

Notice of Public Hearing

In accordance with the provisions of Title 24, Sections 4441(d) and 4444, of the Vermont Statutes Annotated, the Planning Commission for the Town of West Windsor, Vermont, will hold a public hearing on Thursday, April 27, 2017 at 6:30 P.M., at the West Windsor Town Office at Story Memorial Hall, 22 Brownsville-Hartland Road, Brownsville, Vermont, to hear public comments on proposed amendments to:

The proposed Land Use and Development Regulations
Flood Hazard Area Regulations

The purpose of these proposed amendments is to address flood resiliency issues, and to protect and provide for the health, safety, and general welfare of the Town of West Windsor. These Amendments apply to the entire Town of West Windsor. A summary of the major changes is as follows:

1. Combined the West Windsor Zoning and Subdivision Regulations into a unified document
2. Updated Flood Hazard Area Regulations
3. Modified PGV-1 description and reduced minimum lot size by 50% for "concentrated mix"
4. Reduced minimum SGR-5/4 side and rear setbacks "Moderate clustered development"
5. Added home occupation tiers and included in permitted and conditional uses tables
6. Clarified/added 25% restriction to driveway grades – or provision for "transition areas"
7. Removal of Open Storage and Junk Vehicles section – recommend Selectboard to adopt ordinance
8. Increased allowable size of accessory dwelling units
9. Added administrative review for a 2-lot subdivision
10. Revised Certificate of Occupancy language to include exemptions
11. Added Certificate of Compliance section

Persons wishing to be heard may do so in person, be represented by an agent, or may file written comments with the Commission prior to the hearing.

Copies of the full text of both sets of proposed amendments are available for review at the West Windsor Town Office, the Southern Windsor County Regional Planning Commission office, and the Town's website, www.westwindsorvt.govoffice2.com.

Dated at Town of West Windsor, Windsor County, State of Vermont, this 3rd day of April 2017.

Town of West Windsor, VT
Proposed unified Land Use & Development Regulations
For Planning Commission Hearing 4/27/17

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,

The West Windsor Planning Commission is in the process of unifying its Zoning Regulations, and Subdivision Regulations into one Unified Development Bylaw. The Flood Hazard Regulations are being updated and remain a stand-alone document. During this process, the Planning Commission has reviewed and updated various sections of the Zoning Regulations and Subdivision Regulations in an attempt to make them compatible with the most recently adopted Town Plan as well as to meet recent changes to Ch. 117. A summary of the major changes made to the Zoning Regulations are as follows:

- *Combined zoning, and subdivision regulations to create a unified development bylaw.*
- *Updated Flood Hazard Regulations.*
- *Combined bylaws and S/D regulations*
- *New clarification of how to measure setbacks*
- *New dimensional standards table – by zoning district*
- *Accommodate smaller residential lots at the eastern end of the primary growth village district and those lots within proximity to the sewer line*
- *Modify setbacks*
- *Removed junk and recommended language for selectboard ordinance adoption*
- *Review allowable land uses to make sure the desired economic development activities are adequately provided for*
- *Modified PGV-1 description and reduced minimum lot size by 50% “concentrated mix”*
- *Strengthened pGV-1 language to include higher density and mix uses*
- *Reduced minimum SGR-5/4 side and rear setbacks “Moderate clustered development”*
- *Replaced the Resort/Conservation PUD District with the Recreation/Conservation PUD District – change made in Feb 2015, but maps and text not updated*
- *Removal of Open Storage and Junk Vehicles section – Selectboard to adopt ordinance and enforce*
- *Added and clarified exemptions section 1.7*

- Amended exemptions to address issues such as fences increasing the size of small accessory structures
- Corrected Zoning Districts to be in line with recent amendments
- RR-5 allowed for additional coverage % - from 5 to 10%
- Clarified driveway standards and added grade maximum at 25%
- New sign language and descriptions and requirements section 3.14
- Section 4.8 fences revised language
- Sections 4.10 4.11 and 4.12 added new tiers for home based businesses: Home Occupation, Home Business and Home Industry, along with standards for each. Two under Administrative review and other requires Conditional Use review.
- Section 5.1 general additions to site plan review standards
- Exterior lighting purpose to preserve night sky
- Added administrative review for a 2-lot subdivision
- Added Applicability section for DRB evaluation of Plan Review, Conditional Use and Subdivision Applications
- 7.2 added required applicant contact to applicable state departments
- Added Farm and Forestland Preservation and standards to general subdivision standards
- Revised stormwater management language
- Added erosion control section
- Added section on adequacy of pedestrian circulation within subdivision
- Enhanced recommendations for energy efficient siting of buildings
- Included February 2015 PUD amendments – supplemental Development Standards for PUD in the Recreation/Conservation PUD District
- Revised Co language to include exemptions
- Added Certificate of Compliance section
- Merged all sets of definitions and added flush-mounted, revised structure,

The Table of Contents for the new proposed West Windsor Unified Development Regulations are as follows:

ARTICLE 1: AUTHORITY AND PURPOSE

- Section 1.1 Enactment
- Section 1.2 Purpose
- Section 1.3 Application & Interpretation
- Section 1.4 Amendment
- Section 1.5 Effective Date
- Section 1.6 Severability
- Section 1.7 Exemptions

ARTICLE 2: ZONING DISTRICTS & DISTRICT STANDARDS

- Section 2.1 Establishment of Zoning Districts
- Section 2.2 Official Zoning Map
- Section 2.3 District Objectives, Uses and Standards
- Section 2.4 Primary Growth – Village
- Section 2.5 Secondary Growth – Residential

Section 2.6	<i>Rural Residential</i>
Section 2.7	<i>Resort/Residential</i>
Section 2.8	<i>Recreation Conservation PUD</i>
Section 2.9	<i>Light Industrial/Commercial</i>
Section 2.10	<i>Conservation</i>
ARTICLE 3:	GENERAL REGULATIONS
Section 3.1	<i>Applicability</i>
Section 3.2	<i>Access Requirements</i>
Section 3.3	<i>Conversion or Changes of Use</i>
Section 3.4	<i>Equal Treatment of Housing</i>
Section 3.5	<i>Erosion Control and Development on Steep Slopes</i>
Section 3.6	<i>Existing Small Lots</i>
Section 3.7	<i>Height Requirements</i>
Section 3.8	<i>Lot & Yard Requirements</i>
Section 3.9	<i>Nonconforming Uses & Nonconforming Structures</i>
Section 3.10	<i>Parking & Loading Requirements</i>
Section 3.11	<i>Performance Standards</i>
Section 3.12	<i>Protection of Natural Resources</i>
Section 3.13	<i>Development near Waterways</i>
Section 3.14	<i>Signs</i>
Section 3.15	<i>Temporary Structures</i>
Section 3.16	<i>Water Supply & Wastewater Disposal</i>
ARTICLE 4:	SPECIFIC USE STANDARDS
Section 4.1	<i>Accessory Dwelling Units</i>
Section 4.2	<i>Accessory Structures/Uses</i>
Section 4.3	<i>Agriculture & Forestry Use</i>
Section 4.4	<i>Campers & Recreational Vehicles</i>
Section 4.5	<i>Child Care Home</i>
Section 4.6	<i>Child Care Facilities</i>
Section 4.7	<i>Extraction of Mineral Resources</i>
Section 4.8	<i>Fences & Walls</i>
Section 4.9	<i>Group & Residential Care Homes</i>
Section 4.10	<i>Home Occupation</i>
Section 4.11	<i>Home Business</i>
Section 4.12	<i>Home Industry</i>
Section 4.13	<i>Landfill</i>
Section 4.14	<i>Light Industry</i>
Section 4.15	<i>Low-impact Non-residential Use</i>
Section 4.16	<i>Mixed Uses</i>
Section 4.17	<i>Mobile, Modular, & Prefabricated Homes</i>
Section 4.18	<i>Mobile Home Park</i>
Section 4.19	<i>Multi-family Dwellings</i>
Section 4.20	<i>Ponds</i>
Section 4.21	<i>Ramps</i>
Section 4.22	<i>Storage of Flammable Fluids</i>
Section 4.23	<i>Swimming Pools</i>

Section 4.24	<i>Two-family Dwellings</i>
Section 4.25	<i>Wireless Telecommunication Facilities</i>
ARTICLE 5:	<i>DEVELOPMENT REVIEW</i>
Section 5.1	<i>Site Plan Review Standards & Procedures</i>
Section 5.2	<i>Conditional Use Review</i>
ARTICLE 6:	<i>SUBDIVISION REVIEW</i>
Section 6.1	<i>Applicability</i>
Section 6.2	<i>Boundary Line Adjustments</i>
Section 6.3	<i>Subdivisions</i>
Section 6.4	<i>Sketch Plan Review</i>
Section 6.5	<i>Final Plan Review</i>
Section 6.6	<i>Plat Recording Requirements</i>
Section 6.7	<i>Revisions to an Approved Plat</i>
ARTICLE 7:	<i>SUBDIVISION PLANNING & DESIGN STANDARDS</i>
Section 7.1	<i>Applicability</i>
Section 7.2	<i>General Subdivision Standards</i>
Section 7.3	<i>Protection of Natural & Cultural Resources</i>
Section 7.4	<i>Open Space</i>
Section 7.5	<i>Stormwater Management & Erosion Control</i>
Section 7.6	<i>Roads & Pedestrian Access</i>
Section 7.7	<i>Utilities</i>
Section 7.8	<i>Outdoor Lighting</i>
Section 7.9	<i>Communal Water & Wastewater Systems</i>
Section 7.10	<i>Energy Efficient Design</i>
Section 7.11	<i>Facilities & Service</i>
ARTICLE 8:	<i>PLANNED UNIT DEVELOPMENTS</i>
Section 8.1	<i>Purpose</i>
Section 8.2	<i>Review & Application Procedure</i>
Section 8.3	<i>PUD Standards</i>
ARTICLE 9:	<i>ADMINISTRATION, APPEALS & ENFORCEMENT</i>
Section 9.1	<i>Municipal Appointments</i>
Section 9.2	<i>Applications</i>
Section 9.3	<i>Issuance of a Permit</i>
Section 9.4	<i>Permit Expiration</i>
Section 9.5	<i>Violations and Enforcement</i>
Section 9.6	<i>Certificates of Occupancy & Compliance</i>
Section 9.7	<i>Appeals</i>
Section 9.8	<i>Variances</i>
Section 9.9	<i>Waivers</i>
Section 9.10	<i>Interpretation of Zoning District Boundaries</i>
Section 9.11	<i>Parcel in Two Districts</i>
Section 9.12	<i>Records</i>
Section 9.13	<i>Combined Review</i>
Section 9.14	<i>Public Hearings</i>
Section 9.15	<i>Recording Requirements</i>

Town of West Windsor

Land Use & Development Regulations

*Zoning Bylaws & Subdivision
Regulations*

Prepared by: West Windsor Planning Commission

**With assistance from: Southern Windsor County Regional
Planning Commission**

These regulations were developed using funds awarded by:

The Agency of Commerce and Community Development

through the Municipal Planning Grant Program

ARTICLE 1: AUTHORITY AND PURPOSE

- Section 1.1 Enactment
- Section 1.2 Purpose
- Section 1.3 Application & Interpretation
- Section 1.4 Amendment
- Section 1.5 Effective Date
- Section 1.6 Severability
- Section 1.7 Exemptions

ARTICLE 2: ZONING DISTRICTS & DISTRICT STANDARDS

- Section 2.1 Establishment of Zoning Districts
- Section 2.2 Official Zoning Map
- Section 2.3 District Objectives, Uses and Standards
- Section 2.4 Primary Growth – Village
- Section 2.5 Secondary Growth – Residential
- Section 2.6 Rural Residential
- Section 2.7 Resort/Residential
- Section 2.8 Recreation Conservation PUD
- Section 2.9 Light Industrial/Commercial
- Section 2.10 Conservation

ARTICLE 3: GENERAL REGULATIONS

- Section 3.1 Applicability
- Section 3.2 Access Requirements
- Section 3.3 Conversion or Changes of Use
- Section 3.4 Equal Treatment of Housing
- Section 3.5 Erosion Control and Development on Steep Slopes
- Section 3.6 Existing Small Lots
- Section 3.7 Height Requirements
- Section 3.8 Lot & Yard Requirements
- Section 3.9 Nonconforming Uses & Nonconforming Structures
- Section 3.10 Parking & Loading Requirements
- Section 3.11 Performance Standards
- Section 3.12 Protection of Natural Resources
- Section 3.13 Development near Waterways
- Section 3.14 Signs

- Section 3.15 Temporary Structures
- Section 3.16 Water Supply & Wastewater Disposal
- Section 3.17 Open Storage of Junk and Vehicles

ARTICLE 4: SPECIFIC USE STANDARDS

- Section 4.1 Accessory Dwelling Units
- Section 4.2 Accessory Structures/Uses
- Section 4.3 Agriculture & Forestry Use
- Section 4.4 Campers & Recreational Vehicles
- Section 4.5 Child Care Home
- Section 4.6 Child Care Facilities
- Section 4.7 Extraction of Mineral Resources
- Section 4.8 Fences & Walls
- Section 4.9 Group & Residential Care Homes
- Section 4.10 Home Occupation
- Section 4.11 Home Business
- Section 4.12 Home Industry
- Section 4.13 Landfill
- Section 4.14 Light Industry
- Section 4.15 Low-impact Non-residential Use
- Section 4.16 Mixed Uses
- Section 4.17 Mobile, Modular, & Prefabricated Homes
- Section 4.18 Mobile Home Park
- Section 4.19 Multi-family Dwellings
- Section 4.20 Ponds
- Section 4.21 Ramps
- Section 4.22 Storage of Flammable Fluids
- Section 4.23 Swimming Pools
- Section 4.24 Two-family Dwellings
- Section 4.25 Wireless Telecommunication Facilities

ARTICLE 5: DEVELOPMENT REVIEW

- Section 5.1 Site Plan Review Standards & Procedures
- Section 5.2 Conditional Use Review

ARTICLE 6: SUBDIVISION REVIEW

- Section 6.1 Applicability
- Section 6.2 Boundary Line Adjustments
- Section 6.3 Subdivisions
- Section 6.4 Sketch Plan Review
- Section 6.5 Final Plan Review
- Section 6.6 Plat Recording Requirements
- Section 6.7 Revisions to an Approved Plat

ARTICLE 7: SUBDIVISION PLANNING & DESIGN STANDARDS

- Section 7.1 Applicability
- Section 7.2 General Subdivision Standards
- Section 7.3 Protection of Natural & Cultural Resources
- Section 7.4 Open Space
- Section 7.5 Stormwater Management & Erosion Control
- Section 7.6 Roads & Pedestrian Access
- Section 7.7 Utilities
- Section 7.8 Outdoor Lighting
- Section 7.9 Communal Water & Wastewater Systems
- Section 7.10 Energy Efficient Design
- Section 7.11 Facilities & Service

ARTICLE 8: PLANNED UNIT DEVELOPMENTS

- Section 8.1 Purpose
- Section 8.2 Review & Application Procedure
- Section 8.3 PUD Standards

ARTICLE 9: ADMINISTRATION, APPEALS & ENFORCEMENT

- Section 9.1 Municipal Appointments
- Section 9.2 Applications
- Section 9.3 Issuance of a Permit
- Section 9.4 Permit Expiration
- Section 9.5 Violations and Enforcement
- Section 9.6 Certificates of Occupancy & Compliance
- Section 9.7 Appeals
- Section 9.8 Variances

Section 9.9	Waivers
Section 9.10	Interpretation of Zoning District Boundaries
Section 9.11	Parcel in Two Districts
Section 9.12	Records
Section 9.13	Combined Review
Section 9.14	Public Hearings
Section 9.15	Recording Requirements

ARTICLE 10: DEFINITIONS

Section 10.1	Terms & Uses
Section 10.2	Definitions

Appendix A-D

Note: Defined terms are indicated in **BOLD** throughout the text and defined in Section 10.2.

Important Abbreviations

The Act: The Vermont Planning & Development Act, 24 VSA, Chapter 117

Bylaw: West Windsor Land Use and Development Regulations

DRB: Development Review Board

PC: Planning Commission

PUD: Planned Unit Development

VSA: Vermont Statutes Annotated

ARTICLE 1: AUTHORITY AND PURPOSE

Section 1.1 Enactment

In accordance with the Vermont Planning and Development Act (hereinafter referred to as the "Act") 24 V.S.A., Chapter 117, and 10 V.S.A. Chapter 32, there are hereby established Zoning and **Subdivision** Regulations for the Town of West Windsor which are set forth in the following text and maps that constitute these Regulations. These Regulations shall be known as the "Town of West Windsor Land Use and Development Regulations," and shall supersede the Town of West Windsor Zoning Ordinance adopted February 3, 1973. Mandatory requirements enacted by the Vermont legislature will automatically become a part of these Zoning Regulations. It is the **applicant's** responsibility to comply with all state and federal requirements and, upon request by the **Administrative Officer** or the DRB, to provide proof of compliance.

Section 1.2 Purpose

It is the purpose of these Regulations to promote the health, safety and general welfare of the residents, protect the natural resources, and provide for the orderly development of the Town of

West Windsor. These Regulations also strive to implement the goals and policies of the **Town Plan** as established in the Act, Section 4302, to integrate all administrative and regulatory provisions of **municipal** zoning and **subdivision** regulations as authorized by the Act (4411, 4418, and 4419) into a single set of land use regulations.

Section 1.3 Application & Interpretation

- A. The application of this bylaw is subject to the provisions of all subchapters of the Act as most recently amended. In accordance with the Act [§4446], no land development as defined herein shall commence within the jurisdiction of the Town of West Windsor until a zoning permit has been issued by the Administrative Officer, as provided for in the Act [§§4448, 4449], and no appeal is pending. Any land development not specifically authorized or exempted under this bylaw is prohibited.
- B. This bylaw is intended to repeal the previous bylaw, but is not intended to annul or in any way impair other regulations or permits previously adopted or issued. If any development subject to these regulations, under this bylaw, is also subject to other Town or State regulations, the most stringent or restrictive regulations apply.

Section 1.4 Amendments

These Regulations may be amended according to the requirements and procedures established in §4441 of the Act and, unless otherwise acted upon by the voters of the Town of West Windsor, shall be adopted, as amended, by a majority vote of the Selectboard as provided in §4442 of the Act.

Section 1.6 Effective Date

These Regulations became effective on March 2, 1982 except as amended on May 11, 1984, on November 8, 1988, on March 6, 1990, on June 10, 1991 (on an interim basis for Flood Hazard Regulations), on March 3, 1992, on March 7, 1995, on March 4, 1997 as interim regulations on September 12, 2005, July 22, 2008 and on February 2, 2015.

Section 1.5 Severability

The provisions of this bylaw are severable. The invalidity of any provision of these Regulations shall not invalidate any other part.

Section 1.7 Exemptions

Except as provided in the Town of West Windsor Flood Hazard Area Regulations, no zoning permit shall be required for the following:

- A. **Accepted Agricultural Practices** (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 Section 4.3. Written notification, including a **sketch plan** showing structure **setback** distances from road rights-of-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 of Agriculture.
- B. **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)].
- C. 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 **Town Plan**.
- D. Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities that support such activities, such as firing ranges or rod and gun clubs, etc., these shall be reviewed as **conditional uses** and shall conform to these Regulations.
- E. Normal maintenance and repair of an existing structure which do not result in exterior **alterations** or expansion or a **change of use**.

- F. Interior **alterations** or repairs to a structure which do not result in exterior **alterations** or expansion or a change in use.
- G. Exterior **alterations** to structures which do not result in any change to the **footprint** or height of the structure or a change in use (see Sections 2.3 and 3.3) or an increase in the degree of nonconformance (see Section 3.9).
- H. Residential entry stairs (excluding decks and porches), handicap access ramps, and uncovered walkways.
- I. Essential Services (see definition).
- J. Routine excavation and fill associated with: utility lines, road and **driveway** maintenance (e.g., including culvert replacement and resurfacing), gardening, landscaping, or which is otherwise incidental to an allowed, permitted, or **conditional use**.
- K. Outdoor recreational trails (e.g., walking, hiking, biking, horseback riding, cross-country skiing and snowmobile trails), including treadway **improvements** such as steps, waterbars, walkways and railings, which do not require the installation of structures or parking areas.
- L. Small accessory buildings associated with residential uses which are less than 120 square feet of floor area and less than twelve (12) feet in height, and are not located within required **setback** areas.
- M. Filling in, with sand, gravel, soil or similar material, previously permitted in-ground swimming pools.
- N. Garage sales, yard sales, auctions, or similar activities (and associated temporary **signs**) that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year. Such events may require a public assembly permit.
- O. **Fences**, stonewalls, earthen berms, **hedgerows**, and other similar vegetation, any of which are five (5) feet high or less, located outside of a town or state highway right-of-way and located interior to a property.

- P. The following uses may be regulated only with respect to location, size, height, building bulk, **yards**, courts, **setbacks**, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:
1. State- or community-owned and operated institutions and facilities.
 2. Public and private schools and other educational institutions certified by the state department of education.
 3. Churches and other **places of worship**, convents, and parish houses.
 4. Public and private hospitals.
 5. Regional solid waste management facilities certified under 10 VSA Chapter 159.
 6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

ARTICLE 2: ZONING DISTRICTS & DISTRICT STANDARDS

Section 2.1 Establishment of Zoning Districts

For the purpose of these Regulations, the Town of West Windsor is divided into the following zoning districts as shown on the attached Zoning Map:

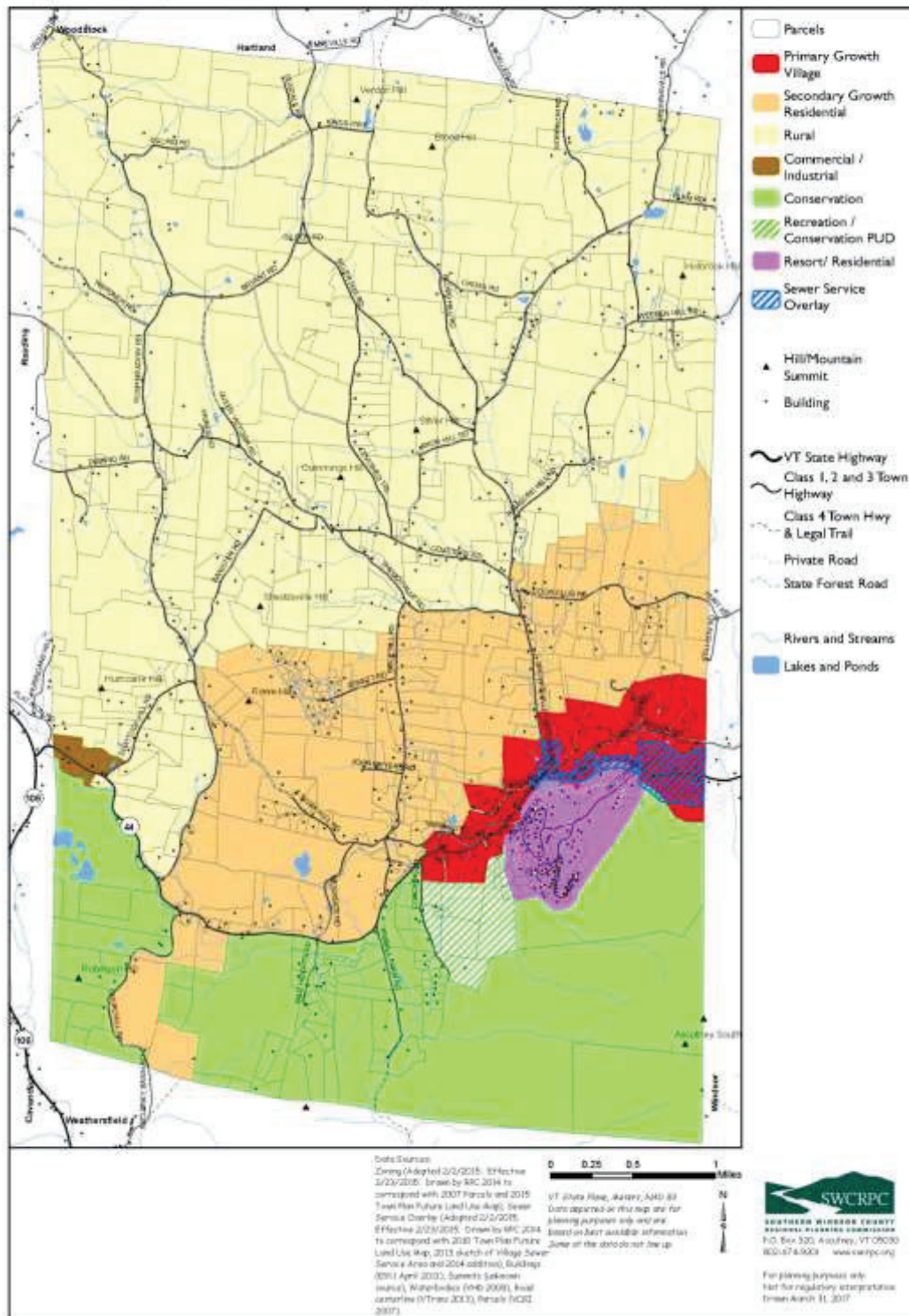
Table 1.1 Zoning Districts in West Windsor	
District Name	Abbreviation
Primary Growth Village	PGV-1
Secondary Growth Residential	SGR-5/4
Rural Residential	RR-5
Resort/Residential	R/R
Recreation/Conservation PUD	R/C PUD
Light Industrial/Commercial	IND/COM
Conservation	CON-30

Section 2.2 Official Zoning Map

Town of West Windsor, Vermont

Zoning Map 2015

Adopted: February 2, 2015. Effective: February 23, 2015



The boundaries of these districts are hereby established as shown on the Zoning Map of the Town of West Windsor entitled "Zoning Map 2015." This map is hereby declared to be a part of these Regulations. Regardless of the existence of copies of any map, which may be made or published, the Official Zoning Map located in the Town Clerk's office shall be the final authority as to the current status of zoning district boundaries.

