NOTICE
TOWN OF WEST HAVEN PUBLIC HEARING

Notice is hereby given that the **West Haven Planning Commission** will hold a **Public Hearing on Thursday, April 24th, 2014 at 6:45 pm at the West Haven Town Office, 2919 Main Road,** to take public comments on and to consider for approval and submission to the Selectboard the **updated West Haven Zoning Ordinance.** The Table of Contents is as follows:

ARTICLE I: ENACTMENT, OBJECTIVES, PURPOSE AND SCOPE
ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND MAP
ARTICLE III: ZONING DISTRICT REGULATIONS
ARTICLE IV: USES SUBJECT TO CONDITIONS
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ARTICLE XII: VIOLATIONS AND ENFORCEMENT
ARTICLE XIII: PUBLIC HEARINGS & DECISIONS
ARTICLE XIV: RECORDING REQUIREMENTS
ARTICLE XV: OTHER PROVISIONS

The full text of the proposed Zoning Ordinance and maps are available for public review at the Town Office and on the web at:

http://www.rutlandrpc.org/ftpaccess/WestHavenZoning2014.zip

Planning Commission Reporting Form
for Municipal Bylaw Amendments

This report is in accordance with 24 V.S.A. §4441(c) which states:

"When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide(:)

(A) brief explanation of the proposed bylaw, amendment, or repeal and ....include a statement of purpose as required for notice under §4444 of this title,

This proposal represents a moderate revision to the West Haven Zoning Ordinance that would improve conformance with the recently adopted West Haven Town Plan (2013). Notable among the changes are as follows:

a) Decreased the lot size requirement in the Settlement District from a minimum 5-acre to a minimum 3-acre.
b) Clarified language addressing Lots in More Than One Zoning District;
c) Clarified language addressing Existing Small Lots.
d) Created a provision for Waivers.
e) Created an exemption for small accessory buildings (100 sq. ft. or less)

(A)nd shall include findings regarding how the proposal:

1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing;

This proposed update would either improve or have no effect the availability of safe and affordable housing, specifically within the Settlement District. This update conforms with and furthers the goals and policies of the West Haven Town Plan, including (but not limited to) Section 3.2 Overall Future Land Use Goals and Section 10.2 Settlement District.

2. Is compatible with the proposed future land uses and densities of the municipal plan;

This proposed update is compatible with and brings the existing Bylaws into further conformance with the Future Land uses and densities as proposed in the municipal plan.

3. Carries out, as applicable, any specific proposals for any planned community facilities."

Not Applicable.

Please Note:

❖ The planning commission shall hold at least one public hearing within the municipality after public notice on any proposed bylaw, amendment or repeal and;

❖ At least **15** days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered with proof of the receipt, or mailed by certified mail, return receipt requested, to each of the following:

1. the chairperson of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that abutting municipality;
2. the executive director of the regional planning commission of the area in which the municipality is located;
3. the Department of Economic, Housing and Community Development within the Agency of Commerce and Community Development.

❖ The planning commission may make revisions to the proposed bylaw, amendment, or repeal and to the written report, and shall then submit the proposed bylaw, amendment or repeal and the written report to the legislative body of the municipality. If requested by the legislative body or supported by petition the planning commission shall promptly submit the amendment with changes only to correct technical deficiencies, together with any recommendations.

❖ Simultaneously, with the submission, the planning commission shall file with the clerk of the municipality a copy of the proposed bylaw, amendment, or repeal, and the written report for public review.

TOWN OF WEST HAVEN

ZONING REGULATIONS

Adopted August 4, 1993
Amended May 11, 1999
Amended November 8, 2005
Amended November 14, 2006
Amendments Proposed March 2014

The 2005 update of this regulation was funded in part by a Municipal Planning Grant awarded by the Agency of Commerce and Community Development.

The 2014 proposed amendment of this regulation was updated in partnership with the Rutland Regional Planning Commission.

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ARTICLE I: ENACTMENT, OBJECTIVES, PURPOSE AND SCOPE

Section 101: Enactment

In accordance with 10 VSA Chapter 32 and the Vermont Planning and Development Act, 24 VSA Chapter 117, hereinafter referred to as the "Act", there are hereby established Zoning Regulations for Town of West Haven which shall be known and cited as the "Town of West Haven Zoning Regulations".

Section 102: Objectives and Intent

The objective of the Zoning Regulation is to establish standards and policies concerning development of land which further the goals of the West Haven Town Plan.

It is intended that standards and policies established by the Zoning Regulations reflect and express a sense of community values toward West Haven's Town environment including the value of appearance and congenial arrangement for the conduct of farming, trade, industry, residence and other uses of land necessary to the community's well-being in so far as such values are related to the objectives of the adopted Town Plan.

Section 103: Purpose and Scope

The purpose of this Regulation is for the promotion of the health, safety, or general welfare of the community by establishing regulations and conditions governing the erection and use of buildings, other structures and use of land and natural resources.

ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND MAP

Section 201: Establishment of Zoning Districts

The Town of West Haven hereby establishes the following three (3) Zoning Districts:

A. SD - Settlement District: The Settlement District consists of two areas.

1. SD - A is bounded on the west generally by TH #17 and on the east by Best Road (TH #10). The southern boundary is measured fifteen hundred feet (1500') south from Main Road (TH #2); the northern boundary is measured fifteen hundred feet (1500') north from Main Road (TH #2) except that the Coggman Creek is the boundary in the northwesterly portion of the district.

2. SD - B includes all lands inside of the loop created by Main Road (TH #1), River Road (TH #14) and Hackadam Road (TH #13) and a buffer of one thousand feet (1000') on the opposite side of said roads with the following limitations: the Hubbardton River is the boundary to the northwest along River Road and the Scott right-of-way is the boundary to the southwest on Hackadam Road, excluding the land beginning 1,000 feet from the center of Main Road along River Road, then 400' in a southerly direction perpendicular to River Road, then 2,100 feet running parallel to River Road and then at a right angle 400 feet back to River Road.

B. AD - Agricultural District - All lands not in the SD-A, SD-B or CD.

C. CD - Conservation District - All lands generally in the area in the southwestern part of town including a buffer of one thousand feet (1,000') along the shoreline of Lake Champlain and the Poultney River. Also included are lands generally bounded by the area beginning one thousand feet (1000') from the westerly side of Ghost Hollow Road (TH #3) and five hundred feet (500') from the southerly side of TH #4 and one thousand feet (1000') from the easterly side of TH #21 to the points where they intersect with the above mentioned buffers.

D. FLO: Flood Hazard Overlay District – Flood Hazard Areas consist of all areas identified as areas of special flood hazard in the Town.

Section 202: Zoning and Flood Hazard Maps

The location and boundaries of Zoning Districts are established as shown on the Official Zoning Map. The Official Zoning Map is hereby made a part of these regulations, together with all future amendments. No amendment to this Regulation which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map, signed by the Selectboard and attested to by the Town Clerk. No changes of any nature shall be made in the Official Zoning Map except in conformity with Sections 1105 of this Regulation.

Regardless of the existence of copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map shall be that located in the Town Clerk's office and it shall be the final authority as to the current zoning status of land and water areas.

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

In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources shall be obtained and utilized to administer and enforce these regulations.

Section 203: Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the center lines of roads, streams, transportation and utility rights-of-way shall be construed to follow such center lines;

B. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines;

C. Boundaries indicated as following shorelines shall be construed as the low mean water level.

D. Boundaries indicated as parallel to or extensions of features in A through C above shall be so construed;

E. Any appeal of the data/boundaries of flood insurance studies or maps shall be made directly to the Federal Emergency Management Agency through the Letter of Map Change process.

F. Where circumstances are not covered by A through E above, the Zoning Board of Adjustment shall interpret the district boundaries;

Section 204: Application of Regulations

Hereafter no division of a parcel into two (2) or more parcels, the construction, exterior reconstruction, conversion, structural alteration, relocation or enlargement of any building(s) or other structure(s), or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land shall commence except in

compliance with all regulations in this bylaw for the district in which such building or land is located.

Any use not permitted by these regulations shall be deemed to be prohibited.

