within the mobile home park must be at least 100 ft. in width and 120 ft. in depth. Either dimension may have frontage on the internal road
  - D. Mobile homes shall be placed on each lot to have minimum setbacks of 12 ft. on all sides. Individual lots that abut a public road must meet the front setback requirements of that district.

### **§303 Required Frontage/Access to Public Roads**

No land development may be permitted on lots that do not have adequate means of access, either frontage on a maintained public road or access by means of a permanent easement or right of way to such a public road. Access easements or rights of way shall not be less than 50 feet in width. Access to non-frontage lots shall be submitted to the Planning Commission for Site Plan Review.

### **§304 Curb Cuts and Drainage**

Curb cuts adjoining or affecting town roads, state highways, right of ways, or surrounding private properties may not be created without adequate drainage. Prior to the creation of any curb cut, the individual seeking to establish such curb cut shall obtain approval from the Town of Maidstone Road Agent. Approval may be conditioned upon installation of one or more culverts in specified size(s) and location(s).

### **§305 Temporary Uses and Structures**

Temporary permits for nonconforming uses incidental to construction projects may be issued by the Zoning Administrator for a period not exceeding one year, provided such permits are conditioned upon the owner removing the structure or use upon expiration of the permit.

### **§306 Burned Buildings and Abandonment of Structures**

- (1) Debris from dilapidated structures and structures that have been destroyed by fire or any other cause shall be removed within one year.
- (2) Unless repair or reconstruction of a dilapidated or damaged structure is substantially commenced within one year, excavated portions of the lot shall be filled to normal grade level and graded smooth.

### **§307 Height Regulations**

- (1) Except for communications facilities, solar panels, and agricultural structures, new structures in all districts except the Lake District shall not exceed a height of 45 feet. (See definition of Building Height).
- (2) In the Lake District, the maximum height in feet shall not exceed 26 feet. (See definition of Building Height).

### **§308 Self Storage Container**

- (1) No self-storage container may be on a site unless permitted by an approved building permit for one year. Extension may be granted, not to exceed original building permit (application required).
- (2) This permit must be in conjunction with an existing approved building permit.
- (3) The container must be removed before the Certificate of Occupancy Permit can be issued.
- (4) In the lake district, no existing storage container can be grandfathered and these must be removed within one year of the passing of these Bylaws.

### **§309 Private Swimming Pools**

Private swimming pools installed below ground level shall be enclosed by a lockable fence no less than 5 feet in height with no opening greater than 6 by 6 inches.

### **§310 Extraction of Earth Resources**

- (1) The commercial extraction or removal of topsoil, sand, gravel, rock, minerals, or other similar earth resource is allowed in Rural Lands 1 and Rural Lands 2 and is subject to conditional use review under §507 for this bylaw. In addition to the conditional use standards set forth in §507, for commercial extraction operations that are likely to impact surrounding properties due to the scale, intensity, and timing of the extraction, the presence of fragile natural features (e.g. steep slopes, riparian land), and/or the relative density of nearby land uses, the Zoning Board of Adjustment may also require erosion control and site reclamation plans showing: \_

- A. existing grades, drainage patterns, and depths to bedrock and the seasonal high water table;
  - B. the extent and magnitude of the proposed operation, including proposed phasing;
  - C. finished grades at the conclusion of the operation; and
  - D. a detailed plan for the restoration of the site, including final grading and revegetation.
- (2) In granting approval, the Zoning Board of Adjustment may impose conditions with regard to any of the following:
- A. depth of excavation or quarrying;
  - B. slopes created by removal;
  - C. effects on surface drainage, both on-and off-site;
  - D. storage of equipment and stockpiling of materials on-site;
  - E. hours of operation for blasting, trucking, and processing operations;
  - F. effect on adjacent properties due to noise, dust, or vibration;
  - G. effect on traffic and road conditions, including potential physical damage to public roads;
  - H. creation of safety hazards;
  - I. temporary and permanent erosion control, including project phasing to limit exposed area;
  - J. effect on ground and surface water quality, and drinking water supplies;
  - K. effect on natural, cultural, historic, or scenic resources, either on-site or in the vicinity of the project;
  - L. effect on agricultural land; and
  - M. public health, safety, and general welfare.
- (3) In approving an application, the Zoning Board of Adjustment shall ensure reclamation of the land upon completion of the excavation, to include any regarding, reseeding, reforestation, or other reclamation activities that may be required as deemed reasonable. This provision specifically does not apply to mining or quarrying operations; however, upon failure of the permit holder, or their successors, to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.
- (4) This section shall not apply to normal agricultural and/or forestry operations, public (municipal and state) road maintenance and construction, the operation of a cemetery, or the removal of earth resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted.

### **§311 Animals**

The raising or harboring of livestock, including, but not limited to, horses, cattle, hogs, fowl or fur bearing animals, shall be prohibited in the Lake District. In the Lake District, common household pets are exempted from these provisions.

### **§312 Signs**

- (1) Each non-residential use shall be allowed one freestanding sign in addition to any state installed directional sign. No permit shall be required for the freestanding sign, but it must conform to the following standards.
- (2) The maximum sign area of a freestanding sign shall be 16 square feet.
- (3) No sign shall exceed 10 feet in height.
- (4) No sign shall be allowed which appears to direct the movement of traffic or which interferes with, or resembles any office traffic, directional, or route sign, signal or device.
- (5) No sign shall be allowed which prevents a clear and unobstructed view of official traffic signs and approaching or merging traffic.
- (6) Lighting shall be so shielded so that the source of light shall not be visible from any point and so that only the sign is directly illuminated.
- (7) No flashing, intermittent, neon fiber optic or moving lights shall be allowed.
- (8) A sign must be removed if the indicated activity is discontinued for 1 year.
- (9) No sign may be attached or placed upon any property, including but not limited to cars, fences, walls, and buildings, by anyone other than the owner, or tenant of such property or his authorized agent.
- (10) No sign, which is attached to a building, may extend above the eaves of that part, or the roof of the building to which it is attached.
- (11) All signs must comply with all of the applicable regulations set forth in 10 VSA, §§481 to 506.