MEASURING FRONT SETBACKS

Determining setback distances can be difficult, especially for front setbacks. The following are step-by-step instructions to help determine the front setback for a structures:

1. Contact the Administrative Officer or Road Foreman for information regarding the right-of-way width for the road adjacent to your property. Most public right-of-ways in West Windsor are 50 ft. (3 rods) wide. It is assumed that most roads are located in the middle of their right-of-way.
2. Once the right-of-way width has been determined, divide the number in half (ex. 25 ft. for a 50 ft. wide right-of-way). This is approximately the distance from the middle of the road to your front property line.
3. Safely measure from the middle of the road to the approximate location of your property line. Use a type of marking to note the location. Repeat this step several times along the frontage of your lot along the right-of-way to determine the general path of your front property line.
4. Use a tape measure to measure from the front property line to any structure. The shortest distance between the front property line and a structure is the front setback.

Disclaimer: this is just a tool to help determine front setbacks. The Administrative Officer is the authority in charge of determining whether or not a setback has been measured correctly or incorrectly.

Section 2.3 District Objectives, Uses and Standards

The following pages outline uses, both permitted and conditional, allowed in each district and certain lot and building requirements for these uses.

**Table 2.1 Dimensional Standards
by Zoning Districts**

Dimensional Standards							
	Primary Growth- Village (PGV-1)	Secondary Growth- Residential (SGRS/4)	Rural Residential (RR-5)	Resort/ Residential (R/R)	Recreation/Conservation PUD District (R/C PUD)	Light Industrial/ Commercial (IND/COM)	Conservation (CON-30)
Min. Lot Size	1 acre 1/2 acre when connected to municipal sewer	Class A - 5 acres Class B - 4 acres	5 acres	1 acre w/on-site sewage disposal or 1/4 acre w/connection to a state approved municipal sewage treatment plant and PUD approval	5 acres w/on-site septic & water or connection to municipal water/sewer	2 acres	30 acres
Min Frontage	75 feet	Class A - 200 feet Class B per approved PUD	300 feet	100 feet	100 ft. or per approved PUD	150 feet	500 feet
Min. Front Property Line Setback	20 feet	30 feet	30 ft.	30 feet	30 feet	50 feet	30 feet
Min. Side & Rear Property Line Setback	20 feet	Class A - 50 feet Class B per approved PUD	50 feet	30 feet	30 ft/ 30ft. or per approved PUD	50 feet	50 feet
Max. Height	40 feet	40 feet	40 feet	40 feet	40 feet	40 feet	40 feet
Coverage	50%	10%	5%			60% if parking is included	2%

2.4 Primary Growth – Village (PGV-1)

The purpose of the Primary Growth - Village district is to allow for a concentrated mix of residential and limited commercial uses within the district in a manner that respects and reflects the existing historic settlement pattern, anticipated patterns of growth, existing and future public facilities and services, building styles, materials, scale and orientation. The development of this district affords the best opportunity for the existing and future provision of economically feasible public facilities and services, while providing an orderly separation of these uses from other land uses within West Windsor. Higher densities of residential, commercial development and many public and quasi-public facilities and services are intended to develop in this district.

Permitted Uses	Conditional Uses
1. Single or Two Family Dwelling	1. Retail Service
2. Accessory Use or Structure	2. Retail Store
3. Agricultural Use/Farm Structure	3. Business Office
4. Forestry Use/Structure	4. Restaurant/Bar/Tavern

5. Home Occupation/Business	5. Inn
6. Accessory Dwelling Unit	6. Multi-Family Dwelling
7. Group Home (serving 8 or fewer)	7. Health Care Facility †¹
8. Child Care Home	8. Bed and Breakfast
	9. Home Industry
	10. Auto Service Station
	11. Low impact Non-residential Use
	12. Place of Worship
	13. Park or Playground, public recreation
	14. Library †
	15. School †
	16. Rooming House
	17. Public Facilities †
	18. Group Home (serving 9+)
	19. Mixed Use
	20. Child Care Facility
	21. Cemetery
	22. Indoor/Outdoor Recreational Use
	23. Hotel

¹ Throughout the document the symbol † =See § 4413 Limitations on Municipal Bylaws

	24. Private clubhouse/fraternal org.
	25. Bridge

2.5 Secondary Growth – Residential (SGR-5/4)

The purpose of the Secondary Growth Residential District is to allow for moderate density residential development within close proximity to the village, school and general store. The Secondary Growth Residential District covers lands where well-planned clustered development should be located. Therefore, in this district, the density factor (lot size per family unit) for residential development clustered in accordance with a plan consistent with the objectives and requirements of Article 8 may be reduced from the normal five (5) acres to four (4) acres.

Permitted Uses	Conditional Uses
1. Single or Two-Family Dwelling	1. Rooming House
2. Accessory Use or Structure	2. Private Clubhouse or Fraternal Organization
3. Agricultural Use/Farm Structure	3. Inn
4. Forestry Use/Structure	4. Retail store & Services
5. Accessory Dwelling Unit	5. Group Home (serving 9+)
6. Group Home (serving 8 or fewer)	6. Home Industry
7. Child Care Home	7. Cemetery
8. Home Occupation/Business	8. Outdoor Recreational Use
	9. Bed and Breakfast
	10. Multi-Family Dwelling
	11. Place of Worship

	12. Mixed Use
	13. Public Facility †
	14. Veterinary Clinic
	15. Mobile Home Park
	16. Child Care Facility
	17. Storage Facility within existing Structure
	18. Bridge

2.6 Rural Residential (RR-5)

The purpose of the Rural Residential District is to maintain a clean, healthy environment, maintain the town's historic working landscape, encourage the productive use and protection of natural resources, and provide for moderate residential development in appropriate locations.

Permitted Uses	Conditional Uses
1. Single or Two-Family Dwelling	1. Rooming House
2. Accessory Use or Structure	2. Private Clubhouse or Fraternal Org.
3. Agricultural Use/Farm Structure	3. Inn
4. Forestry Use/Structure	4. Home Industry
5. Accessory Dwelling Unit	5. Cemetery
6. Group Home (serving 8 or fewer)	6. Outdoor Recreational Use
7. Child Care Home	7. Bed and Breakfast
8. Home Occupation/Business	8. Public Facility †

	9. Child Care Facility
	10. Group Home (serving 9+)
	11. Bridge

2.7 Resort/Residential (R/R)

The purpose of the Resort/Residential District is to provide for orderly growth in a manner compatible with adjacent districts and land uses. The mix of uses in this district (intensely developed residential and commercial areas, large tracts of **open space** dedicated to non-structural **recreational uses**, and established recreational activities) requires special care to provide for the needs and character of each. Growth in accordance with an approved comprehensive **master plan** is anticipated in the district, but it must not upset the delicate balance that exists between its interests and those of adjacent uses and the rest of the Town. Clustering of buildings is expected in order to maintain **open space**. All development within this district is part of a **Planned Unit Development**.

Permitted Uses	Conditional Uses
1. Single or Two-Family Dwelling	1. Indoor Recreational Use#
2. Accessory Use or Structure	2. Restaurant/Bar#
3. Agricultural Use/Farm Structure	3. Retail Service#
4. Forestry Use/Structure	4. Retail Store#
5. Home Occupation/Business	5. Tavern#
6. Accessory Dwelling Unit	6. Inn#
7. Group Home (serving 8 or fewer)	7. Multi-Family Dwelling
8. Child Care Home	8. Outdoor Recreational Use#
	9. Bed and Breakfast

	10. Hotel#
	11. Home Industry
	12. Other Resort Activity#
	13. Public Facility †
	14. Business Office#
	15. Health care facility#
	16. Mixed Use#
	18. Child care facility#
	19. Bridge

Conditional uses permitted in a PUD only.

The minimum lot size for non-residential uses is two acres. The minimum lot size may be increased or decreased upon the conditions set forth in the **conditional use**, site plan and PUD review.

2.8 Recreation/Conservation PUD District (R/C PUD)

The purpose of the Recreation/Conservation PUD District is to provide for the orderly growth of single-family residences that make a demonstrable contribution to the recreational development of the area in accordance with the goals of the Recreation and Economic Development chapters of the **Town Plan**, in such a manner as to preserve, to the maximum extent possible, the important **open space**, scenic, agricultural/forestry and natural resource characteristics of the district.

Permitted Uses	Conditional Uses
Agricultural Use Structure	Public facility †
Forestry Use Structure	Outdoor recreation facility
Single or two-family dwelling *	Bridge
Accessory use or structure *	Home Industry
Accessory dwelling unit	
Home occupation/Business	
Child care home	
Group Home (serving 8 or fewer)	

* *permitted when part of an approved PUD*

All development that does not make a demonstrable contribution to the recreational development of the area in accordance with the goals of the Recreation and Economic Development chapters of the **Town Plan** shall follow the standards set forth in the Conservation District.

2.9 Light Industrial/Commercial (IND/COM)

The purpose of the Light Industrial/Commercial District is to allow for a limited and orderly expansion of commercial and industrial uses within this district.

Permitted Uses	Conditional Uses
1. Agricultural Use/Farm Structure	1. Lumberyard/Sawmill
2. Forestry Use/Structure	2. Contractor's yard
3. Accessory Use or Structure	3. Research and Development Facility
4. Accessory Dwelling Unit	4. Industrial Accessory Use or Structure
	5. Public Facility †

	6. Home Industry
	7. Veterinary/Animal Care Facility
	8. Enclosed Light Manufacturing
	9. Enclosed Warehouse
	10. Retail
	11. Bridge

Conditional Uses - Other industrial uses upon finding by the **Development Review Board** that such uses are of the same general character as those permitted and will not be detrimental to the other uses within the district or to the adjoining land uses.

2.10 Conservation (CON-30)

The purpose of the Conservation District is to limit growth in this district which because of severe physical limitations, such as steep **slopes** and unsuitable soils for on-site septic disposal, the presence of **floodplains**, headwater areas, **ridgelines**, unbroken expanses of wildlife habitat, and special recreational and scenic qualities, should be protected from most forms of development. In addition to physical limitations, this district contains agricultural soils of national and state significance which deserve special protection. Although very low intensity uses are permitted, they should be preceded by careful inspection and thorough site planning to minimize soil erosion, groundwater pollution and other adverse impacts on these very important natural and scenic resources.

Permitted Uses	Conditional Uses
1. Single or Two-Family Dwelling	1. Outdoor Recreational Facility
2. Accessory Use or Structure	2. Bridge
3. Agricultural Use Structure	3. Public Facility†

4. Forestry Use Structure	4. Home Industry
5. Child Care Home	
6. Accessory Dwelling Unit	
7. Home Occupation/Business	
8. Group Home (serving 8 or fewer)	

ARTICLE 3: GENERAL REGULATIONS

Section 3.1 Applicability

The following general standards, including provisions required under the Act [§§4412, 4413], apply to all uses and structures as specified within the Town of West Windsor.

Section 3.2 Access and Frontage Requirements

- A. No **land development** may be permitted on lots which do not have **frontage** on a public road or access to such a road by a permanent **easement** or right-of-way at least fifty (50) feet in width, approved by the **Development Review Board**.

Where **Development Review Board** approval of an **easement** or right-of-way is necessary, an **applicant** shall submit a site plan that identifies topography, **slope**, sight distances, and other characteristics within the proposed right-of-way deemed necessary by the Board. The **easement** or right-of-way, if approved by the **Development Review Board**, shall be surveyed and described in a deed, both of which shall be recorded in the Town land records.

- B. No lot shall be served by more than one residential (1) access road or **driveway** unless otherwise permitted as a **conditional use** (Section 5.3) by the **Development Review Board** and approved by the State or the Selectboard, in accordance with the B-71

Standard (see Section 3.2-1). Accesses (curb cuts) on all roads, including private roads, are to be installed in accordance with **municipal** and/or state regulations. For **parcels** having direct access to more than one public road, access to the property may be limited to a side street or secondary road as a condition of **approval** under Section 5.3.

- C. Where there is the proposed **subdivision** of land, provision for shared access between adjoining properties may be required by the **Development Review Board** as a condition of **approval** of the **subdivision**. Where shared access is required, shared **frontage** may be permitted.
- D. A new point of access onto a public road must have prior initial **approval** from the State of Vermont (state roads) or the West Windsor Selectboard (town roads).
- E. Once an access serves three (3) or more lots, it will be deemed to serve a small housing development and must employ the lane and shoulder width criteria from the table below as well as the **slope** criteria from the latest revision of the A-76 standard. The Selectboard shall conduct reviews of such access proposals subject to the same procedural requirements established for a **Conditional Use**. Unless otherwise determined, the average daily traffic per housing unit shall equal 10.

Lane and Shoulder Widths for Rural Roads					
Design Volumes (average daily traffic)	0-25	25-50	50-100	100-400	400-1,500
Design Speed (mph)	Width of Lane/Shoulder (ft.)				
25	7/0	8/0	9/0	9/2	9/2
30	7/0	8/0	9/0	9/2	9/2
35	7/0	8/0	9/0	9/2	9/2
40	7/0	8/0	9/2	9/2	9/2
45	n/a	n/a	9/2	9/2	9/2
50	n/a	n/a	9/2	9/2	10/2

Source: *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets*, October 1997.

- F. Limited agricultural accesses, limited forestry accesses, and/or temporary accesses need only State or Selectboard **approval**. The State or the Selectboard may require culverts and/or gating, and may restrict the use of the access to specific seasons.

Driveway standards apply to all residential, commercial and industrial uses, which serve no more than 2 (two) lots, and shall meet the following standards:

- A. **Driveways** shall be constructed to Agency of Transportation B-71 Standards for Commercial and Residential **Driveways** unless otherwise required under Subdivision, site plan or **conditional use** review.
- B. **Driveways** shall not exceed a 25 (twenty-five) percent grade. Transition **slopes** in **driveways** shall be provided in accordance with the standards set by B-71. If the topography of the land makes it impossible or unduly expensive for a landowner to comply with the B-71 standard, the landowner may apply to the **Development Review**

Board for a variance. In considering a variance request, the DRB shall apply the five criteria in Section 9.8. In addition, the DRB shall find that the variance, if granted, will not have an adverse impact on public safety as evidenced by a letter to that effect from the Fire Chief and/or the Highway Foreman.

- C. A **driveway** application involving a new access location requires access **approval** by the Selectboard. Non-residential **driveways** shall be located at least one hundred (100) feet from a highway right-of-way intersection.
- D. One- and two-family residential **driveways** shall be at least fifty (50) feet from the same.
- E. No **driveway** shall be constructed within 10 (ten) feet of a property line unless the **driveway** is going to be used as a shared **driveway**.

Section 3.3 Conversions or Changes of Use

Changes or conversions in the use of land and/or structures are subject to the provisions of this bylaw as follows:

- A. The proposed use shall be subject to all the requirements of this bylaw pertaining to such use, including but not limited to any district, specific use or general standards, as well as other applicable **municipal**, state and federal regulations.
- B. A conversion or change from one **permitted use** to another **permitted use**, or from a **conditional use** to a **permitted use**, shall require a zoning permit issued by the **Administrative Officer**.
- C. A conversion or change from a **permitted use** to a **conditional use**, or from a **conditional use** to a different **conditional use**, shall be subject to **Conditional Use approval** by the **Development Review Board**, with a zoning permit to be issued by the **Administrative Officer**. (See Administration, Appeals and Enforcement)

Section 3.4 Equal Treatment of Housing

In accordance with the Act [§4412(1)], a **mobile home** shall be considered a **single-family dwelling**, and shall meet the same zoning requirements applicable to **single-family dwellings**, except when allowed as a temporary structure under Section 3.16 of these regulations. No provision of these regulations shall have the effect of excluding **mobile homes**, **modular housing**, or other forms of **prefabricated housing** from the municipality except upon the same terms and conditions as conventional housing is excluded. For **mobile homes** in a **Special Flood Hazard Area**, see also the Town of West Windsor Flood Hazard Area Regulations.

Section 3.5 Erosion Control & Development on Steep Slopes

All development involving the mechanical excavation, filling and/or re-grading of land (e.g. using bulldozer, backhoe, grader or similar heavy equipment) characterized by a **slope** gradient in excess of 25% shall be subject to review and **approval** by the **Development Review Board**.

All applications for **approval** shall include a sketch, drawn to scale, showing existing and proposed **slopes**, existing and proposed development (buildings, roads, and utilities), and surface waters (e.g. **wetlands**, **streams** or ponds). Applications shall also include erosion and sedimentation control plans.

If, after review, the DRB determines that the **erosion control** plan presented is inadequate, the DRB may require such plans to be prepared and monitored by a professional engineer licensed by the State of Vermont, and may require detailed information regarding proposed erosion and sedimentation control measures to be employed during all stages of the development (including site preparation, construction and post-construction).

Section 3.6 Existing Small Lots

- A. In accordance with the Act [§4412(2)], any lot in individual and non-**affiliated** ownership from surrounding properties in existence on the effective date of this bylaw may be

developed for the purposes permitted in the district in which it is located and in accordance with all applicable requirements of this bylaw, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth (1/8) of an acre in area with a minimum width or depth of forty (40) feet.

B. **Pre-existing**, undeveloped small lots, less than two acres in size, in **affiliated** or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of this bylaw, However, such lots shall not be deemed merged, and may be separately conveyed, if:

1. the lots are conveyed in their **pre-existing**, nonconforming configuration;
2. on the effective date of this bylaw, each lot had been developed with a water supply and wastewater disposal system;
3. at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and,
4. the deeds of conveyance create appropriate **easements** on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

Section 3.7 Height Requirements

A. The maximum height of structures in all districts shall be forty (40) feet, as measured from the lowest natural grade at ground level, except as permitted under Subsection (B), or for the following which are specifically exempted from the height requirements of this bylaw:

1. agricultural structures in accordance with the Act [§4413(d)];
2. church steeples, spires and belfries;
3. flag poles and residential chimneys;

4. residential antenna structures, wind generators with blades less than 20 feet in diameter, and rooftop solar collectors less than 10 feet high, which are mounted on complying structures [§4412(6)].

B. The **Development Review Board** may permit structures in excess of 40 feet in height subject to **conditional use** review under Section 5.2, provided that:

1. the structure does not constitute a hazard to public safety or adjoining properties;
2. the structure is not used for advertising purposes;
3. lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to that which is required for security and safe operation;
4. the proposed building height and scale is consistent with the character of the immediate surroundings; and,
5. the structure is not deemed by the DRB to have an **undue adverse impact** on aesthetics.

Section 3.8 Lot and Yard Requirements

There shall be one principal structure or use on a single lot, unless otherwise specifically approved as a **mixed use**, or as part of a **Planned Unit Development (PUD)**. Any other use of the lot must be accessory to this principal use or structure.

A. No lot shall be so reduced in size that the area, **yards**, lot width, **frontage**, **setbacks**, or other dimensions are smaller than prescribed in this bylaw, except as permitted for **Planned Unit Development (PUD)** pursuant to Section 8.2. The provisions of this Section shall not apply when part of a lot is taken for public purposes.

B. Space required under these regulations to satisfy **yard**, area, or other **open space** requirements in relation to one building shall not be counted as part of the required **open**

space for any other building. In calculating the required area, width or depth of a lot, existing and proposed rights-of-way shall be excluded.

- C. For lots in all districts, there shall be no impediment to vision within twenty-five feet of a street intersection or highway entrance between the height of three (3) feet and ten (10) feet above the average grade of each street, unless approved by the Selectboard and the Highway Foreman.
- D. Side and rear **setbacks** are to be measured from the property line to the closest point of the structure. Front **setbacks** are to be measured from the edge of the highway right-of-way to the closest point of the structure. On roads with less than a fifty (50) foot right-of-way, or where the width of the road right-of-way has not been established, the **front-yard** requirement shall be measured from the centerline of the existing roadway and twenty-five (25) feet shall be added to the **front yard** requirement.
- E. Lots at an intersection of roads shall have the required **frontage** on both roads. All **yards** adjoining a road shall be considered **front yards**.

Section 3.9 Nonconforming Uses and Nonconforming Structures

In accordance with the Act [§4412(7)], these regulations address three categories of nonconformity: **Nonconforming structures** (see subsection (A)), **Nonconforming uses** (see Subsection (B)), and Existing small lots (see Section 3.6).

- A. **Nonconforming Structures:** Any legal structure or part thereof, which is not in compliance with the provisions of these bylaws concerning **setback**, height, size, or other structural requirements (including such things as parking, lighting, **buffers**, and lowest floor elevation in **floodplain** zoning) shall be deemed a **nonconforming structure**. Legal **nonconforming structures** exist as a result of construction prior to adoption of bylaws, or

construction under an earlier set of less restrictive bylaws. Any **nonconforming structure** may be allowed to exist indefinitely, but shall be subject to the following provisions:

1. Subject to **conditional use approval** by the DRB, a **nonconforming structure** may be restored or reconstructed after *unintentional loss* provided the reconstruction is commenced within two years and does not increase the degree of nonconformance that existed prior to the damage.
2. A **nonconforming structure** which has been intentionally demolished shall not be reconstructed except in conformance with these bylaws. The DRB may grant a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of these bylaws. In considering a waiver from these provisions, the DRB shall take into consideration the ability of the **applicant** to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.
3. A **nonconforming structure** shall not be moved, altered, extended, or enlarged in a manner which will increase the existing degree of non-conformance. The phrase 'shall not increase the degree of non-conformance' shall be interpreted to mean that the portion of the structure which is nonconforming shall not increase in size (or decrease in the event of failing to meet minimum standards such as parking and lighting). Therefore, portions of a structure within a **setback** area cannot be enlarged, portions above the maximum height cannot be expanded, a nonconforming deck or porch cannot be enclosed, where parking is deficient the number or size of spaces cannot be reduced, etc. This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios provided there is no increase in size.
4. Nothing in this section shall be deemed to prevent normal maintenance and repair of a **nonconforming structure** provided that such action does not increase the degree of nonconformance.

5. The DRB shall permit the **alteration** or expansion of a **nonconforming structure** for the sole purpose of compliance with mandated or required environmental, safety, health, or energy codes.

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

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

Section 3.10 Parking and Loading Requirements

Adequate provision shall be made so that normal vehicular traffic associated with any use shall be parked off public roads and rights-of way. Spaces shall be provided whenever any new use is established, or when the existing use is expanded or changed. For purposes of rough computation, an off-street **parking space** is estimated to be approximately 300 square feet.

- A. A minimum number of **parking spaces**, as determined by proposed use, shall be provided in accordance with the requirements listed in Table 3.11.

Table 3.11

Use	Required Parking Spaces
Residential – including PUD	2 per dwelling unit
Lodging	1 per lodging unit
Clinics, group homes , etc.	1 per bed + 1 per employee
Non-profit club	1 per four members
Churches, schools, public assembly	1 per 3 seats in main assembly room
Professional office & business service	1 per 250 sq. ft. of floor space
Retail	1 per 300 sq. ft. of floor space
Restaurants	1 per 4 seats + 1 per employee (busiest shift)
Industry	1 per employee
Other	as required by the DRB

- B. An off-street **parking space** shall have a minimum width of nine (9) feet, a minimum length of twenty (20) feet, adequate maneuvering room and access to a public road. For purposes of initial calculation, an off-street **parking space** with access and maneuvering room may be estimated to be three hundred (300) square feet.
- C. Out of necessity, the parking of motor vehicles may be allowed in **setback** areas in the Primary Growth - Village district only, following **conditional use approval**.