ARTICLE III: ZONING DISTRICT REGULATIONS

Section 301: Settlement District

Purpose: The Settlement District contains the Town's existing built-up areas and suggests where future development should be most compact in West Haven. The area, in general, is characterized by a mix of open and wooded lands. Residential and agricultural uses share the district, giving it a separate appearance and character than other, more agrarian or forestry-oriented parts of the community.

Development should occur at a density that reflects existing conditions in the district. Wherever possible, the Town encourages developments to use the least amount of land possible for private residential uses and in order to help retain land for agriculture.

Permitted Uses:

1. One family dwelling
2. Two family dwelling
3. Multi-family dwelling
4. Accessory dwelling unit
5. Professional residence-office
6. Recreation facilities
7. Agriculture and forest use
8. Bed and Breakfast
9. Wildlife refuge
10. Cemetery
11. Nature Preserve
12. Home Occupations
13. Residential Care / Group Home
14. Family Child Care Facility
15. Museum
16. Fire Station
17. State owned and operated facilities
18. Community owned and / or operated facilities
19. Schools, public or private
20. Churches and other places of worship, convents, and parish houses
21. Hospitals

Conditional Uses

1. Cottage industry
2. Mobile home park

Permitted Accessory Uses:

1. Customary accessory uses are permitted.

Required Lot Area:

Each lot shall have a minimum area of ~~five~~ three (~~5~~3) acres. ~~Permits will be contingent upon receipt of State of Vermont water supply and wastewater permits.~~

Frontage on Public Roads or Waters:

Every lot shall have a minimum frontage on a public road or public waters of not less than two hundred (200') feet.

Required Building Setbacks:

A. *Front Yard:* Every building shall be set back not less than sixty (60) feet from the front lot line.

B. *Side Yards:* Every building shall be set back not less than forty (40') feet from the side lot line.

C. *Rear Yards:* Every building shall be set back not less than forty (40') feet from the rear lot line.

D. *Minimum distance to lakes, rivers, streams and ponds* – Every building shall be set back no less than two hundred feet (200') from the annual mean high water mark of lakes, rivers, and ponds.

   It is not intended that this section apply to lands adjacent to man-made impoundments with maximum surface areas of up to one (1) acre, provided such impoundments do not drain into natural streams, rivers, lakes, ponds or wetlands.

E. *Setbacks for accessory structures:* every accessory structure shall be set back no less than twenty feet (20') from all lot lines, rivers, streams lakes or ponds, with the exception noted in D above.

Required Parking Areas:

Off-street parking shall be provided for each lot in accordance with Section 723.

Limitations:

Any construction within the flood hazard overlay district shall meet the applicable requirements.

Section 302: Agricultural District

Purpose: The Agricultural District contains and seeks to maintain West Haven's important agricultural resources - farmland, agricultural soils, and forest soils. Natural features in the District include significant natural areas, deeryards and sensitive areas.

Development in the Agricultural District should, to the greatest extent possible, maintain the low-intensity, active use character of the land. The Town encourages the continued development of

agricultural and forestry enterprises in this district. While residential development is encouraged to take place in the Settlement District, very low intensity construction can take place in a manner that is consistent with the West Haven Town Plan.

Permitted Uses:

1. Agricultural and forest use
2. One family dwelling
3. Two family dwelling
4. Multi-family dwelling
5. Accessory dwelling unit
6. Race track and similar activities
7. Recreation facilities
8. Wildlife refuge
9. Cemetery
10. Motorcoach/trailer camp
11. Bed and breakfast
12. Professional residence-office
13. Nature preserve
14. Home occupations
15. Residential care / group homes
16. Family child care facility
17. Museum
18. Fire station
19. State owned and operated institutions and facilities
20. Community owned and / or operated institutions and facilities
21. School, public or private
22. Churches and other places of worship, convents, and parish houses
23. Hospitals
24. Regional solid waste management facilities
25. Hazardous waste management facilities

Conditional Uses:

1. Cottage industry
2. Gravel pit or mining of stone

Permitted Accessory Uses:

Customary accessory uses are permitted.

Required Lot Area:

Each lot shall have a minimum area of twenty-five (25) acres. ~~Permits will be contingent upon receipt of State of Vermont water supply and wastewater permits.~~

Frontage on Public Roads or Waters:

Every lot shall have a minimum frontage on a public road or public waters of not less than one thousand (1000') feet.

Required Building Setbacks:

A. *Front Yard*: Every building shall be set back not less than sixty (60') feet from the front lot line.

B. *Side Yards:* Every building shall be set back not less than one hundred (100') feet from the side lot line.

C. *Rear Yards:* Every building shall be set back not less than seventy-five (75') feet from the rear lot line.

D. *Minimum distance to lakes, rivers, streams and ponds* – Every building shall be set back no less than two hundred feet (200') from the annual mean high water mark of lakes, rivers, and ponds.

   It is not intended that this section apply to lands adjacent to man-made impoundments with maximum surface areas of up to one (1) acre, provided such impoundments do not drain into natural streams, rivers, lakes, ponds or wetlands.

E. *Setbacks for accessory structures:* every accessory structure shall be set back no less than twenty feet (20') from all lot lines, rivers, streams lakes or ponds, with the exception noted in D above. Docks are exempt from this setback.

Required Parking Areas:

Off-street parking shall be provided for each lot in accordance with Section 717.

Limitations:

Any construction within the flood hazard overlay district shall meet the applicable requirements

<u>Section 303: Conservation District</u>

Purpose: The Conservation District contains West Haven's most important habitat and natural resource lands. Development in the Conservation District should be limited to very low impact uses. The Town, as well as The Nature Conservancy and other major stewards within the district, are committed to preserving and making public use of the unique natural environments in an unobtrusive manner.

Permitted Uses:

1. Agricultural and forest uses
2. Camp

3. Public outdoor recreation
4. Wildlife refuge
5. Cemetery
6. Nature Preserve

Permitted Accessory Uses:

Customary accessory uses are permitted. The total ground floor area of all accessory structures on a parcel shall not exceed 1,600 square feet.

Required Lot Area:

Each lot shall have a minimum area of twenty-five (25) acres.

Frontage on Public Roads or Waters:

Every lot shall have a minimum frontage on a public road or public waters of not less than one thousand (1000') feet.

Limitations:

Any construction within the flood hazard overlay district shall meet the applicable requirements

Required Lot Setbacks:

A. *Front Yard:* Every building shall be set back not less than one hundred fifty (150') feet from the front lot line.
B. *Side Yards:* Every building shall be set back not less than one hundred fifty (150') feet from the side lot line.
C. *Rear Yards:* Every building shall be set back not less than one hundred fifty (150') feet from the rear lot line.

Section 304: Flood Hazard Overlay District

Purposes:

1. To minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding, landslides, erosion hazards, earthquakes, and other natural or human-made hazards.
2. To ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property.
3. To manage all flood hazard areas designated pursuant to 10 V.S.A. § 753.

4. To make the State and municipalities eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

Conditional Uses

All uses listed as permitted or conditional in the underlying district shall be considered as conditional uses in the flood hazard overlay district.

Required Lot Area:

As prescribed in the underlying district.

Frontage on Public Roads or Waters

As prescribed in the underlying district.

ARTICLE IV: USES SUBJECT TO CONDITIONS

Section 401: Conditional Uses

No development listed as Conditional may commence without receipt of a conditional use permit from the Zoning Board of Adjustment following a public hearing and review. In making its determination, the Board shall consider the provisions of this article and all other relevant requirements from these regulations.

Section 402: Waiver of Application Requirements

Any of the information requested in Section 403 may be waived at the discretion of the Board. A request for a waiver shall be submitted to the Board and shall specify which portions are requested for waiver. The applicant shall include a preliminary site plan providing sufficient information upon which the Board can make a decision. The Board may request additional information.

A request for a waiver shall not be considered an application for purposes of timing requirements relating to action on applications.

Section 403: Submission Requirements

The owner and/or applicant shall submit two (2) sets of a site plan and supporting data to the Board, which shall include the following information presented in drawn form and accompanied by written text.

1. Name and address of the owner of record of this, adjoining lands, and lands adjacent (across a road); name and address of applicant; name and address of person or firm preparing the plan; description of the property giving location; scale of map, north point, and date.

2. Sketch of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if any, and the location of proposed structures with distance from lot lines indicated.

3. Site plan showing proposed structure(s), locations and land use areas; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed, including placement of poles; and including water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed equipment such as propane tanks, transformers, etc.

4. Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

5. A traffic study if issues of safety are a concern.

6. The location and size of proposed signs.

7. A certification signed by the applicant that all adjoining and adjacent property owners have been notified by mail of the application. A copy of the notice shall be filed with the certification.

Section 404: Additional Submission Requirements – Flood Hazard Overlay District

In addition to the standards set forth in section 403, the owner and / or applicant shall submit the following when applying for a permit within a federally designated area of special flood hazard:

A. The existing and proposed land contours, streams, roads, other pertinent physical features, buildings and structures.

B. The elevation of the lowest floor including basement of new or substantially improved structures and confirmation as to whether such structure contains a basement.

C. Proposed location of fill and/or storage of materials.

D. Base flood elevation for subdivisions and developments which involve more than 50 lots or 5 acres (whichever is smaller).

E. A demonstration that all necessary permits required by Federal or State law have been obtained.

F. A description of the extent of which any watercourse will be altered or relocated as a result of the proposed development.

G. Any clarifying or supplementary information and data necessary to pass upon the application.

Permitted open space uses shall be exempt from the requirements of paragraphs B, and D above.

Section 405: General Standards for Review

No permit shall be granted unless the applicant demonstrates that the proposed conditional use will not have an undue adverse impact on any of the following:

1. The capacity of existing or planned community facilities, including educational facilities, town government, or fire services;
2. The character of the area, as defined by the purpose of the zoning district and the specifically stated policies and standards of the West Haven Town Plan;
3. Traffic on town or state highways in the vicinity;
4. Local bylaws or ordinances in effect; or,
5. The utilization of renewable energy resources.

Section 406: Cottage Industry

In addition to the standards set forth in section 405, the Board shall consider the following when reviewing an application for a cottage industry:

1. No more than fifty (50) percent of a dwelling may be used for a cottage industry.
2. The dwelling, accessory buildings, and the lot maintain a residential appearance at all times.
3. The cottage industry is clearly secondary to the use of the site for residential purposes.
4. The use is conducted within a portion of the dwelling or a building accessory thereto by the bona fide year-round resident of the dwelling.
5. No more than two (2) employees, in addition to the principal owner, shall be permitted.

Section 407: Extraction of Soil, Sand, or Gravel, or Mining of Stone

In addition to the standards set forth in section 405, the Board shall consider the following when reviewing an application for the extraction of soil, sand, or gravel, or mining of stone:

1. Before approval of any new or extension to a commercial sand or gravel operation, or mining of stone, a performance bond shall be secured from the applicant sufficient to insure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end. The bond shall be sufficient to cover the cost of redevelopment of the site as a park, lake, recreation area or other usable open space.

2. The removal of all material shall be conducted so as to result in the improvement of the land, having due regard to the contours in the vicinity such as leveling slopes and removing hills. The digging or creation of pits or steep slopes shall not be permitted, unless provision is made to refill such pit.

3. The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and soil banks shall not be allowed to remain. The operation site shall be fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation sufficiency to prevent erosion under the supervision and to the satisfaction of the Board ~~of Adjustment~~.

4. All surface drainage effected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All the provisions to control natural drainage water shall meet with the approval of the Board ~~of Adjustment~~.

5. No excavation, blasting, or stock piling of materials shall be located within two hundred feet of any street or other property line.

6. No power-activated sorting machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.

7. All excavation slopes in excess of one (1) foot of rise to two (2) feet of run shall be adequately fenced as determined by the Board ~~of Adjustment~~.

8. Extension of an existing nonconforming operation shall not be permitted.

9. Striping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited.

Section 408: Access to Public Roads or Public Waters via easement

In addition to the standards set forth in section 405, the Board shall consider the following when reviewing an application for an easement for access to a public road or public water from an otherwise inaccessible parcel:

1. Permission and any agreed upon use restrictions, in writing, from the landowner of the property to be used for the easement

2. A map, to scale, of the proposed easement

Section 409: Development within the Flood Hazard Overlay District

In addition to the standards set forth in Section 405 any and other applicable requirements of Article IV, the Board shall consider the following when reviewing an application for development within a flood hazard area:

1. In all Floodway Areas, the Board ~~of Adjustment~~ shall require, as a condition of approval that:
   A. It has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.
   B. In areas where no regulatory floodway has been designated by the National Flood Insurance Program, development shall not be permitted in the floodway, as determined by Section VI.B., unless a technical evaluation is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.
   C. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids or other hazardous or toxic materials, are prohibited within the floodway.
2. In all Floodway Fringe Areas (ie, special flood hazard areas outside of the floodway), the Board ~~of Adjustment~~ shall require, as a condition of approval that:
   A. All development be (i) designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure during the occurrence of the base flood, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and

practices that minimize flood damage, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. Subdivisions (including manufactured home parks) be designed to assure: (i) such proposals minimize flood damage within the flood-prone area; (ii) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and, (iii) adequate drainage is provided to reduce exposure to flood hazards.

C. New residential construction and existing residential buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.

D. New and replacement manufactured homes and existing manufactured homes to be substantially improved be elevated on a permanent foundation such that the lowest floor of the manufactured home is evaluated to at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.

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

F. All new construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a professional engineer or architect at applicant's cost or meet or exceed the following minimum criteria:

   (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

   (b) The bottom of all openings shall be no higher than one (1) foot above grade.

   (c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

G. The flood carrying capacity within any altered or relocated portion of a watercourse be maintained.

H. New and replacement water supply and sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

I. On-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.

J. Recreational vehicles placed on sites with special flood hazard areas shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the requirement of subsection 409(D).

K. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:

(a) Shall not be used for human habitation;

(b) Shall be designed to have low flood damage potential;

(c) Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(d) Shall be firmly anchored to prevent flotation; and,

(e) Shall have service facilities such as electrical and heating equipment elevated or flood proofed.

3. In all areas of special flood hazard, the Board may also consider the following when reviewing an application for development:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments;

B. The danger that materials may be swept onto other lands or down stream to the injury of others;

C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

D. The importance of the services provided by the proposed facility to the community;

E. The necessity of the facility to a waterfront location;

F. The availability of alternative locations not subject to flooding for the proposed use;

G. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

H. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding;

I. The safety of access to the property in times of flood of ordinary and emergency vehicles;

J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

K. The costs of providing governmental and public facilities and services during and after flooding.

Section 410: Mobile and Manufactured Home Parks

In addition to the standards set forth in section 405, the Board may consider the following when reviewing an application for the establishment of a mobile home park:

A. Mobile and Manufactured home lots in a Mobile and Manufactured Home Park shall not be located within a flood way and all mobile home pads within the park, if located in a Flood Hazard Area, shall meet the requirements of Section 409.

B. For manufactured homes to be placed and existing mobile homes to be substantially improved that located in an existing mobile home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

C. All mobile home parks shall have individual lots for units, adequate driveways, and sufficient parking and open or recreational space.

D. The minimum size for a mobile home park shall be 10 acres and shall have at least 2.5 acres per individual mobile home lot.

E. A mobile home park shall consist of no more than 10 mobile home lots.

F. Each mobile home lot shall be at least 20,000 square feet in area, and shall have an average width of at least 100 feet and an average depth of at least 120 feet and shall have planted thereon at least 4 trees of native species of at least 1 inch diameter at chest height.

G. Minimum setbacks shall be 15 feet from all mobile home lot edges. All buildings not physically connected to a mobile home must be at least fifteen (15) feet from all buildings.

H. A minimum of twenty percent of the total land area in any mobile home park shall be set aside for common open space use.

I. The access right-of-way width to the Park and its Lots shall be a minimum of fifty (50) feet with the traveled portions of the road to be at least twenty four (24) feet in width. There shall be a minimum road base depth of fifteen (15) inches of gravel within the right of way. The Right of Way shall have suitable grade and alignment to allow for servicing of the Lots by fire, rescue, utility and other vehicles ordinarily and necessarily incident to such use and shall be maintained by the owner to town road standards.

J. Minimum radius of curves on access rights-of-way shall be at least thirty (30) feet.

K. There shall be no dead end rights of-way unless with a turnaround or cul de sac having at least a fifty (50) foot interior radius.

L. At least two (2) off street parking spaces shall be provided for each mobile home. Minimum surface treatment of such parking spaces shall be gravel. The space may be included in the minimum lot area requirement and shall be indicated on the site plan.