### **§313 Outdoor Illumination**

- (1) Illumination of areas and structures, either permanent or intermittent, shall be located and adjusted so as to not cast direct light on adjacent properties or roadways.
- (2) No glare, lights, or reflection shall be permitted which are a nuisance to other property owners or tenants or which could impair the vision of a driver of any motor vehicle or which are detrimental to public health, safety, and welfare.
- (3) However, reflections from solar energy collectors which are part of an operating solar energy system shall not be considered a nuisance to other property owners and tenants.

### **§314 Home Occupations**

No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling that is customary in residential areas, which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:

- (1) The home occupation shall be clearly incidental and secondary to the residential use of the property, shall be conducted wholly within the principal or accessory structures and shall not occupy a gross floor area greater than 30% of the total floor area of the principal dwelling.
- (2) The home occupation will be conducted by residents of the dwelling and up to a maximum of two (2) non-resident employees on-site at any time.
- (3) No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use.

- (4) Exterior displays or signs other than those normally permitted in the district, exterior storage of materials, and exterior indications of the home occupation or variation from the residential character of the principal or accessory structures shall be prohibited.
- (5) The home occupation shall not generate objectionable noise, smoke, vibration, dust, glare, odors, electrical interference, heat or other nuisance that is detectable at or beyond the boundaries of the property, or create a health or safety hazard.
- (6) Adequate provision shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.
- (7) Retail sales or services on-site are limited to the sale of goods or services produced on the premises, and related products.
- (8) One (1) sign shall be allowed in accordance with §312.

#### **§315 Family Child Care Homes**

- (1) A family child care home serving six or fewer children shall be considered to constitute a permitted use of a single-family dwelling.
- (2) A family child care home serving no more than six full-time children and four part-time children, as defined in 33 VSA §4501, shall be considered to constitute a permitted use of a single-family dwelling but requires site plan approval from the Zoning Board of Adjustment.
- (3) A family child care facility serving more than six full-time and four part-time children shall be treated as a conditional use.

#### **§316 Residential Care and Group Homes**

- (1) A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 VSA §4501, shall be considered to constitute a permitted use of a single-family dwelling, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted such home.
- (2) A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 VSA §4501, shall be subject to conditional use and site plan review.

#### **§317 Travel Trailers, except for Lake and Pond Districts**

Owners or users of camping trailers, pick-up coaches and/or motor homes (hereinafter referred to as "travel trailers"), shall abide by the following regulations except when located in an approved campground:

- (1) The owner of a travel trailer may park it on his or her own property, in the rear or side yards, provided the trailer is not closer than six feet to any lot line.
- (2) Parked travel trailers shall not be occupied as living quarters, nor be hooked up to any utilities, for more than a total of 90 days in any calendar year, except as provided in (5).
- (3) Visitors may park their travel trailers on their hosts' land, provided they are parked in conformance with subsections (1) and (2), and provided that there is no fee involved.
- (4) Not more than two travel trailers, including the land owner's travel trailer, shall be concurrently parked on any lot, unless such lot is an approved trailer park.
- (5) Any travel trailer that is occupied or connected to utilities for more than a total of 90 days in any calendar year shall be considered a permanent structure, and the owner shall obtain a zoning permit in accordance with §502, as well as any applicable state permit.

### **§318 Travel Trailers for Lake and Pond Districts**

Owners or users of camping trailers, pick-up coaches and/or motor homes (hereinafter referred to as "travel trailers"), shall abide by the following regulations except when located in an approved campground:

- (1) The owner of a travel trailer may park it on his or her own property, in the rear or side yards, provided the trailer is not closer than six feet to any lot line and no closer than 25 feet from the lake.
- (2) Parked travel trailers shall not be occupied as living quarters, nor be hooked up to any utilities, for more than a total of 30 days in any calendar year.
- (3) Visitors may park their travel trailers on their hosts' land, provided they are parked in conformance with subsections (1) and (2), and provided that there is no fee involved. They may not be parked on their hosts' land for more than 30 days in any calendar year.
- (4) Not more than two travel trailers, including the land owner's travel trailer, shall be concurrently parked on any lot.
- (5) Any travel trailer that is occupied or connected to utilities for more than a total of 90 days in any calendar year shall be considered a permanent structure, and the owner shall obtain a zoning permit in accordance with §502, as well as any applicable state permit.

### **§319 Outdoor Furnaces**

The installation and operation of outdoor furnaces is allowed, subject to Vermont state regulations. An outdoor furnace shall be considered a structure and is subject to local zoning regulations.

### **§320 Telecommunications**

On July 12, 2007 the Select board voted to name the Zoning Board of Adjustment as the entity in charge of reviewing and permitted telecommunications and broadband installations. This was in regards to the most recent changes to 24 VSA §4412(9), which were signed into law on June 9, 2007 and are as follows:

- (1) De minimis telecommunications impacts. An officer or entity designated by the municipality shall review telecommunications and facilities applications, and upon determining that a

particular application will impose no impact or de minimis impact upon any criteria established in the bylaws, shall approve the application.

### **§321 Inoperable or Unregistered Vehicles and Household Debris**

- (1) Inoperable vehicles, household appliances, and other household debris shall not be stored on any property unless shielded from view of any public highways.
- (2) No more than one unregistered, inoperable vehicle shall be parked in any yard of any property for more than 30 days.

### **§322 Initiation of Construction**

Construction may not be initiated under a Maidstone zoning permit for projects requiring an Agency of Natural Resources Waste Water and Potable Water supply permit until such permit is issued by the Agency under 10 VSA Chapter 64.