- D. Parking areas associated with proposed **conditional uses** shall be located and landscaped in accordance with the standards set forth in **Conditional Use** and Site Plan Review.
- E. Public parking areas shall comply with at least the minimum requirements of the Americans with Disabilities Act (ADA).

Section 3.11 Performance Standards

As provided in §4414(5) of the Act, the following standards apply to all uses, with the exception of agriculture and forestry, in all districts. In determining ongoing compliance, the burden of proof shall fall on the **applicant** and/or all assessors and assigns. No use shall cause, create or result in:

- A. smoke, dust, odors, noxious gases, or other forms of air pollution which constitute a nuisance to neighboring landowners, businesses, or residents; which endanger or adversely affect public health, safety, or welfare; or which are offensive or uncharacteristic of the area;
- B. noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area;
- C. noticeable, or clearly apparent vibration which, when transmitted through the ground, is discernible at property lines without the aid of instruments;
- D. excess lighting beyond the minimum amount required for safety and security and/or lighting which is inconsistent with the character of the neighborhood. No excessive direct light shall be visible from the property line. The use of motion-activated LED, infra-red controlled, timer controlled, and down lighting is encouraged. Shielded up lighting or down lighting of the American flag, in accordance with federal regulations, is allowed;

- E. fire, explosion, or other hazards, which endanger the **applicant's** or neighboring properties, or the general public or which result in a significantly increased burden on **municipal** facilities and services;
- F. liquid or solid wastes, or other types of solid or hazardous wastes that are generated in amounts which cannot be disposed of by available or existing methods without undue burden to the municipality, public health, safety, and welfare or the environment.

Section 3.12 Protection of Natural Resources

Proposed development shall not have an **undue adverse impact** on important natural resources or fragile features located on the **parcel**, including **wetlands** currently under federal or state jurisdiction, steep **slopes**, rivers and **streams**, critical wildlife habitat and/or **floodplains** identified in the **town plan** or through field investigation. In approving a **conditional use**, the **Development Review Board** may impose conditions to ensure the protection of natural resources and fragile features such as:

1. The establishment of **buffer** areas.
2. Permanent protection through conservation **easements** or other deed restrictions.
3. The designation of established building locations and or building envelopes to ensure that activities incidental to the operation of the **conditional use**, including **clearing** and **yard** areas, do not adversely impact identified resources.

Section 3.13 Development near Waterways

In accordance with current Vermont Wetland Rules, to prevent soil erosion, protect and enhance wildlife habitat, and maintain water quality, a natural, vegetated **buffer** shall be maintained for a minimum of fifty (50) feet from all **wetlands** currently under federal or state jurisdiction, and from **streams** and rivers located on the U.S. Geological Survey map. The 50' **buffer** shall be measured from the top of the bank or **slope**, or from the delineated wetland boundary. No new development, excavation, landfill, **clearing**, or grading, shall occur within the **buffer** strip, except as necessary:

1. To accommodate approved **stream crossing** structures (see Section 3.14-1);
2. To allow for **stream** bank stabilization and restoration projects, in accordance with applicable state and federal regulations;
3. To provide **essential services** (see definition). The repair, maintenance, or replacement of existing transportation infrastructure within public rights-of-way, including but not limited to **bridges** and culverts, is an **essential service** exempt from local zoning regulations. The town is responsible for obtaining all required state and/or federal permits.
4. As an emergency measure, to prevent or repair damage to existing structures or natural features caused by flooding or other natural causes. The **applicant** shall obtain written authorization from the appropriate town, state and/or federal officials, who shall concur that the situation presents an imminent threat to public safety and/or infrastructure.

Stream bank stabilization projects and emergency measures require review and **approval** by the **Administrative Officer**. Applications for **approval** shall include copies of all applicable authorizations and permits. Any development other than an approved **stream crossing**, an approved **stream** bank stabilization, an **essential service**, or an authorized emergency measure, shall require **conditional use** review and **approval** by the **Development Review Board**. Upon completion of the project, all disturbed areas shall be stabilized.

The following activities shall be **allowed uses** within the fifty foot **buffer**:

1. Routine maintenance of existing, approved **stream crossing** structures, **stream** bank stabilization projects, and recreational trails;
2. Limited tree pruning;
3. Removal of trees (not including stumps) that pose a hazard to people or property;
4. Annual mowing (i.e. no more than once per year) to maintain tall-grass habitat, on or after August 1st;
5. Removal of invasive plants; and
6. Planting of non-invasive trees, vines, grasses and shrubs.

Bridges & Stream Crossings

A zoning permit is required for the construction of a **bridge** or **stream crossing**.

Applications for pedestrian, bicycle, and snowmobile **bridges** or **stream crossings**, not located in a **Special Flood Hazard Area** (SFHA), for which all required state and federal permits have been obtained, shall be approved by the **Administrative Officer**. Applications for pedestrian, bicycle, and snowmobile **bridges** or **stream crossings** that are located in a SFHA shall be subject to flood hazard review and **conditional use** review by the **Development Review Board** (DRB).

Applications for all **bridges** and **stream crossings** providing access to a structure shall:

1. Include plans, prepared by a professional engineer licensed by the State of Vermont, that meet minimum standards including, but not limited to, H-20 loading capacity.
2. Include copies of all required state and/or federal permits.
3. Require **conditional use approval** by the **Development Review Board** (DRB).

A **Certificate of Occupancy** shall not be issued for a **bridge** or **stream crossing** that provides access to a structure until a professional engineer has certified that the structure, as built, meets the required minimum standards.

Bridges and culverts which by their nature must be placed in or over the stream, must have a stream **alteration** permit from the Agency of Natural Resources, where applicable.

Section 3.14 Signs

Off-Premises Signs

No person may erect or maintain an off-premises **sign** except as provided in 10 V.S.A., Chapter 21.

On-Premises Signs

On-premises **signs** constructed in accordance with this Section shall be considered accessory structures. No on-premises **signs** shall be permitted except as hereinafter provided:

Signs for Home Occupation or Home Business.

One unlit sign not exceeding six (6) square feet, per side, and not to exceed six (6) feet in height is permitted in any district.

Signs for Church, Schools, and Public Facilities.

One sign not exceeding fifteen (15) square feet, per side, and not more than ten (10) feet in height is permitted on the premises of any such use in any district.

Signs for Commercial/Industrial Uses.

A maximum of two (2) signs not exceeding fifteen (15) square feet, per sign, shall be permitted for any permitted non-residential use. The height of a freestanding sign shall not exceed fifteen (15) feet. Sign area may be combined to allow one **flush-mounted** sign not exceeding thirty (30) square feet.

Construction, Real Estate & Temporary Signs.

One temporary construction sign, or sign advertising the sale or lease of real estate, may be displayed, subject to the following:

1. The physical structure of such sign shall not exceed eight (8) square feet, not including support posts, which shall be proportional with the size of the sign;
2. The sign is constructed of rigid material;
3. The sign is removed immediately upon completion of construction, or the sale or lease of the advertised real estate.

Temporary signs for irregularly scheduled public events such as auctions, suppers and meetings shall not exceed six (6) square feet.

Exempt Signs

The following signs are generally exempt from the provisions of this section except those provisions in Prohibited Signs:

- A. Signs on registered and inspected motor vehicles except those which are determined by the **administrative officer** to be circumventing the intent of this ordinance.
- B. Political signs provided they are erected no more than three weeks before an election and are removed the week after the election. Any person erecting a political sign is responsible for its removal.
- C. Signs erected by the Town of West Windsor or its school district.
- D. Directional signs, not exceeding two (2) square feet in size, which are necessary for and displayed for the direction, instruction, or convenience of the public, including signs which identify entrance or exit, rest rooms, freight entrances, designated accessible parking spaces, posted areas, or the like. Up to four such signs per lot are exempt under this provision. Lettering shall be generic and advertising or logos (including business names) are prohibited on directional signs. These signs shall not be illuminated. Where free-standing, these signs shall not be more than three (3) feet high, and shall not obstruct pedestrian or vehicular safety or circulation.
- E. Informational signs up to ten (10) square feet in size, on lands which have been conserved by **easement** or other permanent, protective measures.

General Requirements for All Signs

- A. A sign may be illuminated only by a continuous, non-flashing light. Such lighting must be effectively focused and shielded so that it does not cause undue glare, impair the vision of drivers or illuminate neighboring properties. All exterior lighting shall be down directed and shielded so as to project only onto the sign.

- B. Signs may not be located within or project over a public or private right-of-way.
- C. Signs shall be located, at every street intersection or **driveway**, in a way that does not prevent the driver of a motor vehicle from having a clear and unobstructed view.
- D. Signs may not present a safety hazard to pedestrians (e.g., by reason of hanging over public sidewalks or of not being securely fixed to a substantial structure or support) and must not stand less than ten (10) feet above a public walkway.
- E. Signs may not interfere with or resemble any official traffic control sign, signal or device, or prevent the driver of any motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching, entering, or merging traffic.
- F. Signs must not be within ten (10) feet of a side or rear **lot line** or within a highway right-of-way (except in the PGV-1 district).
- G. Signs shall not exceed fifteen (15) feet in height if freestanding, or extend above a roof or parapet if attached to a building.
- H. No sign shall flash, oscillate or revolve.
- I. Signs must not be attached to trees or utility poles or drawn on rocks or other natural features.
- J. No sign shall be internally illuminated.
- K. In **Planned Unit Developments** (PUDs): As approved in the PUD permit or amendment.

Section 3.15 Temporary Structures

A temporary permit may be issued by the **Administrative Officer** for storage containers and office/construction trailers that meet minimum standards for the district and are not used for residential purposes, for a period not to exceed six (6) months, conditioned upon written agreement by the owner to remove the structure upon expiration of the permit. Temporary permits may be renewed for one additional six month period.

Section 3.16 Water Supply & Wastewater Disposal

Compliance with State & Local Regulations. No building or structure intended for human occupancy shall be erected, altered or converted from another use unless adequate water supply and wastewater disposal systems are provided in compliance with all applicable **municipal** and state regulations. For uses requiring **approval** under state on-site sewage disposal regulations, a state Wastewater System and Potable Water Supply permit must be obtained by the **applicant** prior to the commencement of construction of any structures or the initiation of any use associated with the wastewater and water supply system.

Section 3.17 Section 3.16 Water Supply & Wastewater Disposal

Intentionally omitted – pending Selectboard ordinance.

ARTICLE 4: SPECIFIC USE STANDARDS

Section 4.1 Accessory Dwelling Units

An **accessory dwelling unit** that is located within or **appurtenant** to a **single-family dwelling** shall be a **permitted use** in all districts. An **accessory dwelling unit** is a one- or two-bedroom apartment, located within or **appurtenant** to a **single-family dwelling**, that is clearly subordinate to the **single-family dwelling**, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- A. The owner occupies either the **single-family dwelling** or the **accessory dwelling**.

- B. The property has sufficient wastewater capacity.
- C. The unit does not exceed 1000 square feet, or 30% of the total **habitable floor area** of the **single-family dwelling**, whichever is greater.

Applicable **setback**, **coverage**, and parking requirements specified in the bylaws are met.

Applicants shall contact the State Permit Specialist (885-8850) and the Vermont Department of Public Safety's Division of Fire Safety (885-8883) prior to proceeding with the construction of an **accessory dwelling unit**.

Section 4.2 Accessory Structures and Uses

Accessory structures, other than **fences** and **signs**, shall conform to the district **setback** requirements, except that the **yard** dimensions for an accessory structure of no more than 200 square feet with a height of no more than 15 feet are reduced to twenty (20) feet. Non-structural **accessory uses** may be located in front, side, or rear **yards** and need not comply with district **yard** requirements.

Section 4.3 Agricultural and Forestry Uses

Agricultural and **forestry uses** are allowed in all districts without need for a zoning permit. Although listed as **Permitted Uses** in all districts, development of **farm structures** does not require a zoning permit. Prior to breaking ground, however, the **Administrative Officer** must be notified of the project (except for temporary stands as provided for below). If the structure cannot meet the minimum **yard** requirements as provided for in the district where it is proposed, a variance must be obtained from the Commissioner of Agriculture, Food and Markets, or the Commissioner of Forests, Parks and Recreation as provided for in Title 24 V.S.A §4413(d). Agricultural produce may be sold in connection with an on-premise **agricultural use** without a permit if:

1. stands are temporary and located at least twenty (20) feet from the edge of a traveled way and from **lot lines**,
2. business is conducted only during daylight hours, and

3. parking is provided off-street and limited to a total of five (5) cars at any one time.

If additional hours of operation are proposed, or **parking space** for more than five (5) cars is required to accommodate customer traffic off-street, a **conditional use** permit will be required in accordance with Section 5.3.

Section 4.4 Campers & Recreational Vehicles

- A. **Campers** (travel trailers, recreational vehicles) shall be parked in an approved campground or on an approved sales lot, with the exception that not more than one (1) **camper** may be located on a residential or undeveloped lot, as an **allowed use**, subject to the following:
 - B. **Campers** that are temporarily occupied, in accordance with this Section, shall be located in a side or **rear yard** and may not be located within required **setbacks** for the district.
 - C. It is not occupied for **dwelling** purposes for more than ninety (90) days within any one calendar year.
 - D. It is not hooked up to a water or septic system.
 - E. Any sewage generated shall be disposed of in accordance with all applicable local, state and federal regulations.
 - F. Nothing shall prohibit a property owner from parking his or her unoccupied **camper**, travel trailer or recreational vehicle on his or her property.

Section 4.5 Child Care Home

In accordance with §4412 (5), a state registered or licensed day care facility located within a single-family residence serving six (6) or fewer children on a full-time basis and not more than four (4) on a part-time basis, (the care-giver's children are not considered in determining total number of children) shall be considered a permitted single-family residential use of the property.

No **conditional use** or site plan permit is required, but a zoning permit is required and may be issued by the **Administrative Officer** subject to the following:

- A. the **applicant** shall submit proof that the facility is properly registered and/or licensed by the State of Vermont and clearly state the number of children to be accommodated by the facility;
- B. the facility shall meet all zoning district requirements.

Section 4.6 Child Care Facility

Other child-care facilities serving more than six (6) full-time children and four (4) part-time children may be permitted within the designated districts subject to **conditional use** and site plan review.

Section 4.7 Extraction of Mineral Resources

Any activities related to mineral extraction are a **conditional use** and require site plan review. The removal of **mineral resources**, except when incidental to the construction of a building or a road on the same premises or except where extraction will not exceed 500 cubic feet per year, shall not be permitted until a plan for rehabilitation of the site has been approved by the **Development Review Board**. The plan shall be submitted by the **applicant** and shall outline excavation procedures which specify **phasing** of the operation whereby upon completion of the phases the excavated sections are left in a safe, attractive and useful condition. In accordance with Section 4464(b)(2) of the Act, the **Development Review Board** may require a performance bond to cover the costs of such phased rehabilitation of the site. Rehabilitation shall at least include **slope**-rounding to 100% grade if possible, mulching, fertilizing and re-planting. Work shall be done under the supervision of, and to the satisfaction of, the **Development Review Board**. All surface drainage affected by the operation shall be controlled by the operator to prevent erosion debris and other loose materials from filling any drainage course, road or private property. All provisions to control natural drainage shall meet with the **approval** of the **Development Review Board**. Stripping of topsoil for sale or for use on other premises, except

soil made surplus by a construction project, shall be prohibited, unless not less than a four-inch layer of topsoil is replaced and re-seeded over the entire stripped area.

Section 4.8 Fences & Walls

- A. All **fences** and **walls**, other than Boundary Line **Fences** and **Walls**, shall meet the following standards:
1. A **fence** or **wall** must be set back a minimum of three (3) feet from the property line.
 2. The finished side of the **fence** or **wall** must face the abutter's property.
 3. The **fence** or **wall** shall not extend into or obstruct public rights-of-way or interfere with sight distances for vehicular traffic.
- B. Fences in Special Flood Hazard Areas: All **fences** and **walls** located in **Special Flood Hazard Areas** (SFHA), including Boundary Line **Fences** and Agricultural **Fences**, shall be subject to Flood Hazard Review by the **Development Review Board**.
- C. Fences less than or equal to five (5) feet in height: **Perimeter and boundary fences** less than or equal to five (5) feet in height, as measured from the ground, shall meet the standards for **fences** and **walls**, and shall require a zoning permit issued by the **Administrative Officer**. (See Section 1.7 for fence exemptions)
- D. Fences more than five (5) feet high: **Fences** over five (5) feet in height, as measured from the ground, shall meet the standards for **fences** and **walls**, and shall require **conditional use approval** by the **Development Review Board**.
- E. Agricultural fences: Except in **Special Flood Hazard Areas**, **fences** that qualify as **farm structures** (see definition), regardless of height, shall not require a zoning permit but shall meet the standards for **fences** and **walls**. The **Administrative Officer** shall be

notified in writing that an agricultural **fence** is being constructed. The notification shall include the physical address and **parcel** number of the property; the name, mailing address, and signature of the property owner; the reason why the **fence** qualifies as a “**farm structure**,” and a sketch showing the dimensions, location, and **setback** of the **fence**.

F. Boundary line fences: A **fence** or **wall** may be constructed on the boundary line between two properties if both property owners agree on the design, size, location, and maintenance of the **fence** or **wall**. Constructing a boundary line **fence** or **wall** shall require a zoning permit, regardless of height. An application for a boundary line **fence** or **wall** shall be a joint application, signed by both property owners, and shall include:

1. A survey of the property line on which the **fence** or **wall** will be located.
2. A written agreement specifying the type of **fence** (e.g. picket, split rail, stockade, stonewall, etc.), the dimensions and exact location of the **fence** or **wall**, and the person(s) responsible for maintenance.

G. Stonewalls: For the purposes of this section, a stonewall is considered a **fence**. A single large boulder, or an unconnected series of boulders, is not considered a stonewall or a **fence**. (See Section 1.7 for stonewall exemptions)

H. Hedgerows: For the purposes of this section, a **hedgerow** is not considered a **fence**. However, property owners should note the following:

1. Nothing can be placed or planted in a highway right-of-way without written permission from the West Windsor Selectboard.
2. Vegetation that extends onto an **abutting property** may be trimmed back to the property line by the **abutting property** owner without notification or permission.

Section 4.9 Group and Residential Care Homes

In accordance with 24 V.S.A. §4412(1)(G), a **residential care home** or **group home**, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability (as defined in 9 V.S.A. §4501) shall be considered a permitted single-family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing, permitted **group home**. A **residential care home** or **group home**, to be operated under state licensing or registration, serving nine or more who have a handicap or disability (as defined in 9 V.S.A. §4501) shall be reviewed as a **multifamily dwelling** and shall be subject to **conditional use** and site plan review.

Section 4.10 Home Occupation

Nothing in these Regulations shall prevent residents from using a minor portion of their **dwellings** for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

A home occupation does not require a zoning permit provided that the home occupation shall:

1. be carried on *only* by residents of the premises;
2. involve only a service provided or a product produced by those residents;
3. be operated entirely within a principal and/or accessory structure;
4. result in no external evidence of the enterprise except for permitted **signs**;
5. be clearly secondary to the use of the premises for **dwelling** purposes; and
6. meet all performance standards, as specified in Section 3.12.
7. not result in traffic volumes substantially above that which would normally be expected from a residential use in the neighborhood.

An activity which *exceeds* the standards for a Home Occupation as set forth in this Section is not permitted unless otherwise provided for in the district.

Section 4.11 Home Business

In districts as specified in Section 2.3, home businesses accessory to a **dwelling** must conform to the requirements of this section. To conduct an activity, which exceeds the standards for a

Home Occupation, a Home Business permit may be permitted with the approval of the **Administrative Officer**. An activity, which exceeds the standards for a Home Business as set forth in this Section, is not allowed unless otherwise provided for in the district. A home business shall:

- A. be carried on by residents of the premises and *not more than* two (2) additional on-premise employees who are not residents;
- B. the home business occupies an area less than 50% of the floor area of the **dwelling** unit or an accessory structure located on the lot;
- C. be carried on within a principal and/or accessory structure;
- D. does not involve external storage of supplies or equipment unless they are screened from any adjacent highway or **dwelling** unit (except for outdoor parking of two business vehicles) by fencing or evergreen vegetation;
- E. provide off-street parking for all customer and employee vehicles;
- F. meet all performance standards, as specified in Section 3.12;
- G. be secondary to the use of the premises for **dwelling** purposes; and
- H. any proposed expansion of the home business beyond that permitted will require a separate zoning permit for a home industry under this section, or other use as appropriate.

Section 4.12 Home Industry

Home industries (as distinguished from Home Businesses) may be permitted in designated zoning districts, and are subject to **conditional use** review and must conform to the requirements of this section. A home industry shall:

- A. be carried on by residents of the premises and not more than four (4) additional on-premise employees who are not residents;
- B. be carried on primarily within a principal or accessory structure and may have exterior storage of supplies and equipment if properly screened from any adjacent highway or **dwelling unit**. Exceptions may be made for goods compatible with the neighborhood such as nursery plants and shrubs;
- C. the home industry occupies an area less than 50% of the floor area of the **dwelling unit** or an accessory structure located on the lot;
- D. the home industry does not change the residential character of the property or the surrounding area;
- E. the home industry does not generate traffic in excess volumes suitable for the neighborhood and all roads providing access to the site;
- F. provide off-street parking that is located to the side or rear areas, for customers and employee vehicles that is properly screened,;
- G. the permit shall clearly state that the home industry is a home-based business that is accessory to the principal residential use, and shall be retained in common ownership and management.

Section 4.13 Landfill

In all districts, the dumping of refuse, or waste material, is prohibited. Filling of land in a **special flood hazard area** (SFHA) is prohibited unless it complies with the West Windsor Flood Hazard Area Regulations. Outside the SFHA, filling of land with loam, rock, stone, gravel, or sand is a **permitted use** in all districts provided that:

- A. final contours are graded, covered with topsoil, and re-vegetated to prevent erosion;
- B. natural drainage flows are not obstructed or diverted onto adjacent property;
- C. there is no unauthorized disturbance to, or filling of, water bodies, **wetlands**, **buffers**, or other significant natural areas; and
- D. such filling does not result in a **slope** greater than 25% within 50' of any property line.

Development which cannot meet the above criteria requires review and **approval** by the DRB in accordance with Sections 3.5 and 3.14.

Section 4.14 Light Industry

In addition to **conditional use** and site plan review, manufacturing or fabricating enterprises, which do not meet the standards for a home occupation, a home business, or a low-impact non-residential use, must:

- A. be located in the Light Industrial/Commercial district;
- B. be carried on within a principal structure and involve external storage of supplies or equipment only if they are adequately screened from any adjacent highway or **dwelling** unit by fencing, evergreen vegetation, or other compatible screening;
- C. provide off-street parking for all customer and employee vehicles; and
- D. meet all performance standards, as specified in Section 3.12.

Section 4.15 Low-impact Non-residential Use

A. Low-impact non-residential uses, which meet the requirements of this section, may be allowed in the Primary Growth Village district, following **conditional use** review by the **Development Review Board (DRB)**. A low-impact non-residential use shall:

1. Be carried on within an existing principal or accessory structure, or meet the requirements of Section 4.14 (B);
2. Employ no more than ten (10) on-premise workers;
3. Not involve external storage of materials or equipment unless they are adequately screened from adjacent highways or **dwelling** units;
4. Provide adequate off-street parking for all customer and employee vehicles;
5. Meet all the performance standards of Section 3.11; and
6. Establish hours of operations which ensure that the proposed use does not have an **undue adverse impact** on neighboring residential uses.

B. Any new construction planned in connection with an existing or proposed low-impact non-residential use, must be approved by the DRB and shall:

1. Have the appearance of a residence, garage or barn;
2. Be designed for easy conversion to a residence or other use allowed in the district;
3. Be of a size and scale similar to other structures in the neighborhood; and
4. Have acreage, **yards**, **frontage**, **coverage** and **setbacks** sufficient to allow the proposed structure to meet the dimensional requirements for the district in the event that the property is subdivided in the future.

Section 4.16 Mixed Uses

In designated districts, more than one use may be permitted within a single building or on a single lot subject to site plan and **conditional use** review, provided that:

- A. Each of the proposed uses is allowed as a permitted or **conditional use** in the district in which it is proposed.
- B. The combined uses shall meet all applicable standards for the district in which the **mixed use** is proposed, including **setbacks, frontage, side yards, lot coverage, lot size, and parking.**

Section 4.17 Mobile Homes, Modular Housing, Prefabricated Housing

Pursuant to 24 V.S.A. § 4412(1)(B), a **mobile home** shall be considered a **single-family dwelling** and shall meet the same zoning requirements applicable to **single-family dwellings**, except when unoccupied and displayed in a **mobile home** sales establishment or allowed as a temporary structure under these regulations.