M. Suitable provisions shall be made for the protection of pedestrian traffic.

N. Each lot should be landscaped according to State regulations and maintained by owner or lessee.

O. Provisions for the following facilities may be made by the owner: laundry, recreation building, central maintenance shed, central TV antenna system, and underground utilities, including fuel storage.

ARTICLE V: NONCONFORMITIES

Section 501: Construction Approved Prior to Adoption or Amendment of Regulations

Nothing contained in these Regulations shall require any change in a nonconformity which existed prior to, or was substantially completed by, the adoption of this bylaw.

Section 502: Change of Use Nonconformity

A use nonconformity may be changed to another use nonconformity only with the approval of the Board ~~of Adjustment~~ and then only to a use which in the judgment the Board is of a lesser, or no more, nonconforming nature. Whenever a use nonconformity has become conforming, it shall not be changed back to a use nonconformity.

Section 503: Extension of a Use Nonconformity within a Structure

A use nonconformity may be extended throughout the structure, provided no structural alterations or changes are made therein, except those required by law or ordinance or as may be required for safety or necessary to secure or insure the continued advantageous use of the structure during its lifetime.

Section 504: Enlargement of a Use Nonconformity

A use nonconformity may be enlarged on the same lot with the approval of the Board of Adjustment, provided that:

A. All provisions of these Regulations, except type of use, are complied with;

B. The Zoning Board of Adjustment determines that there will be no undue, adverse affect on the character of the neighborhood;

C. The total enlargement or the sum of separate enlargements does not exceed thirty (30%) percent of the area of the nonconforming use in existence at the time the activity first becomes a nonconformity

Section 505: Restoration of a Use Nonconformity

Any use nonconformity which has been damaged by any cause, shall only be restored to the pre-existing nonconforming use as long as that restoration is commenced within one (1) year of such damage and completed within three (3) years.

Section 506: Discontinuance of Use Nonconformity

Any use nonconformity which has ceased by discontinuance or abandonment for a period of one (1) year shall thereafter conform to the provisions of these Regulations. Intent to resume a

nonconforming use shall not confer the right to do so unless actual resumption occurs within the specified time period.

Section 507: Maintenance of a Dimensional Nonconformity

A dimensional nonconformity of a structure may be normally maintained and repaired provided that such action does not increase the degree of nonconformance.

Section 508: Expansion of a Dimensional Nonconformity

A dimensional nonconformity of a structure may be expanded provided such action:

1. Does not create a greater nuisance, detriment to the public health, safety or welfare than the existing dimensional nonconformity; and

2. The extension, expansion or intensification of the dimensional nonconformity shall conform to all other requirements applicable under these Regulations.

Section 509: Replacement of a Dimensional Nonconformity

Any dimensional nonconformity of a structure may be replaced to the pre-existing nonconformance as long as that restoration is commenced within one (1) year of such damage and completed within three (3) years. If such restoration is not completed within that time, any subsequent construction shall conform to the current Regulations.

Section 510: Development on Existing Small Lots

Any lot that is legally subdivided, is in individual and separate and non-affiliated ownership from surrounding properties, and in existence on the effective date of the regulations, may be developed for the purpose permitted in the district in which it is located, even though not conforming to minimum lot size requirements.

Any development under this section that does not meet the setback requirements of the district in which it is located requires a variance in accordance with Article XI.

Section 511: Merger of Pre-Existing Small Lots
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.

~~**Section 511: Development on a Lot or Parcel with a Dimensional Nonconformity**~~

~~An existing nonconforming lot may be normally developed upon provided that all provisions of these regulations, except those which create the dimensional nonconformity, are complied with.~~

Section 512: Alternation of a Lot or Parcel with a Dimensional Nonconformity

The boundaries of a lot or parcel with a dimensional nonconformity may be altered only in a manner that decreases, or does not increase, the degree of nonconformity.

Section 513: Nonconformities in a Flood Hazard Area

The Zoning Board of Adjustment, after public hearing, may approve the repair, relocation, replacement, or enlargement of a use or dimensional nonconformity within a regulated flood hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:

1) The Board finds that the repair, relocation, or enlargement of the use or dimensional nonconformity is required for the continued economically feasible operation of a nonresidential enterprise.

2) The Board finds that the repair, relocation, or enlargement of the use or dimensional nonconformity will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.

3) The permit so granted states that the repaired, relocated, or enlarged use or dimensional nonconformity is located in a regulated flood hazard area, does not conform to the bylaws pertaining to that area, and will be maintained at the risk of the owner.

ARTICLE VI: DEFINITIONS

Section 601 - Definitions

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural. The word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; the words "occupied" or "used" shall be considered as through followed by "or intended, arranged, or designed to be used or occupied'; the word "person" includes "individual, partnership, association, corporation, company or organization".

Accessory Dwelling Unit. An efficiency or one-bedroom apartment that is clearly subordinate to a single family dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

Accessory Structure or Use. A use or building customarily incidental and subordinant to the principal building or use and located on the same parcel of property with such principal use.

Administrative Officer. Refers to the Town's Zoning Administrator or the person appointed to administer the zoning regulations.

Agricultural Use. Land containing at least two (2) acres which is used for raising livestock, or agricultural or forest products, including farm structures and the storage of agricultural equipment; riding and boarding stables; kennels; and, as an accessory use, the sale of agricultural products raised on the property.

Alteration. Structural changes, rearrangement, change of location, or addition to a building, other than repairs and modification in building equipment.

Basement. Any area of a building having its floor below ground level on all sides. A basement shall be counted as a story if the vertical distance between the basement ceiling and the average grade level of the adjoining ground is more than six feet.

Bed and Breakfast. A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

~~**Board of Adjustment, Board.** A body appointed by the Board of Selectmen to decide cases involving variances, conditional uses, appeals, and other matters as set forth in these regulations.~~

Building. Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel.

Camp. A building suitable for seasonal or temporary living purposes and never occupied for more than three (3) months in any twelve (12) month period and without indoor plumbing facilities.

Camping Trailer. See Trailer.

Change in Use. The change from one use to another use.

Conditional Use. A use which, for a given district, is generally acceptable, for which there may be a need to include additional / unique requirements to maintain the area's character. See Article IV.

Cottage Industry: An activity, carried out in a dwelling or accessory structure, such as home offices, repair services, business and personal services, and goods produced or manufactured on site and which meets the conditions of Section 405. Cottage industries also include a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Day Care Facility. See Family Child Care Facility

Development. The division of a parcel into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building(s) or other structure(s), or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. Development shall not include the usual and customary removal of rock, gravel or related materials from mining operations that pre-exist this regulation or are operating under a valid permit. See also Section 602

Dimensional Nonconformity: A structure, lot or land or part thereof not in conformance with the dimensional requirements of this Regulation.

Dwelling / Dwelling Unit. Building or part thereof used as a living quarters for one (1) family. The terms "dwelling", "one-family dwelling", "two-family dwelling", "multi-family dwelling", or "dwelling group" shall not include a motel, hotel, boarding house, bed and breakfast, or similar building but shall include mobile homes.

Dwelling, One-Family. Detached building used as living quarters by one (1) family, including manufactured homes. (see also dwelling).

Dwelling, Multi-family. Building used as living quarters by three or more families living independently of each other (see also dwelling).

Dwelling, Two-family. Building used as living quarters by two (2) families, living independently of each other (see also dwelling).

Family: One (1) or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage or adoption, no such single housekeeping unit shall contain more than five (5) members.

Family Child Care Facility. Child care facilities registered or licensed under all applicable State laws. See also section 720

Floor Area. Sum of the gross horizontal area of the floors of a building, excluding basement floor areas. All dimensions shall be measured between interior wall faces.

Front Line, Building. The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

Frontage. The length of a lot which abuts a public street or public water, measured at the street or high mean water mark water from one lot line to the opposite lot line.

Grade, Finished. Completed surfaces of ground, lawns, walks, paved areas, and roads brought to grades as shown on plans relating thereto.

Hazardous Waste Management Facilities: Hazardous waste management facilities for which notice to construct has been received under 10 VSA §6606(a)

Home Occupation. Any use conducted within a primary dwelling or an accessory structure and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the property for living purposes and does not change the residential character thereof. See Section 704.