## **ARTICLE 4: NONCONFORMITIES**

### **§401 Nonconforming Structures**

Any legal structure or part thereof, which is not in compliance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as parking, lighting, buffers, and lowest floor elevation in floodplain zoning) shall be deemed a nonconforming structure. Legal nonconforming structures exist as a result of construction prior to adoption of bylaws, or construction under an earlier set of less restrictive bylaws. Any nonconforming structure may be allowed to exist indefinitely, but shall be subject to the following provisions:

- (1) Subject to conditional use approval by the Zoning Board of Adjustment, a nonconforming structure may be restored or reconstructed after unintentional loss provided the reconstruction is commenced within two years and does not increase the degree of non-compliance that existed prior to the damage.
- (2) A nonconforming structure which has been demolished shall not be reconstructed except in conformance with these bylaws. The Zoning Board of Adjustment may grant a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of these bylaws. In considering a waiver from these provisions, the Zoning Board of Adjustment shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.
- (3) A nonconforming structure shall not be removed, altered, extended, or enlarged in a manner which will increase the existing degree of non-conformance.
- (4) The phrase "shall not increase the degree of non-conformance" shall be interpreted to mean that the portion of the structure which is nonconforming shall not increase in size

- either horizontally or vertically (or decrease in the event of failing to meet minimum standards such as parking and lighting). Therefore, portions of a structure within a setback area cannot be enlarged either horizontally or vertically, portions above the maximum height cannot be expanded, a nonconforming deck or porch cannot be enclosed, where parking is deficient the number or size of spaces cannot be reduced, etc. This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios provided there is no increase in size.
- (5) Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of non-conformance.
  - (6) The Zoning Board of Adjustment shall permit the alteration or expansion of a nonconforming structure for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

#### **§402 Nonconforming Uses**

Any use, which does not conform to uses allowed in the district in which it is located or is otherwise, not in compliance with the provisions of these bylaws, shall be deemed a nonconforming use. Nonconforming uses are those that exist legally as a result of existing prior to adoption of bylaws, or permitted under an earlier set of less restrictive bylaws. Any nonconforming use may be continued indefinitely, but shall be subject to the following provisions:

- (1) The nonconforming use shall not be changed to another nonconforming use without approval by the Zoning Board of Adjustment, and then only to a use that, in the opinion of the Zoning Board of Adjustment, is of the same or of a more conforming nature.
- (2) The nonconforming use shall not be re-established if such use has been discontinued for a period of at least two years or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
- (3) The nonconforming use shall not be expanded, extended, moved or enlarged unless the Zoning Board of Adjustment finds that such expansion, extension, movement, or enlargement does not increase the degree of non-conformance. Examples of enlarged tables, number of employees or an increase in the size of the operation through the expansion of a complying structure.
- (4) The Zoning Board of Adjustment shall permit the alteration or expansion of a nonconforming use for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

#### **§403 Permits Issued Prior to Bylaw Amendment**

Permits issued prior to the enforcement of this bylaw that are valid on the effective date of this bylaw may be utilized, even if such permits will result in a nonconformity. In addition, nothing contained herein shall require any changes to the plans or construction of previously permitted structures and/or uses. Such nonconformities, however, shall be established within the permit's effective period of two years. Applications to renew expired permits issued under the prior bylaw will not be approved unless the structure or use for which the original permit was issued conforms to the requirements of this bylaw.

#### **§404 Existing Small Lots**

- (1) Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet.
- (2) If a lot not conforming to the minimum lot size requirements in the district in which it is located is or subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot(s) shall not be deemed merged and shall be considered separate lots.

### **ARTICLE 5: ADMINISTRATION AND ENFORCEMENT**

#### **§501 Zoning Administrator**

- (1) The Zoning Administrator shall be appointed by the Select board, following the nomination by the Planning Commission, to administer the zoning bylaws, as provided for in 24 VSA §4448. The Select board may remove a Zoning Administrator for cause at any time after consultation with the Planning Commission. The Zoning Administrator shall literally administer and strictly enforce the provisions of this bylaw, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate to carry out the provisions of this bylaw.
- (2) As stated in 24 VSA §4448(b), the Planning Commission may nominate and the legislative body may appoint an acting Zoning Administrator or an assistant Zoning Administrator. The assistant Zoning Administrator will assist the Zoning Administrator in the performance of his duties, with the approval of the Selectmen, at the request of the Zoning Administrator and under the direction of the Zoning Administrator, when the Zoning Administrator is absent or unable to perform those duties due to sickness. The Zoning Administrator will refrain from involvement in applications when he/she has a conflict of interest; such involvement in violation of this prohibition shall be grounds for disciplinary action, including dismissal. The assistant Zoning Administrator will perform the duties of the Zoning Administrator when the Zoning Administrator has a conflict of interest.

“Conflict of Interest” means any one of the following:

- A. A direct or indirect personal interest of the administrative officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother-or sister-in-law, business associate, employer or employee, in the outcome of an application pending before the Zoning Administrator.
- B. A direct or indirect financial interest of the Zoning Administrator, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother-or sister-in-law, business associate, employer or employee, in the outcome of an application pending before the Zoning Administrator
- C. A situation where the Zoning Administrator has publicly displayed a pre-judgment of the merits of a particular application before the Zoning Administrator. This shall not apply to a member's particular political views or general opinion on a given issue.