In all districts, **mobile homes** are permitted on lots as **single-family dwelling** units if they are secured to a permanent foundation. This foundation shall be constructed of stone, concrete or other such materials and may be either a full **basement**, slab, sunken piles enclosed with block facing, or some other permanent construction.

Section 4.18 Mobile Home Parks

Mobile Home Parks are permitted in the Secondary Growth Residential district as **Planned Unit Developments**. **Mobile home parks** shall comply with the provisions of Article V and shall obtain a **Mobile Home Park** Permit from the State of Vermont prior to occupancy. Nothing herein shall be construed to apply to premises used solely for storage or display of **mobile homes**.

Section 4.19 Multi-Family Dwellings

Depending upon the district, **multi-family dwellings** may be permitted as **Conditional Uses** or as part of a **Planned Unit Development**. The lot size for **multi-family dwellings** shall equal or exceed the "minimum lot size per family unit" for the district times the number of units proposed.

In the Rural Residential and Conservation Districts, **multi-family dwellings** may be permitted only as part of a **Planned Unit Development** and may be either **subdivisions** of **pre-existing** structures or new structures.

Section 4.20 Ponds

The creation or expansion of ponds and other impoundments may be permitted as an **accessory use** upon application and receipt of a zoning permit in accordance with Sections 6.2 and 6.3. In issuing a zoning permit, the **Administrative Officer** shall find that:

- A. A pond with a water surface area of 10,000 square feet or more shall require **conditional use approval**.
- B. Any pond that will impound, or be capable of impounding, more than 500,000 cubic feet of water must receive a permit from the Vermont Department of Environmental Conservation (VDEC), in accordance with 10 V.S.A. Chapter 43, in addition to a local zoning permit.
- C. If the project necessitates any work within a **stream**, a **stream alteration** permit is required from VDEC in accordance with 10 V.S.A. Chapter 41.
- D. Any application for a pond involving the impoundment of water through the creation of an embankment, berm, or other structure that exceeds the natural grade of the site, or having a water surface area of 10,000 square feet or greater, shall include certification that the pond was designed by a licensed professional engineer. Before a **Certificate of Occupancy** can be issued for the pond, the **applicant** must submit certification by a licensed professional engineer that the pond was built in accordance with the proposed design.
- E. Applications for projects that require **approval** from the VDEC and/or the Army Corps of Engineers shall not be considered complete until such **approvals** are received by the **Administrative Officer**.

A zoning permit is not required for maintenance of an existing man-made pond for which there is a permit, or which predates zoning, as long as the pond is not enlarged and the maintenance activities conform with state and federal regulations and the Construction Standards for Ponds.

Conditional Use Review for Ponds

All ponds and all other impoundments, with a water surface area of 10,000 square feet or more, are subject to **conditional use** review. In granting **approval**, the **Development Review Board** shall find that the proposed pond is not located where failure of the embankment, berm, or other structure could cause:

- A. Loss of life;
- B. Injury to persons or livestock;
- C. Damage to residences, commercial or industrial buildings;
- D. Damage to roads, **bridges**, culverts, or other infrastructure; or
- E. Interruptions of the use of public utilities.

Upon issuance of **conditional use approval**, the **Development Review Board** shall duly note that the owner of the property is responsible for the maintenance and safe functioning of the pond, and for any **undue adverse impacts** on neighboring properties, neighboring water supplies, or adjacent town highways.

Construction Standards for Ponds

Ponds must be designed and built in accordance with the following standards:

- A. Excavated soil must be disposed of in an upland site so as not to wash back into water bodies and **wetlands**. All areas above the pond's waterline stripped of vegetation during construction must be seeded and mulched as soon as possible after construction is completed.

- B. The banks of ponds should be no steeper than a 3:1 **slope** (i.e., three feet horizontally to one foot vertically) out to a depth of three feet.
- C. Ponds and their supporting structures may be 25 feet from the edge of the highway right-of-way if the elevation of the pond is below the elevation of the road and the landowner has a written agreement with the West Windsor Volunteer Fire Department authorizing the installation of a hydrant.
- D. Zoning applications for ponds with elevations above the elevation of the adjacent highway right-of-way shall include a letter from the West Windsor Highway Foreman approving the proposed pond design.

Applicants should be aware that ponds may be considered **wetlands**. Future development within 50' of the pond may be restricted by local, state or federal law.

Section 4.21 Ramps

Ramps, both covered and uncovered, constructed for the sole purpose of providing accessibility to buildings by individuals with disabilities do not need to meet district **setback** requirements provided they do not exceed the dimensions for width set forth in the federal Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities. Any part of an accessibility route with a **slope** greater than 1:20 shall be considered such a ramp. While no application or fee is required for construction, a **sketch plan** showing the proposed location of the ramp on the lot and the ramp dimensions shall be submitted to the **Administrative Officer**. Ramp construction shall not encroach on any public rights-of-way without the prior **approval** of the Selectboard or the State, where required.

Section 4.22 Storage of Flammable Fluids

The storage of flammable fluids and the equipment in which they are stored is controlled under the Fire Code of Vermont (NFPA Code) as administered by the State Fire Marshal and the local Emergency Management Coordinator. Storage of flammable fluids (other than bulk storage for

commercial distribution) which is accessory to another use and is consistent with this Code is permitted in any district, but will require a zoning permit if the storage capacity is over 1000 gallons. Bulk storage for commercial distribution is only permitted in the COM/IND district and must also comply with the Code. Procedures for abandoning storage tanks for flammable fluids must be approved by the Fire Marshal's office.

Section 4.23 Swimming Pools

A swimming pool shall be considered an accessory structure. Swimming pools shall be installed and maintained in conformance with the State Health Code, and shall be surrounded by a barrier (for in-ground pools) or pool side (for above ground pools) no less than four (4) feet high to prevent uncontrolled access. Any gates shall be self-closing and self-latching. Alternative methods to prevent uncontrolled access shall require **conditional use approval** by the DRB.

Section 4.24 Two-family Dwellings

Ordinarily a **multi-family dwelling** requires a lot size at least equal to the number of units times the minimum lot size for a **single-family dwelling**. However, a **two-family dwelling** only requires the minimum lot size if all state and local permits are obtained.

Section 4.25 Wireless Telecommunications Facilities

Purpose: To regulate the construction, **alteration**, development, decommissioning or dismantling of wireless communication facilities and ancillary structures and **improvements**. Activities regarding the decommissioning or dismantling of communication facilities and ancillary structures may include requirements that a bond, or other security acceptable to the **Development Review Board**, be posted in order to finance the decommissioning or dismantling of all or any portion of the facility. Pursuant to 24 V.S.A §4440(d), the Board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the **applicant** to pay for all reasonable costs thereof.

A wireless communication facility is a **conditional use** in any District. In addition to the relevant bylaws, the Board shall review an application for a wireless telecommunications facility for compliance with this Section as well as the **conditional use** standards in Section 5.2, and may attach certain additional requirements or conditions to a permit.

- A. An **applicant** for a telecommunications tower or facility must be a telecommunications provider or must provide a copy of its lease/contract with an existing telecommunications provider. A permit shall not be granted for a tower to be built on speculation.
- B. In addition to information otherwise required under this bylaw, all applications for wireless communications facilities shall include the following supplemental information:
 - 1. The name and address of the **applicant**, the record landowners, and any duly appointed agents of the landowners or **applicants**. If the **applicant** is not a natural person, the name of the business and the state in which it is registered shall be provided.
 - 2. The name, address, and telephone number of the person to be contacted and authorized to act in the event of an emergency.
 - 3. The names and addresses of the record owners of all **abutting property**.
 - 4. A report from a qualified and licensed professional engineer that describes the tower height and design including a cross section and elevation.
 - 5. A written five-year plan for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs, as well as plans for further developments and **coverage** within the Town.
 - 6. For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to permit shared

use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use.

7. Vicinity Map showing the entire vicinity within a 2500 foot radius of the tower site, including the topography, public and private roads and **driveways**, buildings and structures, water bodies, **wetlands**, landscape features, historic sites, and areas designated by the Vermont Agency of Natural Resources as critical wildlife habitat or as known locations of endangered or threatened species. It shall indicate the property lines of the proposed tower site **parcel** and all **easements** or rights of way needed for access from a public way to the tower.
8. Proposed plans of entire development indicating all **improvements** including landscaping, screening, power lines, storage and maintenance buildings, and roads.
9. Elevations showing all facades and indicating all exterior materials of towers.
10. **Setback** distances of all buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Board) shall meet the minimum **setback** requirements of the underlying zoning district. If the minimum **setbacks** of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum distance from the tower to any property line or occupied structure shall be no less than the height of the tower, including antennas and other vertical appurtenances.

- C. Before receiving a permit an **applicant** shall demonstrate, through certification by a qualified Radio Frequency (RF) engineer, which the proposed facility will comply with all applicable Federal Communications Commission (FCC) rules governing RF radiation and interference. The **Development Review Board** may require post-construction monitoring to ensure compliance.

Siting and design of communications facilities (including any support and maintenance structures, necessary access corridors, and utility lines) shall minimize impacts on natural, scenic, and aesthetic resources to the fullest extent possible. The **Development Review Board** is specifically authorized to place, among other conditions, restrictions on the height of a facility above existing roof lines and tree canopies. Lighting shall not be allowed unless specifically required by the Federal Aviation Administration (FAA), and must be shielded from surrounding properties to the greatest extent possible.

- D. For each wireless telecommunications facility installed subject to these regulations, the owner of a facility shall annually, on January 15, file a declaration with the Town of West Windsor's **Administrative Officer** certifying the continuing safe and FCC compliant operation of said facility, including the condition of the tower portion. Failure to file a declaration shall mean that the facility/tower is no longer in use and shall be considered discontinued or abandoned. In the event that the use of a tower or other equipment is discontinued or abandoned, the site shall be restored to its natural condition, or to the condition that existed prior to construction or installation, as appropriate, within 180 days of discontinuance; the **Development Review Board** may require an **applicant** to secure a bond ensuring removal and site rehabilitation.
- E. If feasible, wireless communications facilities shall be located on existing structures, including but not limited to buildings, water towers, existing communications facilities, and utility poles and towers. An **applicant** for a tower or support structure shall have the burden of demonstrating, to the satisfaction of the **Development Review Board**, that there are no existing structures on which it is feasible to locate. This demonstration shall include, at a minimum:
1. A map showing other FCC-licensed wireless communications facilities within the town and within ten miles of the proposed site;
 2. A propagation study, showing why available structures cannot be used to attain the **coverage** necessary for the **applicant** to provide service to the town.

ARTICLE 5: DEVELOPMENT REVIEW

An **applicant** for a Site Plan Review or **Conditional Use** Review by the **Development Review Board** shall submit, in addition to a zoning application, the information required in Section 5.1 (for Site Plan Review) and/or Section 5.2 (for **Conditional Use** Review). This information is required unless specifically waived by the **Development Review Board**. Minor amendments to previously approved development may be reviewed and approved by the **Administrative Officer** under Section 9.3.

Section 5.1 Site Plan Review Standards and Procedures

Site plans shall be prepared to scale (unless waived by the **Administrative Officer**) and show or designate the following:

- A. The location, height, dimensions and spacing of existing and proposed structures;
- B. Streets, **driveways**, power lines, and other utilities;
- C. On-site and off-street **parking spaces**;
- D. All other physical features, including surface waters and **wetlands**, stone walls and **fences**, **open space**, existing and proposed elevations, existing and proposed water, sewer, drainage infrastructure, and contours;
- E. Acreage of entire **parcel**, with existing and proposed lot boundaries;
- F. Areas designated by the Vermont Agency of Natural Resources as critical wildlife habitat or as known locations of endangered or threatened species;
- G. Significant natural or cultural features;

H. Landscaping and screening;

I. Lighting design;

J. Erosion control;

K. Deeded Easements.

For any **Conditional Use** other than a **one- or two-family dwelling**, an **accessory use or structure**, or a home occupation, the **approval** of site plans by the **Development Review Board (DRB)** is required. In reviewing site plans, the DRB may impose conditions and safeguards with respect to adequacy of parking, traffic access, circulation for pedestrians and vehicles; landscaping and screening; the protection of the utilization of **renewable energy resources**; exterior lighting; size, location and design of **signs**; and other matters specified in the bylaws which includes, but is not limited to: compatibility with surrounding development; noise, vibration, erosion, and dust; and protection of natural and scenic resources. Consideration shall be given to traffic mobility and safety on affected streets, impacts on surrounding uses, and to desired land use patterns as encouraged by the **Municipal Plan** and the zoning regulations of the affected district(s). *Conditions may include, but are not limited to, the following:*

- A. Compatibility with surrounding development: The DRB may require the design and placement of structures to be compatible with significant historic and natural features and resources, adjacent/surrounding buildings, and the landscape. The review may include **setback** distances, physical orientation, construction materials, and architectural design. Design shall not be limited to any particular style or period, but should be consistent with established patterns in the surrounding area.
- B. Traffic access and circulation: Among other appropriate safeguards and conditions, the *DRB may*.
 - 1. limit the number and width of access drives; require consolidation of existing access points.

2. require shared access and/or parking for adjoining properties or for future users of the remainder of a **parcel**; require the reservation of shared rights-of-way for future roads, parking areas, and pedestrian facilities; allow for consolidation or shared use of required **parking spaces** between uses.
 3. require the **applicant** to obtain a traffic impact study from a qualified consultant.
 4. prohibit the location of parking facilities between the front line of building(s) and the street.
 5. accommodate existing or future facilities for non-vehicular travel.
- C. Protection of scenic and natural resources: The DRB may require that structures, parking facilities and other development be located so as to avoid **undue adverse impacts** to adjacent surface waters, **wetlands**, wildlife habitat, agricultural land, important scenic resources, and significant natural and cultural features. These requirements may include modification of the minimum **setback** distances of the zoning district.
- D. Exterior Lighting: The **applicant** will provide information regarding the location, type and level of illumination of all outdoor lighting. Exterior lighting shall be kept to the minimum required for safety and security and be consistent with the character of the neighborhood. To maintain the Town's rural character and preserve the night sky, street lights are discouraged. However, where it is demonstrated that street lights are necessary, only downcast, cutoff types of fixtures will be approved.

Hearings for **Conditional Use** and Site Plan **approval** may be consolidated, at the discretion of the **Development Review Board**.

Section 5.2 Conditional Use Review Standards and Procedures

- A. **Application.** An application for **conditional use** review, along with the required fee, shall be submitted to the **Administrative Officer** for consideration by the **Development Review Board** at their next available regularly scheduled meeting.
- B. **Review Procedure.** The **Administrative Officer** shall notify the **Development Review Board** when a complete application is received. The Board shall hold a public hearing

within sixty (60) days of receiving a complete application, and shall issue a written decision within forty-five (45) days of the adjournment of the final public hearing. Failure of the Board to issue a written decision within forty-five (45) days of the date of the adjournment of the final public hearing shall be deemed **approval**, and shall be effective on the 46th day. All decisions, whether to approve, approve with conditions, or disapprove an application for a **Conditional Use** shall be based upon the general and specific standards in these regulations. In approving a project with conditions, the **Development Review Board** may require specific modifications to the scale, layout, design, timing or **phasing** of the project; may place restrictions on its operation and/or intensity to ensure compliance with this section, and may establish additional specific conditions if circumstances peculiar to the proposed **Conditional Use** require it.

- C. Appeals of **Development Review Board** decisions shall be to the Environmental Court in accordance with the Act and Section 9.7 of these regulations.
- D. **General Standards. Conditional use approval** shall be granted by the Board upon their determination that the proposed use or structure complies with these regulations and does not result in any undue adverse effect on any of the following:
 - 1. **The capacity of existing or planned community facilities or services.** The Board shall consider the demand for community services and facilities which will result from the proposed development, and determine whether that demand will exceed the capacity of existing facilities or services. In making such a determination, the Board will consider any capital program or budget in effect at the time of application and may consult with school, fire department, law enforcement, or other community officials. Conditions may be imposed to minimize the impact on schools and other community facilities, infrastructure, utilities and services.
 - 2. **The character of the neighborhood, area, or district affected.** The Board shall consider the location, scale and intensity of the proposed development relative to

the use and character of adjoining properties and other properties likely to be affected by the proposed use. The Board also shall consider the proposed development's compatibility with the purpose and character of the affected district as defined by these regulations, the **Town Plan**, and the testimony of affected property owners and other interested persons. Proposed activities that would create an **undue adverse impact** on the character of the neighborhood, area or district shall not be approved unless the **undue adverse impacts** can be avoided and/or mitigated through changes to the location, design, scale, operation, composition and/or intensity of the proposed development or use.

3. **Traffic on roads and highways in the vicinity.** The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency and use of affected public roads, **bridges**, and intersections. The Board will rely on accepted transportation standards in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists or unacceptable levels of service for local roads, highways and intersections, unless such conditions or levels of service can be mitigated by the **applicant** through physical **improvements** to the road network and/or traffic management strategies.
4. **Bylaws now in effect.** A **conditional use** must comply with all **municipal** bylaws and regulations in effect at the time the application is submitted, the policies of the West Windsor **Town Plan**, and the conditions of prior permits or **approvals**, including subdivision **approval**.
5. **The utilization of renewable energy resources.** The **Development Review Board** will consider whether the proposed development will interfere with the sustainable use of **renewable energy resources** either by using, restricting access to, or reducing the future availability of such resources.

E. Specific Standards. Any Conditional Use:

1. shall not unreasonably interfere with access to, use, or enjoyment of, adjacent properties;
2. shall not deny neighboring properties reasonable and adequate access to light or block existing significant views;
3. shall allow for construction or maintenance of public utilities and infrastructure, where appropriate.

ARTICLE 6: SUBDIVISION REVIEW

Section 6.1: Applicability

- A. **Subdivision Approval Required.** In accordance with 24 V.S.A. §4418, whenever any **subdivision** of land is proposed in the Town of West Windsor, **subdivision approval** is required before the **applicant** commences any construction, grading, **clearing**, or **land development**.
- B. **Existing Subdivisions.** All **subdivisions** of land, uses and structures lawfully in existence as of the effective date of these regulations are allowed to continue indefinitely. Changes, **alterations** or expansions to **pre-existing subdivisions**, structures or uses shall be subject to all applicable requirements of these regulations.
- C. **Types of Subdivision.** West Windsor recognizes two types of **subdivision: Boundary Line Adjustments** and Conventional **Subdivisions**.
- D. **Inconsistencies.** If any development subject to these regulations, under the bylaw, is also subject to other Town, State, or Federal regulations, the most stringent or restrictive regulations apply.

Section 6.2 Boundary Line Adjustments

Boundary Line Adjustments are adjustments to the dividing line between adjacent lots.

- A. In accordance with 24 V.S.A. §4464(c), these regulations authorize the **Administrative Officer** to review applications and issue permits for **boundary line adjustments**, provided that the **applicant** satisfies all of the following standards:
1. The adjustment requested meets the definition of a **Boundary Line Adjustment**;
 2. No new, or non-conforming, lots are created;
 3. Have no adverse impact on access, roads, rights-of-way, neighboring uses, natural resources, designated open space, existing or approved septic or water systems, or the provisions of public services or utilities;
 4. **Yards** of existing structures meet the minimum **yard** requirements of the district in which they are located; and
 5. The **applicant** either has applied for a wastewater and potable water supply permit or has demonstrated that a permit is not necessary.
- B. An **applicant** for a **boundary line adjustment** shall provide the **Administrative Officer** with a complete **boundary line adjustment** application and a survey of the property, drawn to scale, including the information and features specified in Appendix A of these regulations.
- C. The **Administrative Officer** reserves the right to refer any application to the DRB where it is deemed that board-level review or interpretation is appropriate or necessary. In such cases, the **applicant** shall be responsible for any additional fees or submittals needed for DRB review.
- D. Pursuant to the requirements of Section 6.6 of these Regulations the **applicant** shall

submit for recording a final **subdivision** plat within 180 days of the effective date of the permit issued for the **boundary line adjustment**. If the **applicant** fails to submit a **final plat** within 180 days, the permit expires and the **applicant** must re-apply.

Section 6.3 Subdivisions

Administrative Review for Two Lot Subdivision

The Administrative Officer may grant an administrative subdivision permit of a tract of land into no more than two lots upon making the following findings:

- A. The both lots meet the minimum dimensional requirements of the District(s) in which the lots are located; and
- B. That all structures on the lots meet setback requirements of the Zoning District(s) in which the lots are located either by:
 - 1. Meeting the setbacks required by the District(s); or
 - 2. Having received a variance for the subject structure(s)
- C. The tract of land has not been granted a subdivision permit within 5 years prior to the date the application is submitted; and
- D. The proposed change does not violate any conditions imposed by prior municipal approvals.
- E. All adjacent landowners must be notified by applicant via certified mail prior to application.
- F. Any administrative permits may be appealed to the Town of West Windsor DRB.
- G. A plat map must be filed in accordance with State statutes.

Subdivisions involve the division of a lot into three (3) or more lots and must be approved by the DRB, subject to the following review procedures:

- 1. **sketch plan** review
- 2. **preliminary plan** review
- 3. **final plan** review

which are outlined in more detail below.

Section 6.3 Sketch Plan Review

- A. **Initial Meeting/Site Visit/Submission Requirements:** Prior to meeting with the DRB, the **applicant** shall discuss the proposed **subdivision** with the **Administrative Officer**, who will provide the **applicant** with the general submission requirements for **sketch plan** review and conduct a preliminary site visit. After the site visit, the **Administrative Officer** will inform the **applicant** about any initial site-specific submission requirements. A complete **sketch plan** review application shall include the information specified in Appendix B of these regulations.

- B. **Informal Review:** Prior to the official submission of a **sketch plan** application, an **applicant** may request an informal, non-binding review by the DRB at a properly noticed meeting. Consideration may be given to the standards in Article III and other requirements or information which may have bearing on the project. Other town officials may participate as appropriate to the specific areas of concern. Any actions or recommendations shall not be binding on any party and shall not become part of the record of any subsequent application submission or review. The **applicant** and the Chair or Vice Chair of the DRB shall be required to sign a Memorandum of Understanding acknowledging the non-binding nature of this informal review.

- C. **Application for Sketch Plan Review:** The **applicant** shall submit the original and seven (7) copies of a complete **sketch plan** application, along with the required fees, to the **Administrative Officer**. Within thirty days of receipt of a complete application, the **Administrative Officer** shall warn a site visit and **sketch plan** review hearing with the DRB as specified in Section 9.14 of these regulations.

- D. **Sketch Plan Review Hearing:** The **applicant**, or his/her duly **authorized representative**, shall attend the hearing of the DRB to discuss the proposed **subdivision**. The purpose of

the **sketch plan** hearing is for the **applicant** and the DRB to agree on a conceptual plan that incorporates the **applicant's** objectives, to the extent possible, while complying with all applicable design standards. The DRB may request additional information from the **applicant** and may continue the **Sketch Plan** hearing pending submission of the requested information.

E. **Action on Sketch Plan:** Within forty five (45) days after closing the **sketch plan** hearing, the DRB shall issue a written determination, which shall include:

1. The granting or denial of any requests for **waivers** to the procedural requirements of Article II and/or the design standards set forth in Article III of these regulations, and
2. Recommendations for proposed changes in subsequent submissions, including any requests for additional studies or supporting documentation. Pursuant to 24 V.S.A. §4440(d), the DRB is authorized to hire qualified persons to conduct independent technical reviews of applications and to require the **applicant** to pay for all reasonable costs thereof.

F. **Effect of Sketch Plan Determination:** The DRB's written determination shall remain in effect for six (6) months after the date of issuance, unless otherwise approved or extended by the DRB. Within six (6) months of the determination, the **applicant** may apply to the DRB for **preliminary plan** review under Section 6.4 of these regulations or final plan review/**approval** under Section 6.5 if the **applicant** requests and is granted a waiver of the requirement for **preliminary plan** review.

Section 6.4 Preliminary Plan Review

A. **Application Requirements:** Within six (6) months of the date of the DRB's written determination on the **sketch plan**, the **applicant** shall submit the original and seven (7) copies of a complete **preliminary plan** application, along with the required fees, to the **Administrative Officer**. Within thirty days of receipt of a complete application, the

Administrative Officer shall warn a **preliminary plan** review hearing with the DRB as specified in Section 9.14 of these regulations. A complete **preliminary plan** review application shall include the information specified in Appendix C of these regulations, unless specifically waived by the DRB under Section 6.5.