Hospital, Public or Private: Hospital licensed by the State of Vermont under all applicable regulations

Junk Yard: Any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping three (3) or more unlicensed motor vehicles which are visible from any portion of a public highway.

Land Development. See development.

Lot. Land, in separate and non affiliated ownership, occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the minimum area, width, and depth required for a lot in the district in which such land is situated, and having frontage on the street, or other means of access.

Lot Area. Total area within the property line as shown on the property boundary maps.

Lot, Corner. A lot abutting on and at the intersection of two or more streets.

Lot Coverage. The percentage of the lot area covered by the building area determined by dividing that area which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

Lot Depth. Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line.

Lot Line. Property lines bounding a lot.

Lot Width. Width measured at right angles to its lot depth, at the required building front line.

Manufactured Home: A factory built, one-family structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities as a place of human habitation but which is not constructed for transport other than to permit delivery to a permanent site. See also Dwelling, Single Family. See also Section 602

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Mobile Home. See manufactured home.

Mobile Home Park. A parcel or parcels of land under single or common ownership or control which contains, or is designed, laid out or adapted or intended to accommodate more than two (2) mobile homes. The term "Mobile Home Park" shall exclude lands used solely for storage, sale or display of mobile homes. See Section 410.

Mobile Home Park Lot. A division of a mobile home park intended for the siting of a mobile home.

Motorcoach/Trailer Camp. A parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate two or more trailers or motorcoaches.

Museum. A building or area, open to the public, serving as a repository for historic, cultural, architectural, or related articles, operated by Federally registered not-for-profit organization.

Nature Preserve. Includes activities such as walking, hiking, snowshoeing, cross country skiing, canoeing, hunting, fishing, nature observation, photography and bird watching.

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

Official Zoning Map. The one true copy of the Town Zoning Map located in the office of the Town Clerk.

Parking Space: Off-street space which is at least nine (9) feet wide and twenty-two (22) feet long, used for the temporary location of one licensed motor vehicle not including access drive-way and having direct access to a street or other right-of-way.

Personal Services. Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, photographic studio, and businesses providing similar services of a personal nature.

Principal Building. A building in which is conducted the main or principal use of the lot on which said building is located.

Professional Residence-Office. Residence in which the occupant has a professional office of an architect, accountant, chiropractor, dentist, doctor of medicine, landscape architect, land surveyor, lawyer, optometrist, osteopath, physiotherapist, consultant, podiatrist, engineer, or psychologist, which does not change the residential character thereof, and where not more than one (1) person outside the family is employed.

Public Road: See Street

Public Water: for the purposes of frontage requirements, public waters within the Town of West Haven are Lake Champlain, the Poultney River, and the Hubbardton River.

Race tracks. Includes race tracks and similar activities, and their associated structures

Regional Solid Waste Management Facilities: Regional Solid Waste Management Facilities certified under 10 VSA chapter 159.

Recreational facilities. Includes, golf courses, trap, skeet and archery ranges, riding stables, parks, tennis courts, skiing facilities, and similar places of recreation.

Repair: Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.

Residential Care Home / Group Home. A facility serving as the primary residence of multiple handicapped or disabled persons and operating as a single housekeeping unit. (See section 719)

School: Public and private schools and other educational institutions certified by the state department of education.

Sign. Sign means any structure, display, device or representation which is designed or used to advertise or call attention to or direct a person to any business, association, profession, commodity, product, institution, service, entertainment, person, place, thing, or activity of any kind whatsoever, and is intended to be visible from a public road. Whenever dimensions or areas of signs are specified, they shall include all panels, frames, and supporting structures excluding the building to which a sign may be attached.

Sign, Illuminated Internally. A sign usually constructed of plastic material that is illuminated from an electrical source behind the sign face, referred to as backlighting.

Street or Road. Public way for vehicular traffic which affords the principal means of access to abutting properties.

Stable, Private. An accessory building in which horses are kept for private use and not for hire, remuneration, or sale.

State or community-owned and operated facilities: buildings and structures owned and operated by the Town of West Haven or the State of Vermont.

Street Grade. Officially established grade of the street upon which a lot fronts. If there is not officially established grade, the existing grade of the street shall be taken as the street grade.

Street Line. Right-of-way of a street as dedicated by a deed of record. Where width of the street is not established, the street line shall be considered to be thirty (30) feet from the centerline of the street pavement.

Structure. An assembly of materials for occupancy or use including, but not limited to, a building, mobile home or trailer, sign, docks, except small sheds typically used for storage and not exceeding 100 square feet. See also Section 602

Trailer. Includes any vehicle used as sleeping or camping or living quarters mounted on wheels; or a camper body usually mounted on a truck; and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, or boats; or is used as a temporary office.

Use, Permitted. Use specifically allowed in a district, subject to all applicable regulations and approval by the administrative officer.

Use Nonconformity: A use of land, lot, or structure which does not comply with the use regulations for the district in which it is located.

Utility, Public. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, communications, water, sewer, or transportation.

Wetland. An area that is inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Wildlife Refuge. Habitats that provide necessary food and cover for wildlife species at any period of its existence, including breeding and migratory periods

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

Yard, Front. Yard between the front lot line and the front line of a principal or accessory building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building.

Yard, Rear. Yard between the rear lot line and the rear line of a principal or accessory building extended to the side lot lines of the lot. The depth of the rear yard shall be measured 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.

Zoning Board of Adjustment, Board. A body appointed by the Board of Selectmen to decide cases involving variances, conditional uses, appeals, and other matters as set forth in these regulations.

Zoning District. A section of the Town designated in the zoning ordinance text and delineated on the Official Zoning Map, in which requirements for the use of land, and building and development standards are prescribed.

Zoning Permit. The official permit applied for through and issued by the Administrative Officer for any land development or change of use within the Town of West Haven.

Section 602 – Definitions in areas of special flood hazard

In addition to the definitions listed in Section 6501, the following definitions shall apply in areas of special flood hazard in the Town of West Haven:

Area of special flood hazard: The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year commonly referred to as the 100 year flood plain. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, or A99.

Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year. This is also known as the 100-year flood.

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

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

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

Expansion to an existing manufactured home park or subdivision The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood Hazard Area: See "Area of Special Flood Hazard."

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

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

Flood Plain: The area generally encompassed by the 100 year flood boundaries including the floodway and floodway fringe. See "Area of Special Flood Hazard."

Flood Proofing: Any combination of structural and nonstructural addition, changes, or adjustment to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

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

Floodway Fringe: The land in the Area of Special Flood Hazard not located in the floodway.

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

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the National Flood insurance Program Regulations.

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

M**anufactured home park or subdivision. A** parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

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

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

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

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

a. before the improvement or repair is started; or
b. if the structure has been damaged, and is being restored, before the damage occurred.

The term does not, however, include:

a. any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
b. any alteration of a structure listed on the National Register of Historic Places, or a State Inventory of Historic Places.

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

ARTICLE VII: GENERAL REGULATIONS

Section 701: Compliance with Regulations

No land, building, or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure, shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with this Regulation.

No lot shall have an area, width, or a front, side or rear yard, less than that set forth unless otherwise provided for in this Regulation.

Section 702: Required Frontage on, or access to, Public Roads or Public Waters

Land development shall only be permitted on lots which:

1. Have sufficient frontage on public roads and/or public waters as prescribed in Article III of these regulations;

~~2. Are nonconforming lots by reason of insufficient public road or public water frontage; or~~

~~3.~~2. Have no access to public roads or public water and are, with the approval of the Zoning Board of Adjustment, granted permanent easements or right-of-ways of not less than 20 feet in width. Applications for access shall be treated as conditional uses as prescribed in Article IV of these regulations.

The design of access to Town roads must be approved by the Selectboard or their designee.

Section 703: Home Occupations

Residents may use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located~~ so long as:~~ Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:

A. The home occupation is carried on only by members of the family; two additional employees who are not members of the family are permitted;~~;~~

B. The home occupation is clearly incidental and secondary to the residential use of the property, and shall be conducted wholly ~~is carried on~~ within the dwelling or accessory structure;

C. No Exterior displays or signs, other than those normally permitted in the district, or exterior storage of materials are present;

D. Traffic is not generated in greater volumes than would normally be expected in the neighborhood;

E. No objectionable vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home occupation

~~E. Parking is provided off-street; and,~~

G. Only goods produced or assembled on the premises may be sold.

Where it is determined by the Administrative Officer that the proposal does not meet the definitions or standards of home occupations above, the applicant may apply for a permit under the broader use regulations (commercial, industrial, etc.) as determined by the district in which the parcel is located. ~~All home occupations will be required to obtain a zoning permit. An application will be filed with the Administrative Officer who shall determine if the above general standards can be met, and, if so, will issue the permit~~.