### **§502 Zoning Permits**

- (1) No land development, as defined in 24 VSA §4303(10), may be commenced without a permit therefore issued by the Zoning Administrator. No zoning permit may be issued by the Zoning Administrator except in strict conformance with the bylaw.
- (2) Applications for zoning permits shall be made to the Zoning Administrator on forms provided by the town clerk for that purpose.
- (3) Prior to the issuance of any zoning permit the Zoning Administrator shall first be satisfied that the subject of the application is in strict conformance with this bylaw. He/she may request from an applicant any information he deems necessary for this purpose. No such permit shall be issued unless an application, fee, complete plot plan and any other approvals of the Planning Commission or the Zoning Board of Adjustment required by this bylaw have been properly obtained and are submitted in connection with the application. The zoning Administrator shall, within 30 days of receipt of the application, data and approvals, either issue or deny a zoning permit. If denied, the Zoning Administrator shall so notify the applicant in writing, stating his reasons therefore.
- (4) If the zoning permit is approved, all activities authorized by its issuance shall have substantially commenced within two years of its date of issue, or the zoning permit shall become null and void and reapplication to complete any activities shall be required. In the event that permitted activities have not substantially commenced, a one time, one year extension of the original permit may be applied for before the expiration of the original permit, subject to current application fees. If the Zoning Administrator fails to act with regard to a complete application for a permit within 30 days of receipt, whether by issuing a decision or by making a referral to the appropriate municipal panel, the permit will be deemed issued on the 31<sup>st</sup> day, per 24 VSA §4448(d).
- (5) In the issuance of zoning permits, the Zoning Administrator shall comply with all of the provisions of 24 VSA §4449.
- (6) The fee for Zoning, Occupancy and Subdivision permits shall be established by the legislative body. It may be a sliding scale depending on the cost of the land development. Said fee shall accompany each application for a permit.

- (7) No zoning permit issued pursuant to 24 VSA §4449 shall take effect until the time for appeal in 24 VSA §4465(a) has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.
- (8) Within three days following the issuance of a zoning permit, the town clerk shall mail to the immediate abutters a copy of the permit and a copy of the notice regarding said project and shall post a copy of the permit in the Town Clerk's office until the expiration of the appeal period. The Zoning Administrator must also post a permit notice, in a form prescribed by the Town of Maidstone within view of the public right-of-way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.
- (9) The applicant is required to post an approval building permit within view of the public right-of-way most nearly adjacent to the subject property until construction is completed.

### **§503 Planning Commission**

- (1) The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Maidstone Select board in accordance with 24 VSA §4321-§4323. The Maidstone Select board, in accordance with 24 VSA §4322, shall be non-voting ex officio members of this commission. At least a majority of members shall be residents of the municipality. Any member of the Planning Commission may be removed at any time by a unanimous vote of the legislative body.
- (2) The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 VSA §4461(a) and Vermont's Open Meeting Law.
- (3) The Planning Commission shall have the following duties regarding this bylaw, in accordance with 24 VSA §444:
  - a. To prepare proposed amendments to this bylaw, and consider proposed amendments submitted by others, including amendments supported by a petition signed by at least five percent of the voters of the Town of Maidstone.
  - b. To prepare and approve written reports on any proposed amendment to this bylaw; and
  - c. To hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Select board.
  - d. Applications for conditional use approval, as described in §507 of this bylaw.
  - e. To review Major Subdivisions of land as described in §506 of this bylaw as well as all Conditional Use permits.

### **§504 Zoning Board of Adjustment**

- (1) The Zoning Board of Adjustment shall consist of not fewer than three (3) nor more than nine(9) members appointed by the Select board for specified terms in accordance with 24 VSA §4460(b) and (c). The Select board also may appoint alternates, for specified terms to serve on the Zoning Board of Adjustment in situations when one or more members of the Board are disqualified or

are otherwise unable to serve. The members of the Planning Commission and the Zoning Board of Adjustment may be the same individuals. Any member of the Zoning Board of Adjustment may be removed for cause by the Select board upon written charges and after public hearing.

- (2) The owner shall submit two sets of site plan maps and supporting data to the Planning Commission as it may require, which may include all or any of the following information presented in drawn form and accompanied by written text:
  - a. Name and address of person or firm preparing the map. Scale of map, north arrow and date. Name and address of owner of record and adjoining lands.
  - b. Map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, and land use and deed restrictions.
  - c. Site plan showing proposed structure locations and land use areas; driveways, traffic circulation, parking, and loading spaces, and pedestrian walks, landscaping plans, including site grading, landscape design and screening.
- (3) In reviewing site plans, the Planning Board may impose appropriate safeguards with respect to the following:
  - a. The adequacy of parking.
  - b. Traffic access and circulation for pedestrians and vehicles.
  - c. Landscaping and screening.
  - d. The protection of the utilization of renewable energy resources.
  - e. Exterior lighting.
  - f. The size, location, and design of signs.
  - g. Erosion and sedimentation control.
  - h. Snow removal.

### **§505 Site Plan Review**

- (1) No zoning permit shall be issued by the Zoning Administrator for any use or structure except for one and two family dwellings and their accessory uses and/or structures until the Planning Commission grants site plan approval after public notice and hearing and in accordance with 24 VSA §4416.
- (2) The owner shall submit two sets of site plan maps and supporting data to the Planning Commission as it may require, which may include all or any of the following information presented in drawn form and accompanied by written text:
  - a. Name and address of person or firm preparing the map. Scale of map, north arrow and date. Name and address of owner of record and adjoining lands.
  - b. Map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, and land use and deed restrictions.
  - c. Site plan showing proposed structure locations and land use areas: driveways, traffic circulation, parking and loading spaces, and pedestrian walks, landscaping plans, including site grading, landscape design and screening.
- (3) In reviewing site plans, the Planning Board may impose appropriate safeguards with respect to the following:

- a. The adequacy of parking
- b. Traffic access and circulation for pedestrians and vehicles
- c. Landscaping and screening
- d. The protection of the utilization of renewable energy resources
- e. Exterior lighting
- f. The size, location, and design of signs
- g. Erosion and sedimentation control
- h. Snow removal