- B. **Preliminary Plan Review Hearing:** The **applicant**, or his/her duly **authorized representative**, shall attend the hearing of the DRB to discuss the proposed **subdivision**. The DRB shall determine whether the project meets the requirements of these Regulations and any other **municipal** regulations in effect. The DRB may request additional information from the **applicant** and may continue the **Preliminary Plan** hearing pending submission of the requested information.
- C. **Preliminary Plan Decision:** Within forty five (45) days of the closing of the public hearing on the **preliminary plan**, the DRB shall issue, in writing, a decision to approve, approve with modifications, or disapprove the **preliminary plan** and plat. The **approval** of the **preliminary plan** shall be effective for a period of six (6) months following the date of written notice of **approval**, unless otherwise indicated or extended by the DRB in the written decision.
- D. **Phasing:** At the time that the DRB grants **preliminary plan approval**, it may require the **subdivision** to be divided into two or more phases. The DRB may impose conditions for each phase to ensure the orderly development of the **subdivision**, to avoid overburdening **municipal** facilities and services, and to allow necessary upgrades to existing infrastructure.

Section 6.5 Final Plan Review

- A. **Application Requirements:** Within six (6) months of the date of **preliminary plan approval**, the **applicant** shall submit the original and seven (7) copies of a complete application for final plan and plat **approval**, along with the required fees, to the

Administrative Officer. Applicants who fail to submit a complete final plan application within six months may be required to resubmit a **preliminary plan**. Resubmissions will be subject to any new zoning and **subdivision** regulations. A complete final plan review application shall include the information specified in Appendix D of these regulations, unless specifically waived by the DRB under Section 6.5.

- B. **Final Plan Review Hearing:** Within thirty days of receipt of a complete application, the **Administrative Officer** shall warn a final plan review hearing with the DRB as specified in Section 9.14 of these regulations. In the case of a plat located within five hundred (500) feet of a **municipal** boundary, a copy of the notice shall be sent to the Clerk of the adjacent municipality, at least fifteen (15) days before the public hearing. The **applicant**, or the **applicant's** duly **authorized representative**, shall attend the final plan review hearing of the DRB to review the final plan and plat. The DRB shall determine whether the final plan and plat meet the requirements of these and any other **municipal** regulations in effect and conform to the decision issued following **preliminary plan** review. If necessary, the DRB may request modifications to the **final plat** or additional information from the **applicant** and may continue the Final Plan Review hearing pending submission of the requested information.
- C. **Final Plan Approval:** Within forty five (45) days of the closing of the public hearing on the final plan, the DRB shall issue, in writing, a decision to approve, approve with modifications, or disapprove the final plan and plat. Failure to act within forty five (45) days shall be deemed **approval**, as certified by the Town Clerk. Provisions for appeal under Section 9.6 of these regulations shall be set forth in the written decision of the DRB.
- D. **Effect of Final Plan Approval:** The **approval** by the DRB of a final plan and plat shall not be construed to constitute acceptance by the town of any road, **easement**, utility, park, recreation area, or other **open space** shown of the **final plat**. Such acceptance may only

be gained through a formal resolution by the Selectboard in accordance with 24 V.S.A. §§4463(c), 4464(b)(5). A final plan **approval** shall contain a time limit by which all **improvements** shall be completed, not to exceed three (3) years unless extended by the DRB.

Waiver Authority

In accordance with 24 V.S.A. §4418(2)(A), the DRB may waive or modify any of the design standards or procedural requirements of these regulations upon finding that, because of the special circumstances of a particular **subdivision** application, they are not requisite in the interest of public health, safety and general welfare, or are inappropriate due to the inadequacy of connecting facilities adjacent or in proximity to the **subdivision**.

The request for a waiver shall be submitted in writing with the **sketch plan** and/or the **preliminary plan** application. The **applicant** shall provide sufficient information to justify the waiver and to enable the DRB to reach a decision. In granting **waivers**, the DRB shall attach such conditions that, in the DRB's judgment, will substantially achieve the objectives of any waived requirement of these regulations.

Section 6.6 Plat Recording Requirements

- A. In accordance with the Act [§4463(b)], within one hundred eighty (180) days of the date of final plan **approval** under Section 6.5 (C) of these regulations, the **applicant** shall file with the town one final copy of the approved plat for recording under 27 V.S.A., Chapter 17, §1401-1406. **Final plats** must meet the requirements of the West Windsor Zoning Regulations. **Boundary line adjustments** and **subdivisions** approved and not recorded within the 180-day period shall expire.
- B. The **final plat** shall be signed by the Chair or Vice Chair of the DRB and at least one additional member of the DRB. The DRB may require that the conditions of **approval** be included on the **final plat**.

C. If a **subdivision** requires the construction of any roads or other public utility **improvements** by the **applicant**, the DRB may require the **applicant** to post a bond or comparable surety prior to the signing of the **final plat**. [See Section 9.14(C)(a)]

Section 6.7 Revisions to an Approved Plat

No changes, erasures, modifications, or revisions to the **final plat** or the conditions of **approval** shall be made unless approved, in writing, by the DRB. In the event that such **subdivision** plan revisions are recorded without complying with this requirement, the revisions shall be considered null and void.

ARTICLE 7: SUBDIVISION PLANNING & DESIGN STANDARDS

Section 7.1 Applicability

The DRB shall evaluate Plan Review, Conditional Use and **Subdivision** Applications involving 3 or more lots, against the following Planning and Design Standards. The DRB may, as a result of findings made concerning the proposed development's conformance with these standards, require modification of the proposed land development, phasing of the proposed subdivision, specific conditions and/or additional measures to avoid or mitigate any adverse impacts likely to result from the proposed land development. The intent of these standards is to accommodate reasonable development in an orderly manner which provides for the safety and welfare of the community while being sensitive to the landscape and natural resources of West Windsor.

Section 7.2 General Subdivision Standards

Conformance with the Town Plan and Other Regulations

Subdivision proposals shall conform to the goals and policies of the West Windsor Town Plan, other provisions of these regulations, the capital budget and program, and all other bylaws, ordinances and regulations of the Town of West Windsor currently in effect.

Character of the Land

The DRB shall determine that any land proposed for subdivision is of a character appropriate for the intended purpose and density of use, as proposed in the subdivision application, without inflicting undue adverse impact on public health and safety, the environment, neighboring properties, or the character of the surrounding area and community.

Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil.

Lot Layout & Configuration

The **applicant** shall demonstrate that the location, shape, size and character of each lot, including **open space** lots, is appropriate for its intended purpose. To avoid the fragmentation, isolation or destruction of **open space** and existing features, irregular or elongated lots may be restricted or prohibited, and the location of structures or other development may be limited to within certain building envelopes. Building orientation and **setbacks** shall support existing development patterns and contribute to logical (and connective) road and pedestrian networks. Cluster development shall be encouraged and may be required, at the DRB's discretion, when it is deemed necessary to achieve the goals of these regulations.

Construction Mitigation

In order to mitigate noise and other impacts during the construction phase of the project, the **applicant** shall demonstrate that they plan to limit the hours of major construction and trucking of material, notify neighbors before any blasting, and comply with the performance standards included in Section 3.12 of the West Windsor Zoning Regulations.

Section 7.3 Protection of Natural & Cultural Resources

Before lots are configured, roads are designed, or **open space** is designated, all of the following natural and cultural resources that are located on the property shall be identified and roughly

outlined on the **sketch plan**. On preliminary and/or final plans, natural and cultural resources shall be accurately located and drawn to scale.

Wetlands

An undisturbed, vegetated **buffer** shall be maintained around all **wetlands** that:

1. have been identified as significant by the Agency of Natural Resources (ANR), or
2. are found on the National **Wetlands** Inventory map, or
3. fall under the jurisdiction of the Army Corps of Engineers.

The size of the **buffer** shall be as determined by ANR and/or the Army Corps of Engineers. With respect to ponds, the DRB may allow reasonable access for recreational purposes. Any other disturbance within the wetland or the required **buffer** shall require **approval** from the West Windsor **Development Review Board** (DRB) and may also require **approval** from ANR/DEC and/or the Army Corps of Engineers. A permit from the Wetlands Program may not be required, but applicant shall be required to make contact and request a written determination.

Streams

An undisturbed, vegetated **buffer** of 50 feet or more shall be maintained along all rivers and **streams** shown on the U.S.G.S. map. **Streams** not appearing on the U.S.G.S. map, including intermittent **streams**, shall require a 25' undisturbed **buffer**, unless otherwise approved by the DRB. Unavoidable disturbances, such as crossings, shall be kept to a minimum and must be approved by the State of Vermont River Management Program and the DRB, following **conditional use** review. A permit from the Rivers Program may not be required, but applicant shall be required to make contact and request a written determination.

Special Flood Hazard Areas

All **subdivisions** must comply with the Town of West Windsor's Flood Hazard Area Regulations with respect to the **Special Flood Hazard Areas** as shown on the most recently adopted **Flood Insurance Rate Map** (FIRM).

Critical Wildlife Habitat

The **applicant** shall demonstrate that the proposed **subdivision** has been designed to minimize, or reasonably mitigate, impacts on critical wildlife habitat, including deer wintering habitat and wildlife travel corridors, identified by the Vermont Department of Fish and Wildlife, or through site investigation. The DRB may require the submission of a wildlife habitat assessment, prepared by a wildlife biologist or comparable professional, to identify the function and relative value of impacted habitat and provide recommended management strategies to maintain or enhance those values and functions. The Board may also consult with Vermont Fish and Wildlife Department staff prior to issuing a decision.

Threatened or Endangered Species

The **applicant** shall demonstrate that the proposed **subdivision** has been designed to minimize, or reasonably mitigate, impacts on threatened or endangered species as depicted on the Statewide Non-game and Natural Heritage Threatened and Endangered Species GIS data layer produced by the Agency of Natural Resources. The DRB reserves the right to request additional information through field investigation by a wildlife biologist.

Farm and Forestland Preservation

The **applicant** shall demonstrate that the proposed **subdivision** has been designed to minimize, or avoid adverse impacts to primary agricultural soils, productive farmland and forestland, and large tracts of forestland (>50.0 acres regardless of ownership). Methods for avoiding adverse impacts include, but may not be limited to, clustering development, locating building envelopes at field, orchard, or forest edges and/or on the least fertile/productive soils; designating vegetated buffer areas between agricultural and other proposed uses to minimize land use conflicts; designing access roads, driveways, and utility corridors to follow existing linear features; and sharing access to the extent feasible.

Ridgelines

Where applicable, building envelopes shall be sited below **ridgelines** to prevent structures from intruding on the skyline when viewed from a public road.

Historic & Cultural Resources

The **applicant** shall demonstrate that the proposed **subdivision** has been designed to minimize adverse impacts to historic homes and features including, but not limited to, stone walls and cellar holes, as identified in the West Windsor **Town Plan** or through field investigation.

Existing Recreation Trails

Where existing recreation trails have been mapped or identified through field investigation, the **applicant** shall demonstrate that reasonable provision has been made for the continued public use of such trails.

Section 7.4 Open Space

The proposed **subdivision** shall be designed to preserve **open space** and common land for parks, recreation and trails, and/or to preserve the natural and cultural resources defined in Section 7.3 unless the DRB determines that the proposed **subdivision** does not contain resources which merit protection as **open space**. The location, size, shape and character of land set aside as **open space**:

1. shall be suitable for its intended use;
2. shall conform with and extend existing areas sharing similar characteristics or resources on adjacent **parcels**
3. may include the portion of a single lot characterized by one or more of the above referenced resources and/or encompass the contiguous boundaries of the resource located on multiple lots.

Areas preserved for agriculture or forestry should be of a size that retains their eligibility for tax abatement programs. The DRB may require management plans for farmland, forest land or

critical wildlife habitat. Sewage disposal areas, utility and road rights-of-way or **easements**, and parking areas shall not be counted as **open space** areas.

The DRB may require that land held in common, for the preservation of **open space** or the provision of shared facilities, be dedicated either in fee or through a conservation **easement** to the Town of West Windsor, a community association comprising all of the present and future owners of lots in the **subdivision**, or a non-profit land conservation organization. At a minimum, designated **open space** shall be indicated as such on the **final plat**. Land held in common shall be subject to deed restrictions stipulating permitted and restricted uses and establishing the person or entity responsible for maintenance and long term stewardship. All costs associated with maintaining **open space** and/or common land shall be the responsibility of the **applicant** and subsequent land owners.

Section 7.5 Stormwater Management & Erosion Control

The **applicant** shall demonstrate that the proposed **subdivision** incorporates temporary and permanent **stormwater management** and **erosion control** measures designed to control surface runoff, sedimentation, and water pollution both on-site and downstream from the proposed **subdivision**.

Stormwater

Stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches, shall be designed to accommodate potential stormwater runoff from the entire upstream drainage area, based on conditions of total potential development, in accordance with the following standards:

- A. Post-development peak storm flows shall not exceed pre-development levels.
- B. All stormwater management facilities shall be designed in accordance with best management practices (BMPs) for stormwater management as most recently amended by the Vermont Agency of Natural Resources. The permittee is required to contact the

VT Stormwater District Reviewer to determine if a Stormwater Permit is required for the proposed project.

- C. The preparation and implementation of a stormwater management plan, prepared by a Vermont Licensed Engineer, may be required by the DRB.
- D. For any proposed development in a sensitive location or on a **slope** with a gradient in excess of 20%, the **applicant** must provide the DRB with a **stormwater management** and/or sedimentation and **erosion control** plan.
- E. Off-site easements and/or management facilities may also be required by the DRB as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.
- F. Site **improvements**, including excavation, road construction, **clearing** and grading, shall not have an **undue adverse impact** on neighboring properties or surface waters during or after construction.

Erosion Control

Land shall be subdivided and improved so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. All areas exposed during construction shall be protected in accordance with the standards contained in the Low Risk Site Handbook for Erosion Prevention and Sediment Control published by the Vermont Department of Environmental Conservation, Agency of Natural Resources, including any updated versions of this publication. All areas exposed during construction shall be protected in accordance with standards. A State of Vermont Construction General Permit may be required. Permanent vegetation and structures shall be established according to a schedule as required by the DRB. The DRB may require the preparation and implementation of sedimentation and erosion control plan to ensure the site improvements, excluding excavation, road and driveway construction and site clearing and grading, shall not unduly impact neighboring properties or surface waters. Such a plan, if required, shall be prepared by a professional engineer licensed by the State of Vermont.

Section 7.6 Roads & Pedestrian Access

The **applicant** shall demonstrate that the proposed **subdivision** shall not generate traffic that exceeds the existing capacity of adjacent public or private roads or intersections. The DRB may require the **applicant** to conduct a traffic study to determine the capacity of existing roads and the projected increase in traffic that will be generated by the proposed **subdivision**. If the projected increase in traffic will exceed the capacity of existing adjacent roads, the DRB may deny the application or require the **improvement** of the existing roads and intersections to accommodate the increased traffic, at the **applicant's** expense.

The **applicant** shall demonstrate that the proposed **subdivision** shall provide for safe and convenient pedestrian circulation. Where necessary or appropriate, in the judgment of the DRB, the proposed **subdivision** shall include rights-of-way for sidewalks and/or trails.

The **applicant** shall demonstrate that all existing or proposed town highways or private roads within or adjacent to the proposed **subdivision** shall be:

1. logically related to the topography so as to produce usable lots, reasonable grades and safe intersections;
2. accessible by fire, ambulance, and police vehicles. Emergency vehicles must be able to get within 100 feet of the main entrance to all residential or commercial structures;
3. designed to conform to the Vermont Agency of Transportation's Standard A-76 and the West Windsor Development Road Standards, as most recently amended, and to accommodate anticipated traffic loads and volumes;
4. approved by the Selectboard prior to construction;
5. identified by name on the preliminary and **final plats**. A proposed extension of an existing road shall bear the E-911 name of the existing road. In no other case shall a proposed road name duplicate an existing road name. All road names must be approved by the Selectboard and the E-911 Committee.

The DRB may require a second entrance point to serve a subdivision.

Intersections

If the access road for a proposed **subdivision** intersects a Class 4 Town Highway, the DRB may deny the application. If the access road intersects a Class 3 Town Highway, the DRB may require that the intersection be improved to meet town standards, at the **applicant's** expense.

Adequacy of pedestrian circulation

All development in West Windsor shall provide pedestrian facilities that are adequate in terms of safety, convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties. The DRB may require pedestrian rights-of-way in the form of perpetual unobstructed easements at least twenty (20) feet in width to facilitate pedestrian and bicycle circulation within the subdivision and to ensure access to adjoining properties, uses, or public facilities.

Section 7.7 Utilities

The **applicant** shall demonstrate that the proposed **subdivision** has been designed to provide adequate water supply, wastewater disposal, stormwater discharge and utilities, incorporating energy saving design techniques where feasible. A **subdivision** with a communal water, wastewater, or stormwater system must have an incorporated homeowners' association.

Utility Easements

The DRB may require that all utility lines be located underground throughout the subdivision, in order to reduce wind and ice damage to lines and protect the scenic character of the community. Where inclusion of utilities in the road right-of-way is impractical, perpetual, unobstructed utility **easements** of sufficient width shall be provided, along with satisfactory road access, so as to serve both the proposed development and existing and anticipated development outside the area or parcel. Such easements shall be shown on the final plat. The **applicant** shall submit a plan, prepared in consultation with the utility companies, showing all necessary line extensions.

Section 7.8 Outdoor Lighting

To maintain the Town's rural character and preserve the night sky, street lights are discouraged. However, where it is demonstrated that street lights are necessary, only downcast, cutoff types of fixtures will be approved. Outdoor lighting fixtures must be designed to shield the light source and adjusted so as not to cast light directly on adjacent roadways or properties. All lighting must comply with the performance standards detailed in these Regulations.

Section 7.9 Communal Water and Wastewater Systems

The water supply must be sufficient for the long-term needs of the **subdivision** and must not cause an undue impact on an existing water supply. **Subdivisions** of four (4) or more lots must comply with the requirements of Article 8 of these bylaws regarding communal water and wastewater systems. All **subdivisions** must comply with state regulations and Section 3.16 of these Regulations.

Section 7.10 Energy Efficient Design

Developments are encouraged to incorporate energy-efficient siting of buildings, such as:

- A. Orienting buildings on the site to optimize passive solar heating and cooling opportunities.
- B. Placing and appropriately shading windows to maximize solar penetration during the winter months and minimize solar penetration during the summer months.
- C. Demonstrate that road, sewer and utility **easements** have been laid out as efficiently as possible to minimize the acreage reserved for such purposes.

Section 7.11 Facilities & Services

The **applicant** shall demonstrate that the proposed **subdivision** shall not place an unreasonable burden on **municipal**, governmental or educational services.

- A. The Highway Foreman shall confirm that the roads, intersections, **bridges** and culverts in the immediate vicinity of the proposed **subdivision** are adequate to accommodate the

additional traffic generated by the **subdivision**. If new roads or **improvements** are required, please also see Section 3.3 of these Regulations.

- B. The Fire Chief shall confirm that the proposed **subdivision** is designed to include adequate firefighting infrastructure and to allow sufficient access for emergency response vehicles. In addition, the Fire Chief must confirm that the West Windsor Volunteer Fire Department has the ability to provide service to the proposed **subdivision**. No Certificates of Occupancy for any buildings or uses within the **subdivision** shall be issued until all required firefighting infrastructure has been installed.
- C. The School District Superintendent or the Albert Bridge School Principal shall confirm that the proposed **subdivision** will not cause the school population to exceed the capacity of the existing school facility or place an undue burden on the school system. If the proposed **subdivision** will cause the school population to exceed the capacity of the existing school or place an undue burden on the school system, the proposal may be denied or phased, or conditions may be imposed to mitigate the impact.
- D. The Selectboard Chair shall confirm that town officials can adequately serve the residents of the proposed **subdivision** without electing, appointing, or hiring additional employees or increasing the work hours of existing employees. Consideration shall be given to police, emergency rescue and administrative services.

ARTICLE 8: PLANNED UNIT DEVELOPMENT

Section 8.1 Purpose

In accordance with the Act [§4417], **Planned Unit Developments** (PUDs) are allowed in the Town of West Windsor, subject to review and **approval** by the **Development Review Board** (DRB), to permit flexibility in the application of **land development** regulations for the purposes of §4302 of this title and in conformance with the **Town Plan**. The purposes of **Planned Unit Development** in West Windsor are:

- A. To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential and nonresidential uses, especially in the Primary Growth, Resort/Residential, and Secondary Growth districts.
- B. To implement the policies of the West Windsor **Town Plan**.
- C. To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.
- D. To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the **Town Plan** and the Land Use Regulations.
- E. To conserve **open space** features recognized as worthy of conservation in the **Town Plan** and the Land Use Regulations, such as agricultural land, forest land, trails and other recreational resources, critical and sensitive natural areas, and scenic resources.
- F. To provide protection from hazardous conditions.
- G. To provide for efficient use of public facilities and infrastructure.
- H. To encourage energy-efficient development and redevelopment.

Section 8.2 Review and Application Procedures

The **Development Review Board** (DRB) shall review PUD applications concurrently with **conditional use** and site plan review. In addition to the **conditional use** and site plan application requirements, an application for PUD **approval** shall include a statement describing all proposed modifications to existing bylaw requirements. Modifications of this bylaw approved by the DRB shall be noted in writing and appended to a plat depicting the project to be recorded in the West

Windsor Land Records. All other provisions of this bylaw not specifically modified shall remain in effect and be applicable to the project.

If a PUD application proposes more than one **conditional use**, the DRB may review the uses separately or concurrently.

A. Development of a PUD must conform to a comprehensive conceptual development **master plan** prepared by the **applicant** in consultation and agreement with the Planning Commission and the **Development Review Board**, which shall conduct public meetings to engage townspeople in its preparation and review. Before the Planning Commission and **Development Review Board** can take action on a **Master Plan**, the plan must address the following criteria:

1. A general description of the project including the total acreage; the number, location and approximate dimensions of buildings, parking areas, roads, **bridges** and other structures; and the timing and **phasing** of construction.
2. A site plan map and a natural resources map showing all the elements listed in Section 5.1 of these regulations as well as soils, headwaters, and existing and proposed recreational trails. The plan must identify the type, spacing and density of buildings and uses, and include a description of the probable effect of the proposed development on the natural resources of the area.
3. A **municipal** and regional impact study showing the probable effect that the project will have on utilities (including electric, water and wastewater), roads and traffic, schools, emergency services, town services, and the tax base. The study shall provide information on existing usage and conditions and projected usage and conditions (after the completion of the projects proposed in the **Master Plan**).

4. An estimate of the number of additional workers to be employed as a result of the project and a plan for housing those workers.
 5. An estimate of the number of permanent residents who will move to the Town as a result of the project.
 6. An explanation of how the project conforms to the **Town Plan**.
- B. Any **Master Plan** will expire five years from the date of agreement between the property owner and the Planning Commission/**Development Review Board** unless the original signatories or their heirs and assigns request that the **Master Plan** be reviewed and readopted. A **Master Plan** may be readopted for another five-year term after consultation and agreement with the Planning Commission and **Development Review Board**. Each phase of the **Master Plan** must be permitted in accordance with these regulations.
- C. The acceptance of the **Master Plan** by the Planning Commission/**Development Review Board** does not preclude the Planning Commission/**Development Review Board** from fully participating in any local, regional or state permit hearings related to a project associated with the **Master Plan**.
- D. The minimum **setback** at the periphery of the Recreation/ Conservation PUD shall be 150 feet unless otherwise approved by the PC/DRB.

The Planning Commission may, after public hearing, prescribe from time to time rules and regulations to supplement the standards and conditions for PUD **approval** set forth herein, provided that these rules and regulations are not inconsistent with these zoning by-laws.

Section 8.3 PUD Standards

The modification of zoning regulations by the DRB may be permitted in accordance with the following standards:

- A. The PUD shall meet all applicable **conditional use** standards, and shall be consistent with the West Windsor **Town Plan**, the **Master Plan** for the project (if applicable), and all other applicable **municipal** regulations and ordinances currently in effect, including all local and state regulations for sewage disposal and the protection of water quality.
- B. The PUD shall include provisions for the preservation or protection of **open space** including surface and ground waters; wetland, **stream** bank, and **floodplain** areas; significant topographic features, including hilltops and **ridgelines**; areas of steep **slope**; significant resource lands, including agricultural and forest land; historic or archaeological sites and structures; critical wildlife habitat; and **open spaces**, including scenic views and vistas. Provisions shall be made to enable lands designated for agriculture and forestry to be used for these purposes. The DRB may require management plans for forests and/or wildlife habitat.
- C. As a minimum requirement, each residential **dwelling** unit and each commercial building shall be connected to a communal water and wastewater system at the **applicant's** expense. Bonds may be required by the DRB to ensure the future viability of the communal system. If the DRB finds that this communal system requirement is not reasonable for the proposed PUD, the DRB may require that each residential **dwelling** or individual business unit have its own individual well and septic system, which may be located in the common area. Each such individual system shall be the responsibility of the owner of the individual unit or commercial building. A PUD with a communal water, wastewater, or stormwater system must have an incorporated homeowners association.
- D. The DRB may allow for greater concentration of development in some section(s) of the PUD, on individual lots which are smaller than the minimum lot size for the district, provided that the greater concentration is offset by a lesser concentration in other sections, and provided that no less than 50% of the land is preserved as **open space**.