Section 704: Yard Setbacks

Notwithstanding the provision for front yard setbacks elsewhere in these Regulations, on streets with less than 50-foot right-of-way, the front yard setback requirements shall be measured from the center line of the existing roadway and 25 feet shall be added to that front yard setback requirement.

Section 705: Lot Limitations

In all districts only one principal building shall be placed on a zoning lot. This requirement shall not apply to working farms where one additional residential structure is permitted for use by a farm employee and farm structures are also permitted.

Section 706: Vision Clearance

In all districts on a corner lot, within the triangular area formed by the intersection of two street property lines and a third line joining them at point twenty five (25) feet away from their intersection, there shall be no obstruction to vision between the height of three (3) feet and ten (10) feet above the average grade of each street.

Section 707: Lots in More Than One Zoning District

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than fifty (50) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.~~Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restrictive part of such lot shall extend into the more restricted part of the lot so far as is necessary, but no further, for the development of such lot for a purpose permitted in the less restrictive zone.~~

Section 708: Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these Regulations shall be smaller than prescribed for the district in which the lot is located.

The provisions of this section shall not apply when part of a lot is taken for a public purpose.

Section 709: Temporary Uses and Structures

Temporary permits may be issued by the Administrative Officer for a period not exceeding one (1) year, for nonconforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one (1) year. In no case, however, shall a temporary permit, or its renewals, exist for a total of more than three (3) years.

Section 710: Destroyed or Demolished Structures

Within six (6) months after work on an excavation for a building has begun or within six (6) months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the owner.

Section 711: Approval of Plats

No proposed plat of a new subdivision or resubdivision shall be approved unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this regulation.

Section 712: Equal Treatment of Housing

Nothing in these regulations shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

Section 713: Storage of Flammable Liquids, Solids, and Gases

Storage of flammable liquids, solids and gases shall comply with the relevant Federal provisions and State regulations.

Section 714: Performance Standards

No land or building in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious, or otherwise objectionable conditions in such a manner or in such an amount as to adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose. The burden of proof that the following standards are met shall be on the applicant.

A. Noise: No noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted.

B. Odor: No emissions of objectionable odor beyond the property line of a premise shall be discharged, caused, allowed, or permitted.

C. Fly Ash, Dust, Fumes, Vapors, Gases, Other Forms of Air Pollution: No emission shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property which can cause any excessive soiling, at any point on the property of others.

D. Vibration: No vibration shall be permitted which shall cause or result in any noticeable, clearly apparent vibration of or on the property of another landowner under normal conditions.

E. Glare, Lights, Reflection: 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.

F. Fire, Explosive or Safety Hazard: No fire, explosive, or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities or services.

G. Storage of Flammable Liquids: The storage of any highly flammable liquid in tanks above ground with unit capacity greater than five hundred-fifty (550) gallons shall be prohibited, unless such tanks up to and including ten thousand (10,000) gallon capacity are placed not less than eighty (80) feet from all property lines, and unless all such tanks of more than ten thousand (10,000) gallon capacity are placed not less than two hundred (200) feet from all property lines. ~~In any case, the storage of flammable liquids will not be allowed within the Village boundaries.~~

Section 715: Yards on Corner Lots

Any yards adjoining a street shall be considered a front yard for the purposes of these regulations, and shall meet the minimum front yard requirements.

Section 716: Signs

No signs or billboards shall be permitted in any district except as specifically permitted herein as follows:

A. Advertising Billboards

1. Advertising billboards shall not be permitted in any zoning district.

2. Outdoor advertising is regulated by State Act No. 333, entitled "An Act to Provide Services for Tourists and to Regulate Outdoor Advertising."

B. Permitted Signs. The following signs are permitted when located on the immediate property and shall not require a permit:

1. One professional, home occupation, agricultural sales, or farm stand sign, not exceeding four square feet.

2. Two temporary real estate signs not exceeding six square feet each.

3. Signs identifying any non-residential building or use permitted in residential districts, not exceeding a total of twelve square feet.

4. Directional or information sign, not exceeding four square feet.

5. Signs necessary for public safety or welfare.

C. Computation of permissible sign area. When computing the total permissible sign area for any use:

1. Existing signs shall be included.

2. The total area of all signs shall not exceed the requirements as set forth in these Regulations.

3. Signs consisting of free standing letters, numerals or other device shall include any intervening spaces between them.

4. Only the larger face area of a double-faced or V-type sign shall be used.

5. Back to back signs may be counted as one sign.

D. Traffic hazard, safety and obstruction. Every sign shall be designed and located in such a manner as to:

1. Not impair public safety.

2. Not restrict clear vision between a sidewalk and street.

3. Not be confused with any traffic sign or signal.

4. Not prevent free access to any door, window or fire escape.

E. Illuminated and flashing signs.

1. Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other properties.

2. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or welfare.

Section 717: Parking

Except as otherwise provided, for every building hereafter erected, altered, extended, or changed in use, there shall be provided off-street parking spaces and off-street loading in accordance with this Article.

Residential: 2 spaces per dwelling unit.

Home Occupations: 2 spaces in addition to the requirement for the dwelling.

Other Uses: For those uses not defined above the Planning Commission shall use the parking standards published by the Institute of Traffic Engineers, current edition.

Section 718: Accessory Dwelling Units

One accessory dwelling unit may be located within or appurtenant to an owner-occupied dwelling unit provided the unit complies with the following:

A. The property has sufficient wastewater capacity;

B. The unit does not exceed thirty percent of the total habitable floor area of the single family dwelling;

C. Applicable setback, coverage, and parking requirements specified in these Regulations are met.

Section 719: Residential Care / Group Homes

Residential care homes or group homes, operated under state licensing or registration, and serving not more than eight persons who have a handicap or disability as defined in 9 VSA 4501, are considered by right to constitute a single family residential use of property. Notwithstanding, no such home shall be located within 1,000 feet of another existing or permitted such home.

Section 720: Family Child Care Facility

A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but requires site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children shall be reviewed as a conditional use.
~~Family child care facilities are regulated according to the following schedule:~~

~~1. A family child care home serving up to six full-time children and four part-time children shall be considered to constitute a permitted single family residential use of property.~~

~~2. A family child care facility serving more than six full-time and four part-time children shall be subject to conditional use review.~~

Section 721: Multi-family Dwellings

Multi family dwellings shall be considered a conditional use in the Settlement District, and are subject to the following conditions: ~~shall have a~~

A. Multi family dwellings must have a minimum lot area of ~~7.5~~6 acres; ~~and~~
B. Lots must have a minimum road frontage of 300 feet.

Section 722: Town-owned lots or parcels

A. Nothing in these regulations shall prohibit the acquisition by the Town of West Haven of a lot or parcel that is smaller than the minimum lot size in the applicable district. Development on such lots shall be limited to those permissible under ~~Section 303~~Article III.

B. Town owned or operated structures may be granted reduced setbacks by the Zoning Board of Adjustment. Any such request shall be subject to conditional use review.

ARTICLE VIII: MUNICIPAL APPOINTMENTS

Section 801: Administrative Officer

The West Haven Selectboard shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with the Act [§4448]. The Selectboard may remove an Administrative Officer for cause at any time after consultation with the Planning Commission.

An acting Administrative Officer may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Administrative Officer in the Administrative Officer's absence. In the event an acting Administrative Officer is appointed, the Legislative Body shall establish clear policies regarding the authority of the Administrative Officer relative to the authority of the acting Administrative Officer.

The Administrative Officer shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

The Administrative Officer may enter upon property in the performance of his duties, to inspect property for which application for a zoning permit has been made, or upon which unauthorized development is occurring. This inspection shall take place in the presence of the owner of the property, or after prior written notice by certified mail.

If other municipal permits or approvals are required, the Administrative Officer shall facilitate the retrieval of necessary forms for the applicant with necessary forms. The Administrative Officer may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

Section 802: Planning Commission

The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Legislative Body in accordance with the Act [§§4321– 4323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Legislative Body.