### **§506 Subdivisions of Land**

#### **(1) Minor subdivisions:**

- a. Minor subdivisions that meet the minimum area and dimension requirements of this bylaw shall be approved by the Zoning Administrator.
- b. In all subdivisions the applicant shall send a copy of the application with each abutting property owner via certified mail at the time of submission to the Zoning Administrator.
- c. The application for a minor subdivision shall be accompanied by two copies of plot plans prepared by a licensed surveyor depicting the boundary lines of the parcels involved, any wetlands involved, and a map depicting its location in town. Supporting information including design and layout of streets, sidewalks, street lighting, fire protection, landscaping, water supply, wastewater and storm water drainage facilities, public utilities, waste management considerations and other pertinent data shall be supplied. Two copies of all design and layout sheets are required.
- d. No lot that is created as the result of subdivision of land shall have more than 50% of its buildable area in slopes greater than 20%.
- e. The corners of all lots created in any subdivision of land shall be marked with permanent markers such as pipes or stone monuments.
- f. Following the approval of the application, the Zoning Administrator shall comply with 24 VSA §4449.
- g. The permit for the subdivision shall become effective 15 days after such approval.
- h. No public hearing shall be required for a minor subdivision unless a request for a hearing is filed by an interested party within 15 days of the date of publication of the notice. If such a request is filed, the application shall be considered in the same manner as a major subdivision.
- i. A final plat on mylar must be submitted to the Zoning Administrator for approval before the subdivision is filed in the Town's land records.

#### **(2) Major Subdivisions shall be reviewed by the Planning Commission.**

- a. In all divisions the applicant shall send a copy of the application with each abutting property owner via certified mail at the time of submission to the Planning Commission.
- b. Applications for major subdivisions of land shall also be subject to Site Plan Review by the Planning Commission after public notice and hearing. In accordance with 24 VSA §4464(a)(1), the warning period for the public hearing shall not be less than 15 days.
- c. The application for a major subdivision shall be accompanied by two copies of plot plans prepared by a licensed surveyor depicting the boundary lines of the parcels involved, any wetlands involved, and a map depicting the boundary lines of the parcels involved, any

- wetlands involved, and a map depicting its location in town. Supporting information including design and layout of streets, sidewalks, street lighting, fire protection, landscaping, water supply, wastewater and storm water drainage facilities, public utilities, waste management considerations and other pertinent data shall be supplied. Two copies of all design and layout sheets are required.
- d. No lot that is created as the result of subdivision of land shall have more than 50% of its buildable area in slopes greater than 20%.
  - e. The corners of all lots created in any subdivision shall be marked with permanent markers such as pipes or stone monuments.
  - f. The approved subdivision may not be officially filed until all appeal periods have expired and/or all appeals are concluded.
  - g. A final plat on mylar must be submitted to the Planning Commission for approval before the subdivision is filed in the town's land records.

### **§507 Conditional Uses**

- (1) After public notice and hearing, the Planning Commission shall determine if a proposed conditional use has the potential to have an undue adverse effect on the following:
  - a. The capacity of existing or planned community facilities.
  - b. The character of the 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 the municipal plan.
  - c. Traffic on road and highways in the vicinity.
  - d. Bylaws in effect with special reference to this zoning bylaw, and;
  - e. The utilization of renewable energy resources.
- (2) In permitting a conditional use, the Planning Commission may impose, in addition to the regulations and standards expressly specified by this bylaw, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood, or the municipality as a whole. These conditions may include the following:
  - a. Increasing the required lot size or yard dimensions in order to protect adjacent properties.
  - b. Limiting the coverage or height of buildings because of obstruction of view or reduction of light or air to nearby properties.
  - c. Controlling the location and number of vehicular access points to the property.
  - d. Increasing or decreasing road width.
  - e. Increasing the number of off-street parking or loading spaces required.
  - f. Limiting the number, location, and size of signs.
  - g. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property of a character in keeping with the surrounding area.
  - h. Specifying a specific time limit for construction, alteration, or enlargement of a structure to house a conditional use.
  - i. Requiring that any future enlargement or alteration of the use be reviewed by the Zoning Board of Adjustment to permit the specifying of new conditions.
  - j. As a condition of the grant of a conditional use, the Zoning Board of Adjustment may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of 24 VSA and this zoning bylaw.

- (3) Change of use, expansion of contraction of land area or expansion of structures for uses which are designated as conditional uses within the district in which they are located, and which are existing therein prior to the effective date of this bylaw, shall conform to all regulations herein.

#### **§508 Appeals of Zoning Administrator Decisions**

- (1) Any interested person as defined under 24 VSA §4465 may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the town clerk, and by filing a copy of the notice with the Zoning Administrator. A notice of appeal filed under this session shall be in writing and include the following information:
- a. The name and address of the appellant,
  - b. A brief description of the property with respect to which the appeal is taken,
  - c. A reference to applicable provisions of these regulations,
  - d. The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
  - e. The alleged grounds why such relief is believed proper under the circumstances,
  - f. A copy of the original permit application.
- (2) The Zoning Board of Adjustment shall hold a public hearing on a notice of appeal within 60 days of its filing, as required in 24 VSA §4468. The Zoning Board of Adjustment shall give public notice of the hearing under §510 of this bylaw, and shall mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- (3) The Zoning Board of Adjustment may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts presented by or on behalf of the appellant.
- (4) All appeal hearings shall be open to the public and shall be conducted in accordance with the Zoning Board of Adjustment's rules of procedures, as required by 25 VSA §4461. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date, time, and place of the continuation of the hearing are announced at the hearing.
- (5) A decision on appeal shall be rendered with 45 days after the final adjournment of the hearing. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Municipal Clerk as part of the public records of the municipality, in accordance with §510 of this bylaw. If the Zoning Board of Adjustment fails to issue a decision with this 45 day period, the appeal will be deemed approved and shall be effective on the 46<sup>th</sup> day.