- E. The minimum front, side and **rear yard setbacks** at the periphery of the PUD shall be as required for the particular district unless otherwise specified by the DRB. Other than on the periphery, the DRB may allow other **setback** standards, such as **zero lot lines**, as part of PUD **approval**.
- F. Preserved **open space** shall be:
1. dedicated, either in fee or through a surveyed and deeded conservation **easement**, to the Town, a community association comprising all of the present and future owners of lots or **dwelling**s in the project, or a non-profit land conservation organization. The fee or **easement** is subject to DRB **approval** or **approval** with conditions.
 2. subject to appropriate deed restrictions stipulating permitted and restricted uses, establishing suitable maintenance requirements, and designating the person or entity responsible for maintenance and long term stewardship.
 3. located so as to conform with and extend existing and potential **open space** lands on adjacent **parcels**.
- G. Where a district boundary line divides a **parcel**, the DRB may allow the development of a single PUD with a total density based on the combined allowable density of each district.
- H. Two (2) or more contiguous **parcels** under the ownership or control of the **applicant** may be combined for review as a PUD. The permitted density on one **parcel** may be increased as long as the overall density for the combined **parcels** does not exceed that which could be permitted, in the DRB's judgment, if the land were subdivided into lots in conformance with district regulations.
- I. The total number of **dwelling** units shall not exceed that which would be permitted in the DRB's judgment if the **parcel** were subdivided into buildable lots in conformance with the district minimum lot area required for **single-family dwellings**.
- J. The **dwelling** units permitted may, at the discretion of the DRB, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached.

- K. A PUD may include any permitted or **conditional uses** allowed in the district in which it is located. Multiple principle structures and/or uses on a lot, or multiple ownership of a single structure may be permitted at the discretion of the DRB.
- L. Principal buildings and **mixed uses** shall be arranged to be compatible, and buffered as appropriate to maximize visual and acoustical privacy for the residents of the development and for adjacent properties.

Supplemental Development Standards for PUD in the Recreation/Conservation PUD District:

Development, other than infrastructure, in **Mile Long Field** shall be restricted to designated building envelopes on the periphery of **Mile Long Field**. All development in the Recreation/Conservation PUD District shall:

- Minimize the disruption of the scenic and agricultural qualities of **Mile Long Field**;
- Retain the fields, to the maximum extent possible, through the use of **Planned Unit Development**;
- Include permanent trail **easements** that maintain connectivity between and among existing recreational trails on adjacent property;
- Utilize, where possible, the least productive land and protect primary agricultural & forestry soils;
- Have a maximum density of one unit per five acres;
- Maintain as **open space** at least 50% of the total Recreation/Conservation PUD district acreage;
- Be accessed through the resort, Coaching Lane and/or Route 44;
- Have no above-ground utility lines within **Mile Long Field**, except in designated building envelopes on the periphery of the Field (i.e. all above-ground utilities shall be placed on the periphery of the field or in wooded areas);
- Be in conformance with a **Master Plan** for the property and West Windsor's **Town Plan**.

ARTICLE 9. ADMINISTRATION & ENFORCEMENT

Section 9.1 Municipal Appointments

Appointments. The following appointments shall be made in association with the administration and enforcement of these regulations as provided for in the Act:

Administrative Officer

The 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 assistant **Administrative Officer** may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who may be given the same duties and responsibilities of the **Administrative Officer** in the **Administrative Officer's** absence. In the event an assistant **Administrative Officer** is appointed, the Selectboard shall, after consulting with the Planning Commission, establish clear policies regarding the authority of the **Administrative Officer** relative to the authority of the assistant officer.

Administrative Officer(s) 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.

Planning Commission

The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Selectboard 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 Selectboard. Resignations shall be in writing to the Selectboard.

The Commission shall elect a chair and clerk, and 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 [1 V.S.A., §310-314]. The Commission shall have the powers and duties outlined in the Act [§4325], including the following:

1. to prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition;
2. to prepare and update the **Town Plan** and prepare amendments to the Plan as necessary;
3. to prepare and approve written reports on any proposed amendment to these regulations as required by the Act [§4441(c)]; and,
4. to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Selectboard [§4441(d)].

Development Review Board

The **Development Review Board** shall consist of not less than three (3) or more than nine (9) members appointed by the Selectboard for specified terms in accordance with the Act [§4460(b) and (c)]. The Selectboard 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 may be removed for cause by the Selectboard 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:

1. appeals from any decision, act or failure to act by the **Administrative Officer**;
2. variance requests;
3. applications for **conditional use** approval; and

4. applications for site plan review, flood hazard review, **subdivision**, and/or planned unit development.

Section 9.2 Applications

Application Requirements

A completed 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, shall also be submitted with each application. Fees will be doubled and fines may be imposed for any permit application submitted after development has started. Applicants are responsible for the accuracy of the information submitted on the application form. A permit issued based on false information shall be null and void, and the applicant shall be responsible for bringing the project into compliance with the zoning regulations. In addition, the following information will be required as applicable.

Permitted Uses

Applications for a **permitted use** shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:

1. the dimensions of the lot, including existing property boundaries;
2. the location, **footprint** and height 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**, rights-of-way, or deed restrictions;
5. existing and required **setbacks** from property boundaries, road rights-of-way, surface waters and **wetlands**;
6. the location of existing and proposed water and wastewater systems; and
7. other information, including but not limited to survey information, if deemed necessary by the **Administrative Officer** to determine conformance with these regulations.

Applications Subject to Review by the Development Review Board

For development requiring one or more approvals from the **Development Review Board** prior to the issuance of a zoning permit, application information and fees are required and shall be submitted concurrently with the application for a zoning permit to the **Administrative Officer**. Pursuant to 24 V.S.A. §4440(d), the DRB is authorized to hire qualified persons to conduct independent technical reviews of applications and to require the applicant to pay for all reasonable costs thereof.

Flood Hazard Area Approval

Any application for development within a Special 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 the West Windsor Flood Hazard Area Regulations.

Section 9.3 Issuance of a Permit

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

- A. Within thirty (30) days of receipt of a complete application, including all application materials and fees, the **Administrative Officer** shall act to either issue or deny a zoning permit in writing, or to refer the application to the Appropriate Municipal Panel 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.
- B. Except as provided for in the “Administrative Review” subsection below, no zoning permit shall be issued by the **Administrative Officer** for any use or structure which requires the approval of an Appropriate **Municipal Panel** or the Selectboard until such approval has been obtained. For permit applications that must be referred to a state

agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.

- C. If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, for a period of 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)].
- D. A zoning permit shall include a statement of the time within which appeals may be taken under Section 9.7; 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.
- E. 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.

Administrative Review. The **administrative officer** may review and approve minor amendments to previously approved development that would otherwise require review by an appropriate **municipal** panel in accordance with the provisions of the Act (§4464(c)), where no material changes or impacts are expected, and where bylaw conformance is found.

Any decision by an **administrative officer** under this subsection may be appealed as provided in Section 9.7 (§§4465 and 4466).

However, the authority to approve an application administratively does not mean that the **administrative officer** is required to do so. The **administrative officer** reserves the right to refer

any application to the DRB where it is deemed that Board level review or interpretation is appropriate or necessary. In such cases, the applicant shall be responsible for any additional fees or submittals needed for Board review.

Effective Date. No zoning permit shall take effect until the time for appeal under Section 6.7 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

Section 9.4 Permit Expiration

Any zoning permit issued shall require renewal if the work described therein is not commenced within a period of one (1) year from the date of issuance and diligently pursued thereafter. The **Administrative Officer**, upon written request prior to the permit expiration date, may extend the zoning permit and associated approvals for a period not to exceed one year provided that there is no change in either the proposed development or the regulations of the zoning district in which it is proposed.

Section 9.5 Violations & Enforcement

The commencement or continuation of any **land development, subdivision**, or use, 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 West Windsor, 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 Town of West Windsor.

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 Section 6.15. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, 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. A copy of the notice of violation shall be sent to the property owner, the Selectboard Chair, the **Development Review Board** Chair and the Town Attorney.

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 Section 9.15.

Section 9.6 Certificates of Occupancy and Compliance

In accordance with the ACT 4449(a)(2), a **Certificate of Occupancy** (CO) issued by the Administrative Officer shall be required prior to the use or occupancy of any land or structure, or part thereof, for which a zoning permit has been issued except for: signs, home occupations, fences, and changes of use. A CO shall not be issued until all necessary approvals and permits required by these regulations have been obtained for the project, and the Administrative Officer determines that the project has been substantially completed in conformance with all such approvals, conditions and permits. The Administrative Officer may require reasonable proof from the applicant that all required setbacks have been satisfied. Reasonable proof may include a survey, certification of setbacks by a surveyor, or demonstrating physical location of property boundaries.

In accordance with the ACT 4449(a)(2), a CO issued by the Administrative Officer shall be required prior to the use or occupancy of any building or building addition for which a zoning permit has been issued, in whole or in part, until a CO has been issued by the Administrative

Officer, certifying that such building or addition conforms to the approved plans, specifications, and requirements of the permit and these regulations.

An application for a **certificate of occupancy** shall be provided with the zoning permit issued by the **Administrative Officer**.

A **certificate of occupancy** shall not be issued until all necessary approvals and permits required by these regulations have been obtained for the project, and the **Administrative Officer** determines that the project has been substantially completed in conformance with all local approvals and permits.

Within 14 days of receipt of the application for a **certificate of occupancy**, the **Administrative Officer** may inspect the premises to ensure that all work has been substantially completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the **Administrative Officer** fails to either grant or deny the **certificate of occupancy** within 14 days of the submission of an application, the certificate shall be deemed issued on the 15th day.

A **Certificate of Compliance** may be issued upon request, within 14 days of receipt of the application, by the **Administrative Officer**, certifying that there are no pending zoning violations on a property.

Fees for issuance of Certificates shall be set by the Selectboard.

SECTION 9.7 APPEALS

Appealing Decisions of the Administrative Officer. 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 **Development Review Board** or, if no Secretary has been elected, the Town Clerk, and by filing a copy of the notice with the **Administrative Officer**.

Notice of Appeal {To **Development Review Board**}

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.

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 Section 6.14, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

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].

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 recessed by the Board from time to time, provided that the date and place the recessed hearing shall be reconvened is announced at the hearing.

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 Section 6.14. Failure of the Board to issue a decision within this 45-day period shall be deemed approval and shall be effective on the 46th day.

Interested Persons

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

1. a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
2. the Town of West Windsor or any adjoining municipality;
3. a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
4. any ten (10) voters or property owners within the municipality who, by signed petition to the **Development Review Board**, 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 bylaw of the municipality; and
5. 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.

Appealing Decisions of the Development Review Board

Any interested person who has participated in a **municipal** regulatory proceeding as defined in the Act [§4471] may appeal any decision of the DRB within 30 days of such decision to the Vermont Environmental Court.

Appeals to Environmental Court

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the **Development Review Board** or Planning Commission may appeal a decision rendered by the Panel(s) under Section 6.7, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

“Participation” in a [Panel] proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

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.

An interested person may, in accordance with §4464 through §4468 of the Act, appeal any provision of these Regulations, by filing a notice of appeal with the **Development Review Board**.

Availability of Documents

In accordance with the Act [§4445], copies of these regulations, other related **municipal** regulations and ordinances, and the **town plan** shall be made available to the public during normal business hours in the Town Clerk’s Office.

Section 9.8 Variances

A. The **Development Review Board** shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Section 9.7. 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.

- B. On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that *all* of the facts listed in the Act [§4469] are found in the affirmative and specified in its written decision.
- C. In addition to the requirements specified in Section 9.8, variances for development within the Flood Hazard Overlay District shall be granted by the Board only in accordance with the Act and the criteria for granting variances found in the West Windsor Flood Hazard Regulations.
- D. In granting a variance, the DRB may attach such conditions as it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the **municipal** plan currently in effect. In no case shall the Board grant a variance for a use which is not allowed within the zoning district, or which results in an increase in allowable density.

SECTION 9.9 Waivers

Purpose. The intent of this section is to provide flexibility in dimensional requirements in accordance with 24 VSA §4414(8) by allowing reductions in property line **setback** requirements of up to 50% in certain specific circumstances. In no event shall a waiver result in a structure with a **setback** of less than 10 feet from a property line or right-of-way.

Allowable Waivers. The DRB may grant a waiver from dimensional standards in the following situations:

- A. To allow for fire safety **improvements**, recommended by the West Windsor Fire Chief, which cannot be accomplished without a waiver.
- B. To allow for disability access **improvements**, or other legally required **improvements**, which cannot be accomplished without a waiver.

- C. To allow for energy conservation and renewable energy structures that cannot be accommodated without a waiver.
- D. To allow for the preservation of **open space**, agricultural land, scenic views, or natural resources including, but not limited to, surface waters, **wetlands**, or **steep slopes**.

Approval Criteria. Before approving a waiver, the DRB shall determine that the proposed development:

- A. Meets the criteria for **conditional use** approval.
- B. Is designed to minimize encroachment into the **setback**.
- C. Cannot reasonably be constructed elsewhere on the lot.
- D. Is compatible with the scale and design of structures in the surrounding neighborhood.
- E. In addition, the DRB shall determine that the proposed development shall not:
- F. Result in an increase in the degree of nonconformance of a **nonconforming structure**.
- G. Result in a structure with a **setback** of less than 10 feet from a property line or right-of-way.
- H. Have an adverse impact on natural resources or encroach on surface water **setback** requirements.
- I. Extend into the highway right-of-way or interfere with sight distances on public or private roads, as determined by the Selectboard and/or the Highway Foreman.
- J. Substantially or permanently impair the reasonable or appropriate use or development of adjoining properties, or alter the essential character of the neighborhood.

Conditions of Approval. In approving a waiver, the DRB may require certain conditions to meet the stated purpose of the zoning district, or to reduce or eliminate impacts on natural resources or surrounding properties. These conditions may include, but need not be limited to, the following:

1. modifications to the design (e.g. window placement) or dimensions of the proposed structure to protect the privacy of neighboring properties and/or reduce the encroachment into the **setback**;
2. landscaping and screening; and
3. restrictions on the location and number of vehicular access points.

Application Procedure. The applicant shall submit the waiver request to the Administrative Officer at least 30 days prior to the next regular meeting of the DRB. The request must include: the physical address and tax map number of the property for which the waiver is being requested; the name, address, and phone number of the property owner and the applicant; a drawing to scale accurately depicting the location, dimensions and **setbacks** of existing and proposed structures, accesses, **driveways**, parking areas, rights-of-way, surface waters, utilities, wells and wastewater systems; a written explanation of the reason for the requested waiver; and a statement from the Fire Chief, Road Foreman or Selectboard (if applicable).

The Administrative Officer or the DRB shall require applicants to submit a survey or a site plan prepared by a surveyor, engineer, or architect licensed by the state of Vermont, showing the location of affected property lines, existing and proposed structures, and any other information deemed necessary by the Administrative Officer or the DRB.

- A. **Hearings.** A public hearing shall be required prior to the issuance of a waiver. Public hearings shall be warned in accordance with 24 VSA §4464 and Section 9.14 of these Bylaws. See Section 6.14 for more information on public hearings.
- B. **Decisions.** In accordance with 24 VSA §4464(b) and Section 9.14 of the West Windsor Zoning Regulations, the DRB shall issue a written decision on the waiver request with 45 days of the close of the hearing. See Section 9.14 for more information on DRB decisions.
- C. **Appeals of Waiver Decisions.** In accordance with 24 VSA §4471 and Section 9.79, an interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the panel to the Vermont Environmental Court. See Section 9.7 (Appeals to Environmental Court) for more information.

- D. **Expiration of Waiver Approval.** A waiver granted by the DRB shall expire one year from the date of the written decision if the applicant has not received a zoning permit within that time period.
- E. **Waiver Fee.** The Legislative Body shall set the fee for waiver applications.

Section 9.10 Interpretation of Zoning District Boundaries

Utilizing the following guidelines, the **Administrative Officer** shall determine the boundaries of the Zoning Districts. Upon appeal from the decision of the **Administrative Officer** as to a boundary location, the **Development Review Board** shall make the necessary interpretation.

- A. Where district boundaries are indicated as approximately following a street or highway, the centerline of such street or highway right-of-way shall be construed to be the boundary.
- B. Where district boundaries are so indicated that they approximately follow **lot lines**, such **lot lines** shall be construed to be the boundary.
- C. Where district boundaries are shown as paralleling streets or highways, such boundaries shall be construed as running parallel to the center lines of the rights-of-way of such streets or highways at such distance therefrom as is indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.
- D. Where the boundary of a district follows a river or stream, the boundary shall be construed to be the normal high water mark of the river or stream.

Section 9.11 Parcel in Two Districts

Where a district boundary line divides a **parcel** in two and the portion of the **parcel** in one of the districts does not meet the minimum lot size for that district but exceeds one-eighth (1/8) of an acre, the Regulations for the district shall be extended into the adjoining district the minimum distance necessary to provide for conforming lots in both districts, if development of the small portion is proposed. If conforming lots cannot be so created, the **Development Review Board** shall, after public hearing, establish an appropriate boundary location and may, in accordance

with Section 6.8, grant a variance for development of a small lot if necessary. In no case, however, shall any use allowed in one district be extended more than thirty (30) feet into the abutting zoning district if it would not ordinarily be allowed therein.

Section 9.12 Records

The **Administrative Officer** shall maintain a complete record of all the applications, reviews, decisions, appeals and variances made under these Regulations and any administrative actions taken pursuant thereto.

Section 9.13 Combined Review

In accordance with §4462 of the Act, if a proposed development requires more than one review procedure, such as PUD Review, Flood Hazard Review or **Conditional Use** Review, the applicant and the reviewing authority (**Development Review Board**) may agree to consolidation of all the pertinent proceedings into one review process as long as (1) public hearings are held as required, and (2) all parties agree to comply with the specified time limits of one of the review processes. In this case, the applicant shall include in his single submission all the requirements of the pertinent review procedures and the reviewing boards shall include in their decision findings and conditions pursuant to each of these reviews.

Section 9.14 Public Hearings

- A. **Public Notice** In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review (Section 5.2), appeals of decisions of the administrative officer (Section 9.7) and variances (Sections 9.8). 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 the Town's adopted "newspaper(s) for public notices";

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

Public notice of all other types of development review hearings, including **erosion control** review, shall be given not less than seven (7) days prior to the date of the public hearing, and shall at a minimum include the following:

1. posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
2. 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.

No defect in the form or substance of any required public notice under this Section shall invalidate the action of the Appropriate **Municipal** Panel 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 **Development Review Board** 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.

- B. **Hearings.** In accordance with the Act [§4461], all meetings and hearing of the Appropriate Municipal Panel(s), except the 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 Appropriate Municipal Panel(s). The Appropriate Municipal Panel(s), 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 in the Act [§4465(b)] are met. The **Appropriate Municipal Panel(s)** shall keep a record of the name, address, and **participation** of each of these persons as defined in the Act [§4471].

In accordance with the Act [§§4464(b), 4468], the **Appropriate Municipal Panel(s)** 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.

- C. **Decisions.** Any action or decision of an Appropriate Municipal Panel shall be taken by the concurrence of a majority of the members of the Panel. In accordance with the Act [§4464(b)], the Appropriate Municipal Panel shall issue a written 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:

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 Section 9.7. 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.

In rendering a decision in favor of the applicant, the **Appropriate Municipal Panel** 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:

1. the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Legislative Body, 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
2. 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.

All decisions of an **Appropriate Municipal Panel** 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.

Section 9.15 Recording Requirements

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 actions, including the justification for their issuance.

ARTICLE 10: DEFINITIONS

Section 10.1 Terms and Uses

- A. Except where specifically defined herein or in the Act, or where the context clearly indicates a different meaning, all words, phrases and terms in these regulations shall have their usual and customary meanings.
- B. The DRB shall clarify doubt as to the precise meaning of any word used in these regulations. In such cases, the DRB shall base its ruling upon the following definitions, state statute and the need for reasonable and effective implementation of these regulations.

Section 10.2 Definitions

Abutting Properties - Two or more parcels which share a common parcel boundary or point.

Accepted Agricultural Practices (AAP's) - Accepted practices for agriculture, including farm structures and related dwellings, as currently defined by the Commissioner of Agriculture and in accordance with the Act [§ 4413(d)].

Accepted Management Practices (AMP's) - Accepted silvicultural (forestry) practices as currently defined by the Commissioner of Vermont Department of Forests, Parks and Recreation.

Accessory Dwelling Unit – a one- or two-bedroom apartment, located within or appurtenant to a single-family dwelling, that is clearly subordinate to the single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:

- A. The owner occupies either the single-family dwelling or the accessory dwelling.
 - B. The property has sufficient wastewater capacity.
 - C. The unit does not exceed 750 square feet, or 30% of the total habitable floor area of the single-family dwelling, whichever is greater.
 - D. Applicable setback, coverage and parking requirements specified in the bylaws are met.
- (24 V.S.A. § 4412(1)(E))

Accessory Use or Structure - A use or structure customarily incidental and subordinate to a principal use and located on the same parcel.

ACT - 24 V.S.A., Chapter 117, the Vermont Municipal and Regional Planning and Development Act as most recently amended.

Administrative Officer (AO) - the West Windsor Zoning Administrator.

Affiliated - With respect to a specific owner: (a) such owner's spouse, parents (blood or adoptive), children or grandchildren (blood or adoptive), or any blood relative residing with such

owner; (b) a trustee of a trust for the benefit of such owner or of any person identified in the immediately preceding clause; or (c) a corporation, partnership, firm, business or entity of which the majority of the voting interest is owned by such owner or any person identified in subdivisions (a) and (b) above; or (d) a person who is an officer, director, stockholder (15% or more), trustee, employee or partner of any entity or person referred to in subdivisions (a), (b) and/or (c) above

Agricultural Use - The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, silviculture, and animal or poultry husbandry, including incidental storage of machinery and agricultural produce raised on the property.

Allowed Use - A use that is permissible without obtaining a zoning permit from the Administrative Officer.

Alteration - Structural change, relocation, or addition to a building or structure, excluding normal maintenance and repair. **Alterations** shall include any construction that changes the number of dwelling units, or increases the size of a building or structure in terms of its height, length, width, **footprint**, or gross floor area. See also Improvement.

Applicant - The owner of land or property proposed to be subdivided and/or developed in accordance with these regulations, and/or his or her duly authorized representative. Any party with a legal interest in land subdivision and/or development may apply in cooperation with the owner of the property.

Appropriate Municipal Panel – the Development Review Board, the Planning Commission, or the Selectboard performing development review.

Approval - An affirmative decision issued by the DRB or AO, as appropriate, within the statutory time limit or, in the event of the DRB's failure to act within the specified time limit, a certification

of such failure to act issued by the Town Clerk, as attached to the permit application and recorded in the land records of the town.

Appurtenant – incidental, subordinate, or next to the primary use or dwelling, but sharing the same approved highway access. Appurtenant structures shall not be separately conveyed without an approved subdivision.

Authorized Representative - A person or group of persons who have authorization from the owner of record to act on his or her behalf.

Auto Service Station – a building or premises used to offer maintenance and repair of motor vehicles and to dispense automobile fuels, lubricants or parts in the course of providing this service.

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

Basement – The habitable substructure or foundation of a building, usually below ground level.

Bed and Breakfast – A use accessory to a dwelling unit where the homeowner provides travelers with overnight lodging and breakfast.

Boundary Line Adjustment - The movement of property boundaries between two or more adjoining parcels and the related revision to plat records and/or deeds legally recorded in the Town's land records. The adjustment shall not create any new or non-conforming lot(s) and shall have no adverse impact on access, roads, rights-of-way, neighboring uses, natural resources (as identified in Section 3.1 of these regulations), designated open space, or the provision of public services or utilities.

Bridge – A structure having a clear span designed to convey vehicles and/or pedestrians over a watercourse, public or private right-of-way, or any depression. (see also stream crossing)

Brook – see “Stream”

Buffer - Any space between adjoining land uses or between a land use and a natural feature, which is intended and designed to reduce the impact of one use on the other use or feature. Buffers may include open space, woodland, landscaped areas, undisturbed vegetated areas, or other types of physical, visual or sound barriers.