The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under the Act [§4323(b)] and Vermont's Open Meeting Laws. In accordance with the Act, the Commission shall have the following duties in association with these regulations:

- prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, include amendments submitted by petition [24 VSA §4442];
- prepare and approve written reports on any proposed amendment to these regulations as required by the Act [§4441(c)]; and.
- 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 Legislative Body [§4441(d)].
- 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 the Act [§4461(a)] and Vermont's Open Meeting Law. The Commission shall have all powers and duties as set forth in the Act to administer applicable provisions of these regulations.

Section 803: Zoning Board of Adjustment

The Zoning Board of Adjustment shall consist of not less than three (3) nor more than nine (9) members appointed by the Legislative Body for specified terms in accordance with the Act [§4460(b) and (c)]. The Legislative Body also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Board ~~of Adjustment~~ may be removed for cause by the Legislative Body upon written charges and after public hearing.

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law. The Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- appeals from any decision, act or failure to act by the Administrative Officer (Section 1001), and any associated variance requests (Section 1101);
- applications for conditional use approval (Articles IV and XIII)~~;~~

ARTICLE IX: ZONING PERMITS

Section 901: Applicability

No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of West Haven until a zoning permit has been issued by the Administrative Officer, as provided for in the Act [§§4448, 4449].

Section 902: Exemptions

No zoning permit shall be required for the following activities:

1) Accepted agricultural (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)] and Article III. Written notification, including a sketch plan showing structure setback distances from road rights-or-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
2) Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
3) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
4) Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs.
5) Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
6) Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
7) Exterior alterations to structures which do not result in any change to the footprint or height of the structure or a change in use.
8) Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
9) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Articles III and IV.
10) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails).

11) Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.

~~11)~~12) Small accessory buildings associated with residential uses which are less than 100 square feet of floor area and less than fourteen (14) feet in height, and are not located within required setback areas.

Section 903: Applications

Application Requirements. An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application. In addition, the following information will be required as applicable:

Permitted Uses. Applications for a permitted use shall include a sketch, no smaller that 8.5" x 11", drawn to scale, that depicts the following:

(1) the dimensions of the lot, including existing property boundaries;
(2) the location and footprint of existing and proposed structures or additions;
(3) the location of existing and proposed accesses (curb cuts), driveways and parking areas;
(4) the location of existing and proposed easements and rights-of-way;
(5) existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands;
(6) other such information as required by the Administrative Officer to determine conformance with these regulations.

Uses Subject to Development Review. For development requiring one or more approvals from the Zoning Board of Adjustment prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Secretary of the Board ~~of Adjustment~~.

Flood Hazard Area Approval. Any application for development within the Flood Hazard Area shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, the Federal Insurance Administrator, and adjacent municipalities in accordance with the Act [§4424(D)] and Sections 409 and 904 of these regulations.

Section 904: Issuance

A zoning permit shall be issued by the Administrative Officer only in accordance with the Act [§4449] and the following provisions:

1) Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Zoning Board of Adjustment and / or state for consideration. In

accordance with the Act [§§4448, 4449], if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.

2) Prior to issuing a permit within the Flood Hazard Area, a copy of the application and supporting information shall be submitted by the administrative officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

3) Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

4) No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Zoning Board of Adjustment or Legislative Body until such approval has been obtained.

5) For permit applications within a flood hazard area, no zoning permit shall be issued until a response has been received from the Vermont Agency of Natural Resources, or the expiration of 30 days following the referral of the application to the state.

6) If public notice has been issued by the Legislative Body for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Administrative Officer shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [§4449(d)].

7) A zoning permit shall include a statement of the time within which appeals may be taken under Article X; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.

8) The Administrative Officer, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.

Section 905: Effective Date

No zoning permit shall take effect until the time for appeal under Article X has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

Zoning permits and associated approvals shall remain in effect for five (5) years from the date of issuance, unless the permit and associated approvals specify otherwise. All development authorized by the permit shall be substantially commenced within two (2) years or reapplication and approval shall be required to continue development.

ARTICLE X: APPEALS

Section 1001: Appeals of Administrative Officer Actions

Any interested person as defined under the Act [§4465] may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Zoning Board of Adjustment, or the Municipal Clerk if no Secretary has been elected, and by filing a copy of the notice with the Administrative Officer.

1) The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The Board shall give public notice of the hearing under Article XIII, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

2) The Board 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 by or on behalf of the appellant [§4470].

3) In accordance with the Act [§4468], all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. 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 and place adjourned hearing shall be announced at the hearing.

4) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. 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 Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with Article XIV. Failure of the Zoning Board of Adjustment to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

Section 1002: Interested Persons

The definition of an interested person under the Act [§4465(b)] includes the following:

1) the Town of West Haven or an adjoining municipality;

2) 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 plan or regulations of the municipality;

3) any ten (10) voters or property owners within the municipality who, by signed petition to the Zoning Board of Adjustment, 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 plan or regulations of the municipality; and

4) any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Section 1003: Notice of Appeal to the Zoning Board of Adjustment

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act [§4466]:

1) the name and address of the appellant;
2) a brief description of the property with respect to which the appeal is taken;
3) a reference to applicable provisions of these regulations;
4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
5) the alleged grounds why such relief is believed proper under the circumstances.

Section 1004: Appeals to Environmental Court

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the Zoning Board of Adjustment may appeal a decision rendered by the Board under Section 1004, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

1) "Participation" in a Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Municipal Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. 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.

ARTICLE XI: VARIANCES & WAIVERS

Section 1101: Variance Criteria

The Zoning Board of Adjustment shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Article X. In granting a variance, the Board 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 Board may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

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.

Section 1102: Variances: Renewable Energy Structures

Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act [§4469(b)], the Board may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:

1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;

2) The hardship was not created by the appellant;

3) 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, nor be detrimental to the public welfare; and

4) 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.

Section 1103: Variances within the Flood Hazard Area

In addition to requirements under Section 1101, variances for development within Flood Hazard areas shall be granted by the Board only:

1) in accordance with the Act and the criteria for granting variances found in CFR Section 60.6 of the National Flood Insurance Program;

2) upon determination that during the base flood discharge the variance will not result in increased flood levels; and

3) upon determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In granting a variance, the Board 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.

For approved Variances, the Secretary of the Zoning Board of Adjustment shall notify the applicant and include on the permit a notation that:

A. the structure is located below the base flood elevation will result in increased premium rates for flood insurance and increases the risk of life and property; and,

B. the structure is located in a regulated floodhazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner.

Section 1104: Waivers

Waivers may be granted for a permitted use by the Zoning Administrator to reduce dimensional requirements as needed to allow for disability accessibility, fire safety, and other requirements of law.

Waivers may be considered by the Zoning Board of Adjustment for Conditional Uses to reduce dimensional requirements, but not density requirements, if the proposed development meets any of the following criteria:

1) The proposed development conforms to the existing development patterns of the immediate neighborhood.
2) The proposed development will more effectively preserve open land or scenic vistas.

3) The proposed development will provide for energy conservation and renewable energy structures.
4) Meeting the dimensional requirements will create an undue hardship on the applicant and the hardship was not created by the applicant.

The Zoning Board of Adjustment may grant a conditional use waiver if the Board finds that the proposed development meets ALL the following standards:

1) The proposed development shall not reduce the dimensional requirements by more than the minimum amount necessary.
2) The proposed development does not alter the essential character of the neighborhood or district in which the property is located.
3) The proposed development does not substantially or permanently impair the appropriate use or development of adjacent property.
4) The proposed development does not reduce access to renewable energy resources.
5) The proposed development shall not be detrimental to the public welfare including the safety and maintenance of the Town's highways.

Any variance or waiver approval granted under this Bylaw shall expire two (2) years from the date of the written decision granting such approval unless a zoning permit has been issued by the Zoning Administrator for the approved project.

~~B.~~ The approval or denial of a variance or waiver by the ZBA may be appealed to the Environmental Court in a manner as specified in Section 4471 of the Act. The approval or denial of a waiver by the Zoning Administrator may be appealed to the ZBA.

ARTICLE XII: VIOLATIONS AND ENFORCEMENT

Section 1201: Violations

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of West Haven, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

Section 1202: Notice of Violation

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality under Article XIV. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

Section 1203: Limitations on Enforcement

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Article XIV.