#### **§509 Variances**

The Zoning Board of Adjustment shall hear and decide requests for variances in accordance with 24 VSA §4469(a) and appeal procedures under §508 of this bylaw. In granting a variance, the Zoning Board of

Adjustment may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Zoning Board of Adjustment 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:

- (1) 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;
- (2) 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;
- (3) The unnecessary hardship has not been created by the appellant;
- (4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
- (5) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

#### **§510 Public Hearings**

- (1) All public hearing and/or meetings of the planning commission and/or the zoning board of adjustment will be held in accordance with 24 VSA §4461-4464.
- (2) Warnings of the above mentioned hearings/meetings in (1) shall be done in accordance with 24 VSA §4461-4464.
- (3) All meetings and hearings of the Planning Commission and the Zoning Board of Adjustment, except for deliberative sessions, shall be open to the public and conducted in accordance with adopted Rules of Procedure and Vermont's Open Meeting Law. Both written and oral testimony will be accepted at all hearings.
- (4) In any public hearing, there shall be an opportunity for each person to attempt to demonstrate interested party status. The secretary of each respective municipal shall keep a record of the name, address, and participation of these persons.
- (5) The Zoning Board of Adjustment and/or the Planning Commission may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.
- (6) Any action or decision of the Planning Commission and the Zoning Board of Adjustment shall be taken by the concurrence of a majority of the members.
- (7) In accordance with 24 VSA §4464(b), both the Planning Commission and Zoning Board of Adjustment shall issue all decisions with 45 days after the adjournment of the hearing. Failure to issue a decision with the 45 day period shall be deemed approved and shall be effective the 46<sup>th</sup> day.

- (8) All decisions shall be issued in writing and shall include a statement of the factual bases on which the appropriate municipal panel has made its conclusions and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided in accordance with these requirements. The decision shall also include a statement of the time within which appeals may be taken.
- (9) In rendering a decision in favor the applicant, both the Planning Commission and the Zoning Board of Adjustment may attach additional reasonable conditions and safeguards as it deems necessary to implement these regulations and the town plan currently in effect.
- (10) All decisions shall be sent by certified mail, within the required 45 day period to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person appearing and having been heard at the hearing, and filed with the Zoning Administrator and clerk as part of the public record of the municipality.

### **§511 Combined Review**

In accordance with 24 VSA §4462, in cases where a proposed project will require more than one type of development review, the planning commission and the zoning board of adjustment may warn and hold a hearing or single hearing for the purpose of reviewing and acting on the proposal.

- (1) The zoning administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinate applications to facilitate combined review.
- (2) Notice for a combined review hearing shall be made in accordance with 24 VSA §4464(a)(1). The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing.
- (3) All hearing and decision requirements, and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinate where appropriate.

### **§512 Appeals to Environmental Courts**

- (1) In accordance with 24 VSA §4471, and interested person who has offered oral or written testimony in a hearing of the Zoning Board of Adjustment or the Planning Commission may appeal a decision within 30 days of such decision, to the Vermont Environmental Court.
- (2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Zoning Administrator of the Town of Maidstone, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days.
- (3) Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

### **§513 Interested Persons**

The definition of an interested person under 24 VSA §4465(b) includes the following:

- (1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- (2) The Town of Maidstone or any adjoining municipality;
- (3) A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the town plan or bylaw of Maidstone.
- (4) Any ten (10) voters or property owners within the Town of Maidstone who, by signed petition to the Zoning Board of Adjustment or the Planning Commission, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the town plan or bylaw of Maidstone; and
- (5) Any department or administrative subdivision of the state owning property or any interest therein within the municipality, and the Vermont Agency of Commerce and Community Development.

#### **§514 Certificate of Occupancy**

- (1) No use or occupancy of any land or structure may commence until the Zoning Administrator has issued a Certificate of Occupancy in accordance with 24 VSA §4449(2).
- (2) When the Zoning Administrator issues a zoning permit, he or she shall also issue an application for a Certificate of Occupancy. Prior to the use or occupancy of the land or structure, the applicant shall submit a completed Certificate of Occupancy application to the Zoning Administrator.
- (3) At the time the application for a Certificate of Occupancy is submitted, the applicant shall also submit a copy of the septic permit from the State of Vermont, or a letter of determination from the State of Vermont stating that no such permit is required.
- (4) At the time the application for a Certificate of Occupancy is submitted, the applicant shall also submit a certificate of compliance with residential or commercial building energy codes, or credible evidence that no such compliance is required, pursuant to Vermont Public Act No. 89.
- (5) A Certificate of Occupancy shall not be issued until all necessary approvals and permits required by these regulations have been obtained for the project, and the Zoning Administrator determined that the project has been fully completed in conformance with all such approvals and permits.
- (6) Within 14 days of receipt of the application for a certificate of occupancy, the Zoning Administrator will inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. The Zoning Administrator has to either grant or deny the Certificate of Occupancy within 15 days of the receipt of an application. If the application is denied, an appeal must be filed within 15 days of the date of the denial, and hearing will be set in accordance with §508.

### **§515 Permits**

- (1) All violations shall be pursued in accordance with 24 VSA §§4451 and 4452. The Select board shall act on behalf of the Town of Maidstone to impose a fine of up to, but not more than, \$100.00 for each violation. Each day that a violation continues shall constitute a separate offense. All fines imposed and collected shall be paid over to the Town of Maidstone.
- (2) The Zoning Administrator shall not bring any action against an alleged violation unless the alleged offender has had at least seven (7) days' notice by certified mail that such a violation exists. The notice of violation also shall be recorded in the land records of the Town of Maidstone. The notice of violation shall state that:
  - a. A violation exists,
  - b. That the alleged offender has had an opportunity to cure the violation within the seven-day notice period, and
  - c. That the alleged offender will not be entitled to an additional warning notice.
- (3) Within 30 days of the issuance of a notice of violations, the Zoning Administrator shall deliver either the original or a legible copy to the Maidstone Town Clerk for recording in the Town of Maidstone land records.
- (4) The Zoning Administrator may bring action without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day period and within the next succeeding 12 months.
- (5) In accordance with 24 VSA §4454(a), the Zoning Administrator may take action against an alleged violation within 15 days from the date the violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the alleged offender.
- (6) In accordance with 24 VSA §4454(b) the Select board shall not take action against an alleged violator
- (7) Or unless the permit or notice of the permit has been recorded in the land records of the Town of Maidstone.