Building – A walled and roofed structure that is principally above ground.

Building Density – The number of acres in a parcel divided by the number of non-residential principal structures and/or dwelling units existing and proposed on that parcel, i.e. the number of acres per principal structure and/or dwelling unit.

Business Office - A room or suite of rooms or building used for conducting the affairs of a business, profession or government, or used as an accessory to personal services, industry and other uses. The sale of retail goods on the premises is prohibited.

Camper (Recreational Vehicle, Travel Trailer) – A vehicle without permanent foundation which can be towed, hauled, or driven and is designed as a temporary living accommodation for travel, recreational, and camping use. This includes, but may not be limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes (see Section 4.4).

Certificate of Compliance – A document issued by the Administrative Officer, upon request, certifying that there are no known zoning violations on a property. The issuance of a Certificate of Compliance does not prevent the town from initiating an enforcement action to ensure

compliance with the zoning regulations if a zoning violation is discovered, nor is it an adequate substitute for a thorough title examination.

Certificate of Occupancy - A document issued in accordance with 24 V.S.A. §4449(a)(2) by the Administrative Officer, prior to the use or occupancy of a structure, certifying that the structure has been built in accordance with the permit issued approving its construction.

Change of Use – A change from one permitted or conditional use to another permitted or conditional use. (Permitted and conditional uses for each zoning district are listed in Article II; see also Section 3.3)

Clearing - The removal of vegetation as part of site preparation, for the installation of driveways, utilities, water, wastewater and drainage systems, building sites and construction or yard areas.

Conditional Use - A use that conforms to the zoning regulations and is allowed after obtaining approval (with conditions if necessary) from the DRB and a zoning permit from the Administrative Officer.

Coverage – That portion (percentage) of a lot area which is covered by buildings, structures and other man-made improvements, such as parking and loading areas, access roads, service areas, tennis courts, and other impermeable surfaces, which prevent the infiltration of stormwater. Lawn areas are specifically excluded from this definition.

Development - See Land Development.

Development Review Board (DRB) - The West Windsor Development Review Board, as created under the Act.

Driveway - A minor, private traveled way, serving one or two adjoining parcels, which provides vehicular access from an adjoining road to a parking space, garage or other structure.

Dwelling – A building or part thereof used as living quarters for one or more persons (family), containing cooking, sanitary and sleeping facilities built on a permanent foundation.

Dwelling, Single-Family – A building with living quarters for one family.

Dwelling, Two-Family – A building with independent living quarters for two families.

Dwelling, Multi-Family – A building with independent living quarters for three or more families.

Easement - The legal authorization given by a property owner to another person or party for the use of any designated part of his or her property for a specified purpose.

Erosion Control - Measures to prevent the detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice and gravity.

Essential Service – Underground or overhead gas, communication, electric, steam, water or sewer collection, distribution or transmission systems maintained by public utilities or municipal or other governmental agencies, including the equipment and accessory structures customarily associated with such systems, as well as public rights-of-way and associated roads, bridges, and culverts.

Family Child Care Home – a day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. These limits shall not include children who reside in the residence of the caregiver; except:

1. these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
2. during the school summer vacation, up to twelve (12) children may be cared for provided at least six (6) of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six (6). These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902(3)

Family Child Care Facility – a facility serving more than ten children where the operator is licensed or registered by the state for child care.

Farming –

1. the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
2. the raising, feeding, or management of livestock, poultry, equines, fish, or bees;
3. the operation of greenhouses; or
4. the production of maple syrup; or
5. the on-site storage, preparation and sale of agricultural products principally produced on the farm; or
6. the on-site production of fuel or power from agricultural products or wastes produced on the farm.

Farm Structure – a structure or structures that are used by a person for agricultural production that meets one or more of the following:

1. is used in connection with the sale of \$1,000 or more of agricultural products in a normal year; or
2. is used in connection with raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-

hundred laying hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratics (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or

3. is used by a farmer filing with the Internal revenue Service a 1040(F) income tax statement in at least one of the past two years; or
4. is on a farm with a business and farm management plan approved by the Vermont Secretary of Agriculture, Food & Markets.

Fence - A structure constructed of wood, stone, plastic, metal, masonry, or similar materials, and used for one or more of the following:

1. As a barrier to prevent escape or intrusion
2. As the demarcation of a boundary
3. To retain soil
4. To provide privacy or screening
5. As a landscaping feature

Final Plat - The final drawings of the subdivision or boundary line adjustment, as prepared by a professional surveyor or engineer certified by the State of Vermont. Final Plats must be recorded with the Town Clerk.

Finished Grade - The proposed elevation of the earth around a building after site work is complete.

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

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

Flood Prone Area - That land which would be subject to flooding by the 100-year flood or that flood which would have one percent chance of occurring each year Zone A on the Flood Boundary Map.

Floodplain – See Special Flood Hazard Area

Floodproofing - Any combination of structural or non-structural additions, changes or adjustments to properties and structures made primarily for the reduction or elimination of flood damages to lands, facilities, structures and their contents.

Flush-mounted - A sign attached to and mounted parallel to the face of a building or structure, or where architectural features (covered entryways, awnings, or other building elements except where otherwise prohibited) are clearly designed to accommodate a sign mounted parallel to the building face.

Footprint - The square footage contained within the foundation and/or the exterior walls of a structure, not including unenclosed, flat courtyards, walkways, or patios. In the absence of exterior walls, the building footprint shall be the area under the horizontal projection of the roof. Attached decks and porches are included in the footprint regardless of whether or not they are enclosed and/or covered by a roof.

Forestry Use - The use of land for management, including logging, of a forest or woodland, including the maintenance, construction or alteration of woods-roads, skidways, landings, fences and forest drainage systems.

Frontage - Distance along the lot line dividing a lot and a public or private right-of-way or public waters.

Group Home – Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight (8) unrelated persons, who have a handicap or disability as defined in 9 V.S.A. §4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Habitable Floor Area – Finished living space as specified on the Listers' property record or as demonstrated by site visit.

Health Care Facility - A clinic, hospital, sanitarium or nursing home used by the medical profession for treatment and care of human ailments.

Hedgerow - a row of bushes, shrubs or trees forming a hedge.

Height – See “Structure Height”

Hotel - An establishment providing lodging, or boarding and lodging, for more than twenty four (24) persons, with restaurant and related amenities and accessories thereto, if any, and offered to the public for compensation.

Improvement - Any physical addition, alteration or modification to real property, including but not limited to a building, structure, parking facility, wall, deck, fencing, or landscaping.

Indoor Recreational Use - A recreational use carried on within a fully enclosed structure.

Inn - An establishment providing lodging, or boarding and lodging, for not more than twenty four (24) transient persons, with or without a restaurant, offered to the public for compensation, in which ingress and egress to and from all rooms are from a central point.

Land Development - The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, or of any mining, excavation, or landfill, any change in the use of any building or other structure, or land or extension of use of land, unless specifically exempted from these regulations. This definition shall include the construction and/or installation of roads, utilities and site improvements. See also Subdivision.

Lot - (1) A plot or parcel of land occupied or capable of being occupied by one principal building or use and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by these regulations. In the case of multiple dwellings and public, institutional, commercial, industrial, or agricultural buildings, a group of buildings on the same or contiguous premises, all under the same ownership, may be considered as occupying the same lot. A lot must have its principal frontage on a road or highway, or must have other means of access as determined by law and the provisions of these regulations; (2) a portion of land in a subdivision or plat that is separated from other portions by a lot (property) line.

Lot Line - The established dividing line between lots or between a lot and a road.

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 Section 60.3 of the National Flood Insurance Program (NFIP) 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 connected to the required utilities. For floodplain management purposes, the term

"manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Master Plan - A conceptual plan that identifies major new development or changes/improvements that are proposed in the Town of West Windsor. The conceptual plan will include proposed location and numbers of residential and commercial units and recreational facilities, projections for water and sewer usage, traffic, employment, and other impacts on infrastructure as may be required by the appropriate municipal panel (AMP). The Master Plan should include Site Plan maps that illustrate the location of proposed development and natural resources such as streams, critical wildlife habitat, soils and other coverage as identified by the appropriate municipal panel (AMP).

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

Mile Long Field - The land enclosed by the following: From the western boundary of Parcel 1 (the Southern Main Parcel) as shown on Farnsworth drawing #88-737 and #88-737A (recorded as map #176 and map #177 in the West Windsor Land Records), then easterly +/- 450 feet to the corner of the Town of West Windsor property and continuing easterly another +/- 450 feet to the brook, then northerly +/- 3600 feet along the brook to a point easterly of Rita Johnson's southeast corner (tax map parcel #3-112), thence westerly +/- 460 feet along Johnson's southern boundary, then +/- 3185 feet southwesterly along a stone wall to the point of beginning.

Mineral Resources - Substances obtained from the ground such as sand, gravel, talc or the like.

Mixed Use - More than one type of use on an individual parcel or lot (e.g a store with an apartment over it).

Mobile Home - A prefabricated dwelling unit intended for permanent residential use which is designed to be moved on wheels to a site complete and ready for occupancy except for incidental unpacking and assembly. A modular home which is constructed in two or more major sections that are transported to a site and permanently assembled there is not considered a mobile home.

Mobile Home Park - Any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate, more than two mobile homes.

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

Multifamily Dwelling – A building containing three or more individual dwellings with separate cooking and toilet facilities for each dwelling.

Municipal – of or relating to a town or its local government

Municipal Land Use Permit - As defined in the Act [§4303], municipal land use permits include (1) zoning, subdivision, site plan or building permits or approvals relating to land development that have received final approval from the applicable board, commission, or officer of the municipality; (2) certificates of occupancy, compliance or similar certificates; and (3) any amendments to the previously listed, permits, approvals and/or certificates.

Nonconforming Structure - A structure not complying with the building requirements for the district in which it is located, but which conformed to all applicable laws and ordinances prior to enactment of these Regulations.

Nonconforming Use - A use of land or a structure which does not comply with all use standards for the district in which it is located but which conformed to all laws and ordinances prior to enactment of these Regulations.

Nonconforming Lot (or Parcel) - A lot or parcel that does not conform to these regulations covering dimensional requirements, but was in conformance with all applicable laws, ordinances and regulations prior to the enactment of these regulations, including a lot or parcel improperly authorized by the Administrative Officer.

Open Space - The undeveloped portion of any development parcel(s) which is not occupied by buildings, roads, rights-of-way, driveways, parking spaces, sewage disposal areas, commercial recreation facilities, or yard (setback) areas, and which is set aside, dedicated, or designated for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, or for the preservation and continued use of agricultural or forest land, or for the protection of natural or cultural resources.

Open Space – Land which is set aside from development and designated to remain in its natural state, open (woodland, meadowland, wetland, etc.), for agricultural uses, or for active or passive outdoor recreation uses.

Outdoor Recreational Facility/Use - Any facility for outdoor recreation, including ski lifts, ski lift facilities, tennis courts, golf courses, athletic fields, swimming pools and trails for hiking, horseback riding, bicycling, snowmobiling, and cross country skiing or any other similar commercial recreational activity.

Owner-occupied – With respect to accessory dwelling units, the term “owner-occupied” shall mean that the property owner may be elsewhere for a significant portion of the year (i.e. the property owner does not have to be a resident of Vermont) as long as the dwelling unit typically occupied by the owner is not rented out in his or her absence.

Parcel - Any contiguous land owned or controlled by a person. See also Lot.

Parking Space - An on- or off-street area, other than a loading or service area, which is to be used exclusively as a temporary storage space for one licensed private motor vehicle.

Participation - consists of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

Part-time Childcare – care of a school-age child for not more than four (4) hours a day.

Permitted Use - A use that conforms to the zoning regulations and is allowed after obtaining a zoning permit from the Administrative Officer.

Person - Any individual, partnership, corporation, association, unincorporated organization, trust, or any other legal or commercial entity, including a joint venture or affiliated ownership which owns or controls land or other property to be subdivided and/or developed under the provisions of these regulations.

Phasing - Development undertaken in a logical time and geographical sequence, typically to ensure that development is coordinated with the provision of services and facilities and will not result in adverse municipal or environmental impacts (e.g., erosion).

Place(s) of Worship – a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship,

together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

Planned Unit Development (PUD) - One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

Pre-existing - Legally in existence as of the effective date of these regulations.

Preliminary Plan - The preliminary drawings for a major subdivision indicating the proposed layout of the subdivision to be submitted to the DRB for its consideration.

Public - Owned, leased, held, used, and/or controlled exclusively for public purposes by the Town of West Windsor or any other department or branch of government, or publicly-regulated utility, unless otherwise specified.

Public Facility - A utility or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by a municipal, state or federal government, regulated utility or railroad. Such facilities include, but may not be limited to: municipal buildings and garages, water and wastewater facilities, power generation and transmission facilities, reservoirs, solid and hazardous waste management facilities, institutional facilities, recreational facilities and telephone, cable and electrical distribution lines.

Public Improvement - Any improvement which shall be owned and/or maintained by the Town of West Windsor or by a department or branch of state or federal government.

Recreational Use - A commercial enterprise organizing and providing an on-premise pastime, diversion, exercise or other resource affording relaxation and enjoyment.

Renewable Energy Resources – energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat and geothermal sources.

Residential Care Home – a place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to nine (9) or more residents unrelated to the home operator.

Retail Service - The performance for paying customers of work of a helpful or professional nature.

Retail Store - An establishment where merchandise is sold, generally to ultimate consumers.

Ridgeline - The uppermost point of a ridge, hill, cliff, slope or face. It may coincide with the top (highest elevation) of a rock cliff or, where the bedrock is not exposed, the most obvious break in slope associated with the underlying bedrock. The term does not include intermediate terraces, steps, or elevations along the face of a slope.

Road - Any highway, avenue, street, land or other way between right-of-way lines, commonly used for vehicular traffic and serving three or more lots.

Rooming House - Any dwelling with at least three, but not more than eight, sleeping rooms for rent.

Setback - The horizontal distance from a road, lot line, boundary or other delineated feature (e.g., a stream bank or wetland area), to the nearest part of a building, structure, or parking area on the premises. In the case of a setback from a road, the distance shall be measured from the road right-of-way.

Sign - Any structure, device or representation which is designed or used to advertise or call attention to any business, event, product, organization or philosophy, and which is intended to be read from a public road.

Sketch Plan - An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to reach general agreement with the DRB, during the Sketch Plan Phase, as to the layout of the subdivision and the objectives and requirements of these regulations.

Slope - The deviation of a surface from the horizontal, usually expressed in percent or degrees.

Special Flood Hazard Area (SFHA) - The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map (FIRM).

Stream – Any surface water course in the town of West Windsor as depicted by the US Geological Survey maps, or as otherwise defined by the State of Vermont.

Stream Crossing - A structure having a clear span designed to convey vehicles and/or pedestrians over a watercourse that may be located on public or private property.

Stormwater Management - The collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating or filtering of surface water and/or runoff, together with applicable nonstructural management techniques.

Structure - An assembly of materials for occupancy or use, which requires a fixed location on the ground in order to be used, including but not limited to a building, mobile home or trailer, billboard, sign, wall or fence, except wall or fence on an operating farm.

Structure Height - The vertical distance from the lowest finished grade adjacent to the foundation to the highest point of the structure, including cupolas or other architectural details.

Subdivider - Any person, firm, corporation, partnership, or association, or any of these entities working in cooperation, who shall lay out for the purpose of sale or development or otherwise any subdivision or part thereof as defined in these regulations, either for himself or others. The term shall include an applicant for subdivision approval.

Subdivision - The division of a lot, tract or parcel of land into two or more lots, tracts, sites, or other divisions of land for the purpose, whether immediate or future, of sale, conveyance, lease or development. The term “subdivision” includes amended subdivisions, lot line (boundary) adjustments, and the division of land held in common among several owners.

Survey Plat - a map or plan, drawn to scale by a professional surveyor or engineer certified by the State of Vermont, of one or more parcels, tracts or subdivisions of land, showing boundaries, corners, markers, monuments, easements and other rights, and complying with the composition requirements of 27 V.S.A. §1403.

Town Plan - The West Windsor Town Plan as most recently adopted.

Undue Adverse Impact - An adverse impact or effect that meets any one of the following criteria: (1) The project violates a clear, written community standard – including a provision of these regulations or a specific policy of the town plan – intended to preserve the aesthetics or scenic, natural beauty of the area; (2) The project offends the sensibilities of the average person; or (3)

The applicants have failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings.

Use - (1) The purpose for which a building, structure, or parcel of land is designed, intended, occupied or used; (2) any activity carried out upon any premises or within any structure upon a premises.

Veterinary/Animal Care Facility – A facility used primarily for the treatment of disease and injuries of animals. Such facilities may include the boarding of animals that may or may not be patients of the facility.

Waivers - The modification of one or more requirements of these regulations by the DRB in accordance with the authority granted under Section 2.4. Such waiver authority shall be exercised solely at the discretion of the DRB upon positive findings that, because of the special circumstances of a particular subdivision application, the waived or modified requirement(s) are not requisite in the interest of public health, safety and general welfare, or are inappropriate due to the inadequacy of connecting facilities adjacent or in proximity to the subdivision.

Wall - See "Fence"

Wetlands - Those areas of the Town of West Windsor which are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connections with farming activities (See 24 VSA §4303 (32)).

Yard - Space on a lot not occupied by a structure, except certain small accessory structures as herein permitted. Minimum yard dimensions ("set-backs") are the minimum perpendicular

distances from the point of a structure nearest to a lot line. No new development may extend into a setback area.

Yard, Front - The yard extending across the full width of a lot with a minimum depth measured from the front lot line.

Yard, Rear - The yard extending across the full width of a lot with a minimum depth measured from the rear lot line.

Yard, Side - The yards extending between the front and rear yards with a minimum depth measured from the side lot line.

Zero Lot Line - The lot line on the side yard of a single family dwelling that is shared with another parcel.

Clarification of Word Meaning

Doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Development Review Board. Words not defined herein shall carry their customary meanings, taking into consideration the latest state and federal definitions.

Word Definitions

For the purpose of these Regulations, words used in the present tense include the future, the singular includes the plural and vice versa. The word "shall" is mandatory. The word "**applicant**" includes an individual, partnership, association, corporation or other organization.

Other Definitions

The definitions in the Act shall apply to these Regulations unless a different definition is provided herein.

APPENDIX A – Application Requirements for Boundary Line Adjustments and 2-Lot Subdivision

- ☐ Name, address and phone number of **applicant** & landowner
- ☐ Name/address of adjoining property owners
- ☐ Map, drawn to scale on existing survey
- ☐ Map preparer information & certifications
- ☐ Map scale
- ☐ Existing and proposed property lines, **lot lines**, lot dimensions & acreage
- ☐ Adjoining roads
- ☐ Zoning district designations
- ☐ Surface waters
- ☐ Existing roads, paths, **driveways**, parking areas & structures
- ☐ Existing rights-of-way or **easements**
- ☐ Existing utilities, water & wastewater
- ☐ Existing covenants and/or deed restrictions

APPENDIX B – Application Requirements for Sketch Plan Review

- ☐ application form – original & 7 copies
- ☐ application fee
- ☐ Name, address and phone number of **applicant** & landowner
- ☐ Name/address of adjoining property owners
- ☐ Written description of development plans, including # and size of lots; timing of work
- ☐ Written statement of compliance with the **Town Plan** and local regulations
- ☐ Written waiver request, if any
- ☐ Sketch, drawn on existing survey map, showing:
 - ☐ Date, north arrow & legend
 - ☐ Project boundaries & property lines
 - ☐ Existing and proposed **lot lines**
 - ☐ Lot dimensions & acreage
 - ☐ Adjoining land uses, roads & drainage
 - ☐ Zoning district designations & boundaries
 - ☐ General location of significant natural features as specified in Section 3.1 of these regulations, including **slopes** > 20%
 - ☐ Existing 20' contour intervals
 - ☐ Existing roads, paths, **driveways**, parking areas & structures
 - ☐ Existing rights-of-way or **easements**
 - ☐ Existing utilities, water supply & wastewater systems

- ☐ Location of proposed **subdivision** in relation to major roads, drainage ways & adjoining properties
- ☐ Existing covenants and/or deed restrictions
- ☐ Description, if applicable, of the following: off-site **easements**, proposed **phasing**, proposed covenants or deed restrictions, proposed homeowners' association

APPENDIX C - Application Requirements for Preliminary Plan Review

- ☐ application form – original & 7 copies
- ☐ application fee
- ☐ Name of project, if any
- ☐ Name, address and phone number of **applicant** & landowner
- ☐ Name/address of adjoining property owners
- ☐ Written description of development plans, including # and size of lots; timing of work
- ☐ Written statement of compliance with the **Town Plan** and local regulations
- ☐ Written waiver request, if any
- ☐ Paper survey map, showing:
 - ☐ Date, north arrow & legend
 - ☐ Preparer information & certifications
 - ☐ Scale (minimum 1" = 100 feet)
 - ☐ Project boundaries & property lines
 - ☐ Existing and proposed **lot lines**
 - ☐ Lot dimensions & acreage
 - ☐ Adjoining land uses, roads & drainage
 - ☐ Zoning district designations & boundaries
 - ☐ Location of significant natural features as specified in Section 3.1 of these regulations, including **slopes** > 20%
 - ☐ Existing & proposed 10' contour intervals

- ☐ Existing & proposed roads, paths, **driveways**, parking areas & structures
- ☐ Existing & proposed rights-of-way or **easements**
- ☐ Existing & proposed utilities, water supply & wastewater systems
- ☐ Engineering reports (water & wastewater)
- ☐ Road profiles; road, intersection & parking area geometry & construction schematics
- ☐ Proposed landscaping & screening
- ☐ Proposed conservation **buffer** areas or **easements**
- ☐ Existing & proposed traffic rates & volume, estimated
- ☐ Location of proposed **subdivision** in relation to major roads, drainage ways & adjoining properties
- ☐ Proposed building envelopes, if applicable
- ☐ Existing covenants and/or deed restrictions
- ☐ Draft copies, if applicable, of the following: proposed off-site **easements**, **phasing** schedule, homeowners' association, covenants and/or deed restrictions
- ☐ Description of proposed performance bond
- ☐ The following, if required under **sketch plan approval**:
 - Stormwater & **erosion control** plan
 - Grading plan
 - **Open space** management plan
 - Traffic impact analysis
 - Fiscal impact analysis
 - Visual impact analysis

- Environmental impact analysis
- Lighting plan

APPENDIX D - Application Requirements for Final Plan Review

- ☐ application form – original & 7 copies
- ☐ application fee
- ☐ Name of project, if any
- ☐ Name, address and phone number of **applicant** & landowner
- ☐ Name/address of adjoining property owners
- ☐ Written description of development plans, including # and size of lots; timing of work
- ☐ Written statement of compliance with the **Town Plan** and local regulations
- ☐ Mylar survey map, showing:
 - ☐ Date, north arrow & legend
 - ☐ Preparer information & certifications
 - ☐ Scale (minimum 1" = 100 feet)
 - ☐ Surveyed project boundaries & property lines
 - ☐ Surveyed **lot lines** (existing and proposed)
 - ☐ Surveyed lot dimensions & acreage
 - ☐ Adjoining land uses, roads & drainage
 - ☐ Zoning district designations & boundaries
 - ☐ Surveyed location of significant natural features as specified in Section 3.1 of these regulations, including **slopes** > 20%
 - ☐ Existing & proposed 5' contour intervals
 - ☐ Surveyed roads, paths, **driveways**, parking areas & structures

- ☐ Existing & proposed rights-of-way or **easements**
- ☐ Existing & proposed utilities, water supply & wastewater systems
- ☐ Road profiles; road, intersection & parking area geometry & construction schematics
- ☐ Proposed landscaping & screening
- ☐ Proposed conservation **buffer** areas or **easements**
- ☐ Monument locations
- ☐ Existing & proposed traffic rates & volume, documented
- ☐ Location of proposed **subdivision** in relation to major roads, drainage ways & adjoining properties
- ☐ Proposed building envelopes, if applicable
- ☐ Existing covenants and/or deed restrictions
- ☐ Engineering reports (water & wastewater)
- ☐ Draft copies, if applicable, of the following: proposed off-site **easements**, **phasing** schedule, homeowners' association, covenants and/or deed restrictions
- ☐ Description of proposed performance bond
- ☐ The following, if required under **sketch plan approval**:
 - Stormwater & **erosion control** plan
 - Grading plan
 - **Open space** management plan
 - Traffic impact analysis
 - Fiscal impact analysis
 - Visual impact analysis

- Environmental impact analysis
- Lighting plan

ARTICLE 10: DEFINITIONS

Section 10.1 Terms & Uses

Section 10.2 Definitions

Appendix A-D

Copies of the proposed Unified Development Regulations are available for public inspection at the West Windsor Town Offices.