ARTICLE XIII: PUBLIC HEARINGS & DECISIONS

Section 1301: Public Notice

In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review (Article IV), appeals of decisions of the administrative officer and variances (Articles X, XI). Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

1) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;

2) Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made; and,

3) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the Zoning Board of Adjustment where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Zoning Board of Adjustment or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

Section 1302: Hearings

In accordance with the Act [§4461], all meetings and hearings of the Zoning Board of Adjustment, except for deliberative sessions, shall be open to the public.

For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Board ~~of Adjustment~~.

The Board ~~of Adjustment~~, in conjunction with any hearing under this bylaw, may:

1) examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;

2) require the attendance of any person having knowledge in the premises;

3) take testimony and require proof material for its information; and

4) administer oaths or take acknowledgement in respect of those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 1002 are met. The Board ~~of Adjustment~~ shall keep a record of the name, address, and participation of each of these persons.

In accordance with the Act [§§4464(b), 4468], the Board ~~of Adjustment~~ 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

Section 1303: Decisions

Any action or decision of the Board ~~of Adjustment~~ shall be taken by the concurrence of a majority of the members of the Board. In accordance with the Act [§4464(b)], the Board ~~of Adjustment~~ shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:

1) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Article X. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

2) In rendering a decision in favor of the applicant, the Board ~~of Adjustment~~ may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:

    (a) the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the West Haven Selectboard, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or

    (b) a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

3) All decisions of the Board ~~of Adjustment~~ 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 or body appearing and having been heard at the hearing, and filed with the Administrative Officer and Clerk as part of the public record of the municipality.

ARTICLE XIV: RECORDING REQUIREMENTS

Section 1401: Recording

Within 30 days of the issuance of a municipal land use permit or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the land records of the municipality generally as provided in 24 V.S.A. §1154(c), and file a copy in the Municipal Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.

For development within the Flood Hazard Area Overlay District, the Administrative Officer shall also maintain a record of:

1) all permits issued for development in areas of special flood hazard;

2) elevation certificates that show the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;

3) the elevation, in relation to mean sea level, to which buildings have been floodproofed; all floodproofing certifications required under this regulation; and

4) all variance and waiver actions, including the justification for their issuance.

ARTICLE XV: OTHER PROVISIONS

Section 1501: Interpretation of Regulation

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. Except as provided to the contrary in the Act or these regulations, it is not intended by these regulations 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 the use of a structure or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of these regulations shall control.

Section 1502: Fees

Fees may be established by the Selectboard in amounts necessary to cover all costs of the Administrative Officer, the Zoning Board of Adjustment and the Planning Commission for such items as processing applications, including costs of material, administrative time, reasonable overhead such as postage, telephone, and the hiring of appropriate professionals to review various aspects of an application, etc.

Section 1503: Amendments

Any provision of this Regulation, as well as the boundaries of the various zoning districts established herein, may be amended or repealed subject to the provisions of Sections 4442 of 24 V.S.A. 117.

Section 1504: Warning of Disclaimer of Liability

These Regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages.

These regulations shall not create liability on the part of the Town of West Haven or any local official or employee thereof for any flood damages that result from reliance on this Regulation or any administrative decisions lawfully made there under.

Section 1505: Severability

If any provision of this regulation is held invalid, the invalidity does not affect other provisions or applications of this regulation, which can be given effect without the invalid provision or application.

Section 1506: Effective Date

This Regulation shall take effect upon approval in accordance with the procedures contained in Section 4442 of 24 V.S.A. 117.

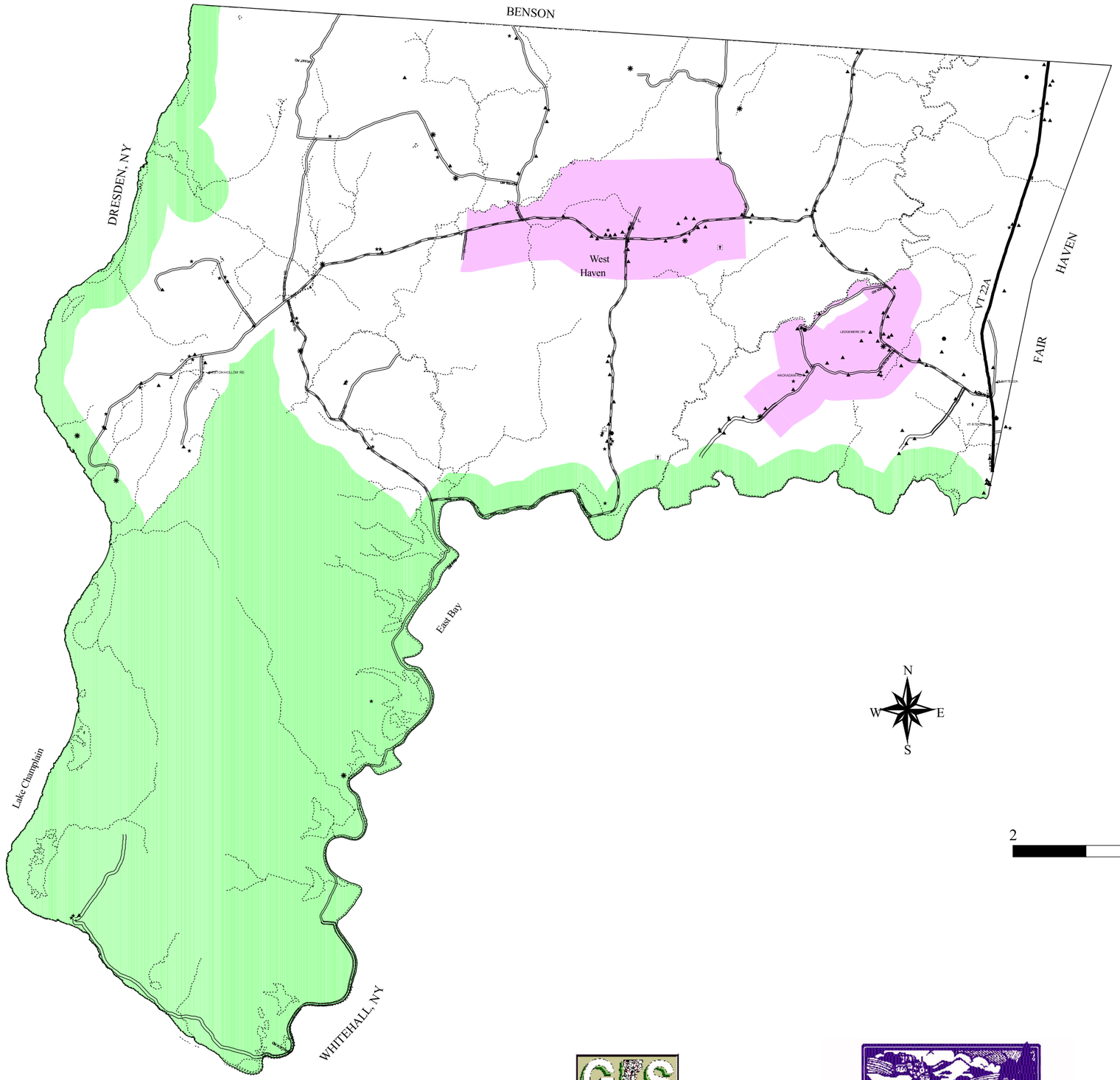
Section 1507: Precedence of Regulation

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. Except as provided to the contrary in the Act or these regulations, it is not intended by these regulations 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 the use of a structure or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of these regulations shall control.

This Regulation amends all preceding Zoning Regulations for the Town of West Haven.

WEST HAVEN, VERMONT

Zoning Districts



LEGEND

- State Highways
- Town Class 2 Roads
- Town Class 3 Roads
- Lakes, Ponds, Streams and Rivers
- ★ Agricultural
- ● Commercial
- Public
- ▲ Residential
- Residential/Commercial
- ✱ Seasonal Use
- Cemetery

Zoning Districts

- Conservation District
- Settlement District
- Agricultural District

2 0 2 Miles

SOURCES

Vermont Center for Geographic Information,
Town of West Haven

Map produced 9/22/99

GIS

RUTLAND REGIONAL PLANNING COMMISSION