## **ARTICLE 6: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE, SEPARABILITY**

### **§601 Amendments**

This bylaw may be amended according to the requirements and procedures established in 24 VSA §§4441 and 4442.

### **§602 Interpretation**

- (1) In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
- (2) Except for 24 VSA §4413 and where in this bylaw it is specifically proved to the contrary, it is not intended by this bylaw to repeal, annul, or in any way impair any regulations or permits previously adopted or issued, provided however, that, where these regulations impose a greater

restriction upon use of a structure or land than are required by any other statute, rule, regulation, permit, easement or agreement, the provisions of this bylaw shall control.

### **§603 Effective**

This bylaw shall take effect in accordance with the procedures contained in 24 VSA §4442.

### **§604 Separability**

The invalidity of any article or section of these regulations shall not invalidate any other article or section thereof.

### **§605 Repeal**

Upon the adoption of this bylaw, the former Town of Maidstone Zoning Bylaw, adopted July 8, 2002, is hereby declared repealed and shall have no further force or effect.

## **Article 7: Definitions**

### **§701 Word Definitions**

- (1) The word person includes a firm, association, partnership, trust, company, or corporation, as well as an individual
- (2) The present tense includes the future tense, the singular number includes the plural, and the public number includes the singular.
- (3) The word shall is mandatory, the word may is permissive.

### **§702 Term Definitions**

**Accessory Use:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Acre:** An acre of land contains 43,560 square feet.

**Agriculture:** The business of cultivating the soil, producing crops and/or raising livestock useful to man, and all other practices outlined in the statutory definition of farming, according to Title 10 §6001(22).

**Alteration:** Structural change that increases the exterior height, width, or length of the building, including relocation of, or addition to, an existing building.

**Auto repair:** Any area of land, including structures thereof, which is used or designed to be used for the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers.

**Buffer:** An unused portion of a lot abutting adjacent lots.

**Building:** Any structure for the shelter, support, or enclosure of persons, animals, chattels or property of any kind.

**Building Envelope:** The space within which a structure can be permitted on a lot, as determined by maximum height and minimum setback requirements.

**Building Height:** See height.

**Cemetery:** Property used for the interment of the dead.

**Child care:** A home or facility where the owner or operator is to be licensed or registered by the State for child care.

**Church:** A building where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

**Clinic:** An office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

**Club:** Buildings or use catering exclusively to club members and their guests for recreational purposes.

**Commercial:** Any area of land, including structures thereon that is used or designed to be used for the sale or storage of goods and merchandise, the transaction of business, or the provision of services or entertainment.

**Commercial storage facility:** A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

**Communication facility:** A facility designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various communication devices and equipment.

**Community beach:** A shore of a body of water used as a regular gathering place for persons other than the owners of record which is not for profit.

**Conditional use:** A use that may occur within a district but that shall be reviewed by the zoning board of adjustment under the criteria set forth in §507.

**Daycare center, child:** Any place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care and supervision of children under sixteen years of age outside their homes for periods of less than twenty-four hours a day by a person other than a child's own parent, guardian, or relative, but not including a kindergarten approved by the state board of education.

**Decks:** An open structure (without roof and/or walls). With or without railings, which may be attached to a dwelling unit or other structure.

**Demolish:** The intentional removal of part or all of a structure.

**Depth:** The shortest distance between the front lot line and the rear lot line.

**Dwelling:** A building or structure thereof which is used exclusively for human habitation.

**Dwelling, Accessory:** See §302(3,5) on page 13.

**Dwelling, Accessory, Lake:** See §302(4,5) on page 13.

**Dwelling, Single Family:** One room, or rooms connected together, constituting a separate and single independent housekeeping establishment for owner occupancy, rental or lease, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping.

**Dwelling, Multi-family:** A residential building designed for or occupied by three or more families, living independently of each other individual dwelling units, where the number of families in residence does not exceed the number of dwelling units provided.

**Dwelling, Two family:** A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

**Educational facility:** Includes a parochial, private, public and nursery school, college, university, and accessory uses; and shall exclude commercially operated school of beauty culture, business, dancing, driving, music and similar establishments.

**Essential services:** The erection, construction, alteration, or maintenance by public utilities or municipal or other government agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including pole, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs and similar equipment and accessories in connection therewith, and including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

**Extraction of earth resources:** Excavation and removal of rock, stone, ore, sand, gravel, soil, minerals, and similar materials from the surface or subsurface.

**Family:** A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit. For purposes of this bylaw, "family" does not include any society, club, or like organization.

**Family child care home:** See §315 on page 18.

**Farming:** See agriculture.

**Farm structure:** A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

**Forestry:** Any use directly related to the growing and harvesting of forest products.

**Frontage:** The minimum required length of a lot's front lot line.

**Gas station:** Any building, land area or other premises, or portion thereof used for the sale of vehicular fuels; including as an accessory use the sale and/or installation of lubricant, tires, batteries, and similar vehicle accessories; or as an accessory use, the sale of snack food, tobacco, drinks, newspapers, and similar convenience goods.

**Group home:** See §316 on page 18.

**Height – General:** Height shall be measured as the vertical distance from the highest point of the structure (not including chimneys and other rooftop appurtenances) to the finished grade directly below, except as otherwise provided below.

**Height on sloped lots:** Height shall be measured as the vertical distance from the highest point of the structure to the mean average of the highest and lowest points where the exterior walls meet the finished grade.

**Highway:** Public way for vehicular traffic, which affords the principal means of access to abutting properties.

**Highway frontage:** Lot lines, which abut a public highway.

**Home occupation:** An enterprise which is conducted accessory to a residential use and complies with the limitations in the zoning bylaws. (See §314).

**Hospital:** Includes sanitarium, clinic, rest home, nursing home, convalescent home, home for the aged, and any other place for the diagnosis and treatment of human ailments.