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:

The new Unified Development Regulations were modified to better address affordable housing both in respect to statutory requirements as well as the goals and policies of the town plan. The modified zoning districts in the village area (PGV-1) incorporate densities that strengthen the possibility of affordable housing projects.

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

Amendments of the zoning and subdivision standards bring the regulations into compliance with the goals and policies of the town plan, including but not limited to encouraging higher densities and a mix of uses in the Primary Growth Village and low-density developments and working landscapes in the more rural areas. These proposed changes also seek to provide clear guidance in the form of zoning district purpose statements that are consistent with the town plan future land use categories.

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

There are no planned community facilities at this time.

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.”*

The above referenced proposed bylaws are summarized as follows:

1. **Brief explanation of the proposed bylaw, amendment or repeal; and a statement of purpose as required for notice under §4444 of this title:**

A number of changes are being proposed by the Planning Commission to clarify the existing requirements of the West Windsor Flood Hazard Area Bylaws. These changes are intended to clarify both how the existing bylaws are interpreted and what review procedures apply for each land use type. A summary of the changes are summarized below:

- Section 5(a)(2) was replaced with the current applicable language from 24 V.S.A. §4448(c).
- New language was added to Section 6 to clarify what land uses are exempt or prohibited, and clearly indicate when permitted use or conditional use review would apply. A summary table was added as Appendix A as a quick reference.
- Added a provision to exempt insignificant activities or repairs, and added definitions.
- Clarified new requirements for zoning exemptions under 24 V.S.A. §4413.
- Clarified that prohibitions for junkyards and new mobile home parks apply to both floodways and floodplain areas.
- Added a statement that the Town will refer to available FEMA guidance documents to assist in interpreting the Flood Hazard Area Bylaws.
- Added a definition for junkyards.

2. **How does the proposal conform with or further the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:**

West Windsor’s Town Plan calls for revising the local flood regulations in order to comply with state flood regulations. The Planning Commission is proposing to amend their existing bylaws with certain sections of the state model bylaws, as this approach clarifies the existing requirements and makes it easier for residents to understand the standards and procedures. The changes do not impact the availability of safe and affordable housing.

3. **Is the proposal compatible with the proposed future land uses and densities of the municipal plan:**

Yes, the proposed amendment is consistent with the future land uses identified in the Town Plan.

These Flood Hazard Area Bylaws are adopted as a stand-alone bylaw under 24 V.S.A. Chapter 117. In effect, however, they function as an overlay zoning district allowing the land uses and densities specified in the underlying zoning district, but imposing additional standards in order to mitigate against damages from future flooding events.

4. **How does the proposal carry out, as applicable, any specific proposals for any planned community facilities:**

This proposal does not directly apply to any specific proposals for planning community facilities. The recently completed wastewater system expansion had to be accomplished under the existing Flood Hazard Area Bylaws. These proposed amendments would not have had a significantly different impact on that project.

Town of West Windsor, Vermont

Flood Hazard Area Bylaws

1. Statutory Authorization

To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. §4424, there is hereby established these *Flood Hazard Area Bylaws* for areas of special flood hazard in the Town of West Windsor, Vermont.

These Bylaws may be amended in accordance with 24 VSA §§ 4424 and 4441.

2. Statement of Purpose

It is the purpose of these Bylaws to:

- a. 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 services that result from flooding and other flood related hazards; and
- b. 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; and
- c. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
- d. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

3. Lands to Which These Bylaws Apply

These Bylaws shall apply to all areas in the Town of West Windsor, Vermont identified as areas of special flood hazard, also referred to as Special Flood Hazard Areas (SFHA), 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 Bylaws.

The Flood Insurance Study and maps are on file in the office of the Zoning Administrator in the West Windsor Town Offices.

4. Designation of the Administrative Officer for These Flood Hazard Bylaws The Selectboard of the Town of West Windsor hereby appoints the West Windsor Zoning Administrator, herein referred to as the Administrative Officer, to administer and implement the provisions of these Bylaws.

5. Duties and Responsibilities of the Administrative Officer

The Administrative Officer is hereby authorized and directed to enforce the provisions of this ordinance. The Administrative Officer is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

a. Duties of the Administrative Officer. Duties of the Administrative Officer shall include, but not be limited to:

(1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;

(2) Provide any applicant with the forms required to obtain any municipal permit or other municipal authorization required under this chapter, or under other laws or ordinances that relate to the regulation by municipalities of land development. If other municipal permits or authorizations are required, the administrative officer should coordinate a unified effort on behalf of the municipality in administering its development review programs.

The administrative officer should inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

(3) Notify adjacent towns and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section at least 30 days prior to 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) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Where base flood elevation (BFE) data is available per Section 8 from the Flood Insurance Rate Map (FIRM) or other available data, verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, and verify that actual elevation of the lowest floor is in compliance with Section 9.

(6) When no elevation data is available as provided in Section 8, in AO Zones and A Zones without elevations, verify and record the elevation of the lowest floor of the proposed structure in relation to highest adjacent grade and verify that the elevation of the lowest floor exceeds by one foot the elevation determined pursuant to Section 5. a. 10, below.

(7) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 9, except as provided in Section 9. d. 3.

(8) Review certified plans and specifications for compliance.

(9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (determination of the horizontal limits only, not vertical) the Administrative Officer shall make the necessary interpretation. The person contesting

the location of the boundary may appeal the interpretation to the Development Review Board (DRB).

(10) When base flood elevation data or floodway data have not been provided in accordance with Sections 3 and 8, then the Administrative Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Section 9.

(11) On receipt of the application for permit the Administrative Officer shall submit a copy of the application and supporting information 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.

(12) Provide information, testimony, or other evidence, as needed, during variance request hearings.

(13) When damage occurs to a building or buildings, the following actions shall be conducted:

(a) Determine whether damaged structures are located within the Special Flood Hazard Area;

(b) Conduct damage assessments for those damaged structures located in the SFHA; and,

(c) Make a reasonable attempt to notify owner(s) of damaged structure(s) of the requirement to obtain a building permit / floodplain development permit prior to repair, rehabilitation, or reconstruction.

b. Responsibilities: Record Keeping

The Administrative Officer shall maintain a record of:

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

(2) The elevation (consistent with the datum of the elevation on the NFIP maps for the community) in relation to mean sea level-of the lowest floor, including basement, of all new or substantially improved buildings;

(3) The elevation (consistent with the datum of the elevation on the NFIP maps for the community) in relation to mean sea level to which buildings have been floodproofed;

(4) All floodproofing certifications required under this regulation; and

(5) All variance actions per Section 10b.6, including justification for their issuance.

6. Development Permit Required

A permit is required, to the extent authorized by State law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. All development and subdivisions shall be reviewed to assure that

such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards. The following review procedures shall apply to development within the SFHA:

a. Permitted Use Review. The following development activities within the Special Flood Hazard area, where outside of the floodway, require the application for and receipt of an administrative permit issued by the Administrative Officer:

- (1) Non-substantial improvements to existing buildings;
- (2) Small accessory structures [Section 9.d.7];
- (3) New or replacement fuel storage tanks [Section 9.d.13];
- (4) New or replacement building utilities [Section 9.d.12];
- (5) New or replacement bridges and culverts;
- (6) At-grade parking for existing buildings; and,
- (7) Recreational vehicles, provided they are fully licensed and ready for highway use [Section 9.d.6.a].

b. Conditional Use Review. Conditional use approval by the appropriate municipal panel is required for prior to being permitted by the Administrative Officer:

- (1) New buildings;
- (2) Substantial improvement of existing buildings;
- (3) Non-substantial improvement to existing buildings within a floodway;
- (4) Development in a floodway;
- (5) Recreational vehicles that are to be used as housing in accordance with Section 9.d.6.b;
- (6) Additions to existing buildings;
- (7) New or replacement water supply or septic systems;
- (8) Grading, excavating or fill;
- (9) Rebuilding after substantial damage;
- (10) Roadway improvements;
- (11) Subdivisions;
- (12) Channel management; and,
- (13) All other development as defined in Section 15 that is not allowed under permitted use review or exempted under Section 6.d.

c. Prohibited Development. The following development activities are prohibited within the Special Flood Hazard Area and Floodway, and would only be allowed via issuance of a variance:

- (1) Junkyards and storage facilities;

(2) New manufactured home parks;

d. Exempt Development. The following are exempt from regulation under this bylaw:

- (1) Insignificant activities and/or repairs as defined in Section 15¹;
- (2) Demolition/removal of a building in whole or in part¹;
- (3) Maintenance of existing roads and existing stormwater drainage systems¹;
- (4) Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices¹;
- (5) Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices;
- (6) Facilities owned and operated by the State of Vermont in accordance with 24 V.S.A. §4413;
- (7) Public utility power generating plants and transmission facilities that are regulated under 30 V.S.A. §248.

7. Procedures

a. DRB The Administrative Officer and the Development Review Board will refer to the most current FEMA guidance documents² to help in determining how to interpret these Flood Hazard Area Bylaws in accordance with NFIP requirements.

b. Submission Requirements. Applications for Flood Hazard Review shall include:

(1) Two (2) copies of a map drawn to scale showing:

- (a) The dimensions of the lot;
- (b) The location of existing and proposed structures;
- (c) The elevation of the lowest floor, including basement, either
 - (a) in relation to mean sea level where base flood elevation data in relation to mean sea level is available, or
 - (b) in relation to the elevation determined pursuant to Section 7B, or
 - (c) if neither (a) or (b) apply for lack of a determined elevation, in relation to highest adjacent grade

of all new or substantially improved structures and notations as to whether or not such structures contain a basement; and

¹ Prior to starting work on these exempt development activities, the property owner must notify the Administrative Officer in writing of the proposed activity. In the case of Required Agricultural Practices, the written notification must contain a sketch of the proposed structure including setbacks.

² See FEMA Guidance Documents, most of which are available at: (1) <https://www.fema.gov/media-library/assets/documents/6417>; (2) <https://www.fema.gov/floodplain-management/floodplain-management-publications>; (3) <http://www.fema.gov/media-library/assets/documents/18562?id=4160>; and (4) <https://www.fema.gov/media-library/resources-documents/collections/4>.

- (d) The relationship of the above to the streambank and, based upon the best information available (including Federal Insurance Administration data, if issued), the elevation and limits of the SFHA.
- (2) If any portion of the proposed development is within a designated Floodway, the application must show that the development standards in Section 9. a., b., and c. are met.
- (3) If the proposed development is in the Floodway Fringe Area(s), the application must show that the development standards in Section 9. a., b., and d. are met.
- (4) All permits required for the proposed development by municipal law.
- (5) The applicant shall contact a permit specialist at ANR and request the specialist to complete a permit review for the project. The permit review sheet, which informs the applicant of all governmental agencies from which permit approval for the proposed development is required by federal or state law, shall be filed as a required attachment to the Town permit application.

c. Review Procedure.

- (1) The DRB shall review the application, comments from the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section, if available, and other pertinent information available to insure compliance with the development standards set forth in Section 9. Development Standards, below.
- (2) The DRB shall review the application and assure that all permits required for the proposed development by municipal law have been received by the applicant.
- (3) If the DRB approves the proposed project, among other conditions, the DRB shall, in its decision, make the approval contingent on the applicant obtaining all permits required by federal or state agencies, as shown on the project review sheet.
- (4) The permit issued by the Administrative Officer after the DRB approval shall contain, among other conditions, a statement that the validity of the permit is contingent on the applicant obtaining all permits required by federal or state agencies, as shown on the project review sheet.
- (5) Applicant is required to obtain the legally required permits from the entity indicated on the permit review sheet, or, if it is determined by that agency that a permit is not required, a letter so stating from the agency, and as received provide copies of the permit or letter to the Administrative Officer for the applicant's file.

d. Permit Expiration.

Any permit issued for development within the SFHA shall require renewal if the work described therein is not commenced within a period of one (1) year from the date of issuance and diligently pursued thereafter. Renewal applications must be submitted before the permit expiration date, and will be approved by the Administrative Officer provided that there is no change in either the proposed development or the regulations of the zoning district in which it is proposed.

8. Base Flood Elevations and Floodway Limits

a. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these Bylaws.

b. 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, the Administrative Officer shall obtain and reasonably utilize base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, including data developed pursuant to Section 9.d.3 and 9.d.4 to administer and enforce these Bylaws. “Available” base flood elevations and floodway data means existing and readily available from State or Federal agencies or from data previously obtained pursuant to 9.d.3 and 9.d.4. The reference for this action is to be FEMA 265 “Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base Flood Elevation,” dated July 1995.

c. In special hazard areas with base flood elevations (Zones AE and A1 – A30) but without floodways, no encroachments, including fill material or structures, shall be permitted unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification must be supported by technical data that conforms to standard hydraulic engineering principles.

9. Development Standards

a. In the SFHA new manufactured home parks are prohibited. (There are no existing manufactured home parks in the SFHA.)

b. All Development - All development in the SFHA shall be reasonably safe from flooding and:

(1) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,

(2) constructed with materials resistant to flood damage,

(3) constructed by methods and practices that minimize flood damage, and

(4) 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.

c. Floodway Areas

(1) Development within the regulatory floodway, as determined by Section 8, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a Vermont licensed registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

(2) Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

(3) All development in the regulatory floodway shall meet the standards of Section 9d.

d. Floodway Fringe Areas (i.e., special flood hazard areas outside of the floodway)

(1) Residential Development:

(a) New construction and existing 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 one foot above the base flood elevation.

(b) Manufactured homes to be placed and existing manufactured homes to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood. The required elevation and adequate anchoring must be certified in writing by a Vermont registered professional engineer.

(c) Residential construction located within Zones AH shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

(2) Nonresidential Development:

(a) New construction located in Zones A1-30, and AE shall have the lowest floor, including basement, elevated to or above one foot above the base flood elevation.

(b) Existing buildings to be substantially improved located in Zones A1-30, and AE shall have the lowest floor, including basement, elevated to or above one foot above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(c) A permit for a building proposed to be floodproofed shall not be issued until a Vermont licensed registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

(d) Nonresidential construction located within Zones AH shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

(3) Residential and Nonresidential Development in SFHA where BFE or floodway data is not available.

When base flood elevation data or floodway data are not available in accordance with Section 3 and Section 8 b., in Special Flood Hazard Areas without Base Flood Elevation Data, new construction or substantial improvements of residential structures and new construction of nonresidential structures shall be elevated, and substantially improved nonresidential development shall be elevated or floodproofed, to elevations adopted / established by the community. If floodproofed as provided in the previous sentence, the floodproofing shall be to the standards of d. (2) (b) and (c) of this Section 8. The Administrator Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of this regulation. The reference for this action is to be FEMA 265 "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base Flood Elevation", dated July 1995.

(4) Subdivisions:

(a) New subdivision proposals and other proposed development in the floodplain (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.

(b) Subdivisions (including manufactured home parks) shall 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.

(5) Enclosed Areas Below the Lowest Floor:

(a) Enclosed areas below the lowest floor, which are subject to flooding, shall be used solely for parking of vehicles, building access, or storage.

(b) 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.

(c) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other

coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Recreational Vehicles and Job Trailers: Recreational Vehicles and job trailers placed on sites with special flood hazard areas shall either:

- (a)** be fully licensed and ready for highway use, or
- (b)** be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Section 9.

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

- (a)** The structure must only be used for parking or storage,
- (b)** The structure must have the required openings to allow floodwaters in and out,
- (c)** The structure must be constructed using flood resistant materials below the Base Flood Elevation,
- (d)** The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
- (e)** all building utility equipment including electrical and heating must be elevated or floodproofed.

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

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

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

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

(12) Utilities: Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding, such facilities shall be located a minimum of one foot above the Base Flood Elevation.

(13) Bulk or individual fuel storage tanks. All fuel storage tanks shall be located a minimum of one foot above the Base Flood Elevation and be tied down to prevent flotation. No underground fuel storage tanks are allowed.

(14) All development. Until a regulatory floodway is designated, in Zones A1-30 and AE the requirements of Section 8c shall be met.

10. Variances to the Development Standards

Variances shall be granted by DRB only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

a. Matters to be Considered in Variance Procedures

In passing upon such applications, in addition to the requirements of said § 4469, the DRB shall consider all technical evaluations, all relevant factors, standards specified in other sections of these Bylaws, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger of life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (12) Upon consideration of factors listed above, and the purpose of these Bylaws, the DRB may attach such conditions to the granting of variances as it deems necessary to further the purposes of these Bylaws.

b. Procedures for Variance Hearings.

In addition to the requirements of 24 VSA § 4469, in considering variances to these Flood Hazard Area Bylaws, the DRB shall follow the following procedures, which include the procedures for the granting of variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations:

- (1) No-Impact Certification within the Floodway. Variances shall not be issued within any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result. A No-Impact Certification within

the Floodway from A Vermont registered professional engineer is required to satisfy this prohibition set forth in 44 CFR, Section 60.6(a)(1).

(2) Variances may be issued for new construction and substantial improvement to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures set forth in 10b. (3), (4), (5) and (6) herein.

(3) Variances shall only be issued when there is:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(a) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and,

(b) Such construction below the base flood level increases risks to life and property.

A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Town Clerk and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(6) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's annual or biennial report submission to the Federal Emergency Management Agency or State NFIP Coordinator upon request.

(7) Historic Structures. Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(8) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that

(i) the criteria of paragraphs 10.b.1 through 10.b.4 of this section above are met, and

- (ii) 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.

11. Warning of Disclaimer of Liability

These Bylaws do not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. These Bylaws shall not create liability on the part of the Town of West Windsor or any town official or employee thereof for any flood damages that result from reliance on these Bylaws or any administrative decision lawfully made thereunder.

12. Validity and Severability

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

13. Precedence of Ordinance

The provisions of these Bylaws shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where these Bylaws impose a greater restriction, the provisions of these Bylaws shall take precedence.

14. Enforcement and Penalties

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

If the structure is still noncompliant after the opportunity to cure has passed, the Administrator Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area bylaws. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

15. Definitions

A Zone means that portion of the SFHA subject to a one percent chance of being equaled or exceeded in any given year. In the A Zone the base floodplain is mapped by approximate methods, i.e. BFEs are not determined. This is often called unnumbered A Zone or approximate A Zone.

A1 – A 30 and AE zone is the Special Flood Hazard Area inundated by the 100-year (one percent chance per year) flood, base flood elevations are determined.

Area of special flood hazard means that portion of the floodplain within a community subject to inundation by the base flood and / or flood-related erosion hazards as shown on a FIRM as Zone A, AE, A1-A30, AH, or AO.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

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

Basement means any area of the building having its floor elevation subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Community Rating System (CRS) is a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Development means 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.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Elevation Certificate is a certified statement that verifies a building's elevation information.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction any structure for which the “start of construction” commenced before June 17, 1991.

Fill means a deposit of earth material placed by artificial means.

Five-Hundred Year Flood means the flood that has a 0.2 percent or greater chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

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

Flood Boundary and Floodway Map (FBFM) means the official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

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

Flood Insurance Study (generic) means 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 Insurance Study (FIS) is the official hydraulic & hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of “flood”).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency

preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Administrator is the individual appointed to administer and enforce these floodplain management regulations.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodproofing Certificate is a form used to certify compliance for non-residential structures as an alternative to elevating buildings to or above the BFE or ABFE.

Floodway means 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 means that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Floor means the top surface of an enclosed area in a building, including basement, i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles, provided the garage meets the requirements of Section 9d.(4).

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities, that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Hardship (as related to variances of these regulations) means the exceptional hardship that would result from a failure to grant the requested variance. The DRB shall require that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Historic Structure means 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.

Increased Cost of Compliance (ICC) means the cost to repair a building substantially damaged by flooding that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business policies with effective dates on or after June 1, 1997, will include ICC coverage.

Insignificant activities or repairs:

- a.) Insignificant activities that involve the placement or erection of decorative or directional elements which do not result in new obstructions to flood flows or alter drainage or have the potential to be a substantial improvement. Insignificant activities may include mowing, planting a garden, adding soil amendments, installing a mail box for the delivery of US postal mail or newspaper, or erecting a flag pole. Insignificant activities will not result in new obstructions to flood flows or impair drainage or have the potential to be a substantial improvement; and/or,
- b.) Insignificant repairs that involve projects to fix or mend to a sound condition after decay or damage and the cost of which does not exceed \$500 or does not result in the replacement, alteration, addition or extension of an existing structure. Insignificant repairs will not result in new obstructions to flood flows or impair drainage or have the potential to be a substantial improvement.

Junkyards means any land or building used for the collection, storage, and/or sale of waste paper, rags, scrap metal, or discarded material, or for the collection, wrecking, dismantling, storage, salvaging, and/or sale of machinery parts or vehicles not in running condition.

Legislative Body means the Selectboard in the case of a town, the trustees in the case of an incorporated village, and the mayor, alderpersons, and city council members in the case of a city, and the supervisor in the case of an unorganized town or gore.

Letter of Map Change (LOMC) is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

Letter of Map Revision (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the BFE and is, therefore, excluded from SFHA.

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

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

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

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

Manufactured home park or subdivision, Expansion to an existing means 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).

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

Map Panel Number is the four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised.

Market value means the building value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

Mean Sea Level:

- a.) On a FIRM: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes

of these regulations, the term is synonymous with National Geodetic Vertical Datum (NGVD).

- b.) On a DFIRM: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of these regulations, the term is synonymous with North American Vertical Datum (NAVD).

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD), as corrected in 1929, is a vertical control used on a FIRM as a reference for establishing varying elevations within the floodplain.

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

North American Vertical Datum (NAVD), as corrected in 1988, is a vertical control used on a DFIRM as a reference for establishing varying elevations within the floodplain.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Participating Community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Post-FIRM Construction means construction or substantial improvement that started on or after June 17, 1991. [Effective date of **initial** FIRM for the community].

Pre-FIRM Construction means construction of substantial improvement that started on or before June 17, 1991. [Effective date of **initial** FIRM for the community].

Probation means formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

Public safety and nuisance means anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means 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.

Regulatory floodway means 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.

Repair means the reconstruction or renewal of any part of an existing building.

Repetitive Loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each such flood event.

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

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

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 means, 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.

Subrogation means an action brought by FEMA when flood damages have occurred, flood insurance has been paid, and all or part of the damage can be attributed to acts or omissions by a community or other third party.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term includes Repetitive Loss buildings (see definition).

For the purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”, or
- c.) Any improvement to a building.

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

determining “substantial improvement” value and exceptions in (a) only and for no other purpose, the Administrative Officer is “the local code enforcement official.

Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP

Variance is a grant of relief from the requirements of these regulations, which permits construction in a manner otherwise prohibited by these regulations where specific enforcement would result in unnecessary hardship.

Violation means 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.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means

- a.) On a FIRM: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- b.) On a DFIRM: The height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Zone means a geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

APPENDIX A**Summary Table of Development Review Procedures within Flood Hazard Areas**

Note: This matrix provides a generalized reference for identifying development activity types by hazard area. The matrix does not amend or substitute for regulations adopted by the Town of West Windsor, VT. Consult the West Windsor Flood Hazard Area Bylaws as most recently adopted for definitions, regulations, standards and exceptions. Other regulations may apply.

#	Activity P = Permitted Use Review C = Conditional Use Review X = Prohibited E = Exempted	Hazard Zone	
		Special Flood Hazard Area	Floodway
1	Agricultural (RAP) Activities	E	E
2	Building Demolition/Removal	E	E
3	Routine maintenance of existing roads and storm water drainage	E	E
4	Insignificant activities or repairs	E	E
5	Public utility power generating plants and transmission facilities [30 V.S.A. §248]	E	E
6	Silvicultural (Forestry) Activities	E	E
7	State-owned facilities	E	E
8	At-grade parking for existing buildings	P	C
9	New or replacement storage tanks for existing structures	P	C
10	Non-substantial improvements	P	C
11	Building utilities	P	C
12	New or replacement bridges and culverts	P	C
13	Small accessory structures	P	C
14	Channel management	C	C
15	Additions to existing buildings	C	C
16	New or replacement water supply or setic systems	C	C
17	Fill	C	C
18	Grading, excavating	C	C
19	New Buildings	C	C
20	Rebuilding after Substantial Damage	C	C
21	Road improvements	C	C
22	Subdivisions	C	C
23	Substantial Improvement of Existing Buildings	C	C
24	All other development as defined in Section 15	C	C
25	Junkyards and Storage Facilities	X	X
26	New Manufactured Home Parks	X	X