**Hotel:** A building containing rooms which are rented as a series of sleeping units, with each sleeping unit consisting of at least a bedroom and a bathroom.

**Improvable lot:** Any lot that conforms with the minimum area and dimensional requirements for the district in which such lot is located and any lot that can be considered a pre-existing lot under the provisions set forth in §404 herein.

**Light industry:** Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods, or products, provided these activities are conducted in such a manner so as not to generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot.

**Lodging house:** A facility in which rental sleeping accommodations are provided and in which meals also may be provided as part of the rent.

**Lot:** A designated area of land established by subdivision or otherwise permitted by law, that exists as depicted or described on a plat or deed in the Town of Maidstone's land records.

**Lot line, front:** That lot line that separates a lot from either a public or private street, easement, or right-of-way, or, for land locked parcels, that lot line that is bisected by a private easement that provides access from the lot to a public road or public waters. In the case of shoreland lots, the front lot line is considered the line on the side towards the water.

**Lot line, rear:** The lot line opposite and most distant from the front lot line; or in the case of a triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a distance from the front lot line that is not less than any minimum lot depth requirement that appears in this bylaw.

**Lot line, side:** Any lot line other than a front or rear lot line.

**Low income housing:** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy for households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**Mobile home:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

- A. not equipped with self-contained water systems and not registerable for road use.
- B. transportable in one or more sections;
- C. at least eight feet wide or 40 feet long, or when erected, has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- D. Any structure that meets all the requirement of this definition except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code.

**Mobile home park:** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile home park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes.

**Moderate income housing:** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**Modular (or prefabricated) housing:** A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**Motel:** See Hotel.

**Nonconforming lot or parcel:** A lot or parcel that does not conform to the present bylaws covering dimensional requirements, but was in conformance with all applicable laws, ordinances, and regulations

prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

**Nonconforming structure:** A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws; or a structure improperly authorized as a result of error by the Zoning Administrator.

**Nonconforming use:** Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws; or a use improperly authorized as a result of error by the Zoning Administrator.

**Nonconformity:** A nonconforming lot or parcel, structure, or use.

**Outdoor furnace:** A fuel burning device: (1) designed to burn primarily wood; (2) that the manufacturer specifies should or may be installed outdoors or in structures not normally occupied by humans, such as attached or detached garages or sheds; and, (3) which heats spaces or water by the distribution through pipes of a fluid heated in the devices, typically water or a mixture of water and antifreeze. In addition, this term also means any wood-fire boiler that, after the effective date of Vermont state regulation, is actually installed outdoors or in structures not normally occupied by humans, such as attached or detached garages or sheds, regardless of whether such use has been specified by the manufacturer.

**Plat:** A sketch or map of a proposed subdivision which is of sufficient detail for discussion and review.

**Principal building:** A building in which is conducted the main or principal use of the lot on which such building is located.

**Public facility:** Any structure or equipment that is necessary for conducting a service by a government or public utility.

**Recreational facility:** A land use or buildings, including campgrounds, mainly devoted to providing recreational opportunities. For purposes of this bylaw, this definition does not include uses that are for private use and are accessory and clearly subordinate to a residential use.

**Recorded:** Included in and part of the official records in the Maidstone Town Clerk's office. Official records include the land records and the final version of the 2007 Municipal Tax Maps completed by Cartographic Associates for the Town of Maidstone.

**Residential care home:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board. And personal care to three or more residents unrelated to the home operator in accordance with 33 VSA §7102(1).

**Residential use:** Includes single family dwelling, mobile home dwelling, two family dwelling and multi-family dwelling.

**Restaurant:** An establishment where food and drink are prepared, served, and consumed.

**Right of way:** The right of one to pass over the property of another.

**Road frontage:** Distance along a public road or right of way measured in feet.

**Setback:** The distance between any property line and any structure located on the lot bounded by such property lines.

**Shoreland:** The land within 250 feet of any stream, rivers, lakes and ponds. Within the Ponds District, Table 210.04, the shoreland shall be considered to be 500 feet from the ponds surrounded by this district.

**Sign area:** The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure.

**Slope:** Slope percent is calculated by dividing the rise or elevation by the run or horizontal distance. For example, a slope that gains 10 feet or elevation over 100 feet of horizontal distance is a 10 percent slope:  $10/100 = 10\%$ .

**Storage container/self-storage container:** A reusable non-collapsible container of any configuration.

**Stream:** Year-round and intermittent rivers, creeks, and streams as defined on current United States Geological Survey (USGS) 1:2400 scale topographic maps.

**Street:** Public way for vehicular traffic that affords the principal means of access to abutting properties.

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

**Structure:** A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Among other things, structures include signs, buildings, swimming pools, and mobile homes.

**Subdivision, major:** Division of any parcel of land into four or more improvable lots within any five-year period. For the administration of this bylaw, no lot created prior to June 23, 1994 shall be counted.

**Subdivision, minor:** The division of any parcel of land into not more than three improvable lots.

**Travel trailer:** Any vehicle used or so constructed as to permit its being used as a conveyance on public roads, and whether licensed or not, constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping space for one or more persons. A trailer under this local law shall also mean tent trailers, truck campers, and motor homes.

**Use, permitted:** Uses specifically allowed in the district, excluding illegal uses and non-conforming uses. See §209 on page 5.

**Video rental:** A shop engaged in the sale and/or rental of video and audio media.

**Violation:** The commencement or continuation of any land development or use that does not meet the requirements of this bylaw.

**Width:** Length of a lot's frontage along a road or right-of-way.

**Yard:** Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

**Yard, front:** Yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the center of the road to the point of the building closest to the road. In the case of shoreland lots, the front yard is considered the side towards the water.

**Yard, rear:** Yard between the rear lot line and the rear line of a building extended to the side lot lines of the lot. The depth of the rear yard shall be determined from the rear lot line to the rear line of the building.

**Yard, side:** Yard between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.