



TOWN OF WESTMINSTER

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March 10, 2013

Commissioner
The Department of Housing and Community Affairs
1 National Life Drive 6th Floor
Montpelier, VT 05620

Re: Revised Westminster Zoning Bylaw

Commissioner

The Westminster Planning Commission has revised the Zoning Bylaw. These changes are based on requests to make the Bylaw easier to understand and use. There are no substantive changes, only reorganization and additions or changes that were required to comply with the latest Vermont Law.

There will be a public meeting on these changes April 8, 2013 in the Westminster Town Hall at 7:00 pm.

Feel free to contact me if there are any questions.

Sincerely

Bill Jewell
Zoning Administrator

Copy to: Adjacent Towns, Windham Regional Commission, Housing and Community Affairs. M Daskal, Westminster Town Manager

Zoning Ordinance
Town of Westminster,
Vermont



**Proposed
Revisions by the Planning Commission
February 11, 2013**

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ARTICLE I: LEGAL FRAMEWORK

SECTION 110 INTRODUCTION

111 Enactment. In accordance with the Vermont Planning and Development Act Title 24 Chapter 117 (the Act) there are hereby established zoning, site plan review, subdivision and planned unit development bylaws for the Town of Westminster, Vermont. These bylaws shall be known and cited as the "Westminster Zoning Bylaw."

112 Purpose. The purpose of the Westminster Zoning Bylaw (the Bylaw) is to:

- A. promote the health, safety, and general welfare of the residents of the Town of Westminster;
- B. implement the Westminster Town Plan as most recently adopted;
- C. promote the orderly growth of the Town;
- D. further the goals and purposes in the Act; and to
- E. integrate the land use regulations of Westminster into one unified document to promote a consolidated review and permitting process as enabled under the Act.

113 Applicability.

- A. The application of these regulations is subject to all provisions of the Act as most recently amended.
- B. In accordance with the Act no land development, including the subdivision of land, shall commence in the Town of Westminster except in conformance with this Bylaw (see Table 113). Any land development or subdivision of land not specifically authorized under this Bylaw (and other applicable municipal Bylaws), unless otherwise exempted under the Act or Section 213 of the Bylaw is prohibited.
- C. All development 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 structures or uses shall be subject to all applicable requirements of these regulations, including provisions applying to pre-existing, nonconforming lots, nonconforming uses and structures under Section 520.
- D. These regulations are not intended to repeal, annul or in any way impair any permit or approval previously issued. Where these regulations impose a greater restriction on the use of land or a structure than is required by any other statute, Bylaw, rule, regulation, permit, easement or agreement, the provisions of these regulations shall control.

114 Effective Date.

- A. In accordance with the Act these regulations shall take effect twenty-one (21) days from the date of adoption by a majority of the members of the Westminster

ARTICLE II: ADMINISTRATION & ENFORCEMENT

SECTION 210 PERMITS.

211 Purpose. Permits are required to assure the public and the applicant that development in the Town of Westminster is in conformance with this Bylaw. Land development which is classified as "permitted" still requires the obtaining of a permit prior to commencement.

212 Land Use Permits & Approvals.

- A. **Permit Requirements.** No land development or subdivision of land, as both terms are defined in Article XV of this Bylaw, may begin in the Town of Westminster until all applicable municipal land use permits and approvals have been issued as provided for in the Act and this Bylaw, unless the development is specifically exempted under Section 213 of this Bylaw. Such permits and approvals include:
1. **Zoning permits** issued by the Administrative Officer under Section 214 for all development, including lot line adjustments, and excepting any activity exempted under Section 213;
 2. **Site plan** approval issued by the Development Review Board (DRB) under Section 311 for all uses subject to site plan review;
 3. **Conditional use approval** issued by the DRB under Section 313 for uses subject to conditional use review, including uses within any overlay district;
 4. **Planned unit development (PUD) approval** issued by the DRB under Article VII in association with subdivision approval when applicable;
 5. **Subdivision approval** issued by the DRB under Article VIII for the subdivision of land; and
 6. **Historic preservation approval** issued by the DRB under Article IX including proposed signs within the Overlay District.
- B. **No development permit** shall be issued except to the owner of a property. However, an owner may designate another party to act on his/her behalf during the permit application process.
- C. **Other Permits & Approvals.** The Administrative Officer will notify applicants that it is their obligation to obtain all necessary state permits prior to initiation of construction, and direct them on how to contact the regional permit specialist in accordance with the Act.
1. **Wastewater Disposal (Septic) System Construction & Use Permits** issued by the Vermont Agency of Natural Resources for any development.
 - a. The Town of Westminster prohibits initiation of construction under a zoning permit unless and until a wastewater and potable water supply permit is issued under chapter 64 of Title 10 of Vermont law.
 - b. Initiation of construction without a wastewater and potable water supply permit shall be a violation of this Bylaw.

Secretary of Agriculture, Food and Markets in accordance with the Act. However, a notice of intent (NOI), including a plan of the proposed structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Administrative Officer before beginning any construction, as required under AAPs. Such structures shall meet all setback requirements under these regulations, unless waived by the Secretary.

Exception: Farm structures in the Flood Hazard Overlay District are required to have a flood permit before construction.

2. Accepted Management Practices for silviculture as defined by the Commissioner of Forest, Park and Recreation in accordance with the Act.
3. Public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board [30 V.S.A. §248], in accordance with the Act.
4. Hunting, fishing and trapping on public or private land as specified within the Act. This specifically does not include facilities that support such activities, such as firing ranges and rod and gun or fish and game clubs, which are subject to these regulations.

214 Zoning Permits.

- A. **Applicability.** No land development subject to these regulations shall commence in the Town of Westminster until a zoning permit has been issued by the Administrative Officer in accordance with the Act, and these regulations.
- B. **Application Requirements.** The application for a zoning permit must be completed, signed and submitted to the Administrative Officer on the required forms along with any application fees as established by the Selectboard. In addition, the following will be required, unless waived by the Administrative Officer:
 1. Two copies of a plot plan drawn to scale containing the following:
 - a. Name and address of owner of property, of applicant, if different than owner, and of owners of record of adjoining lands; name and address of person or firm preparing properly labeled map;
 - b. property lines, acreage, scale of map, north arrow and current date;
 - c. location of water systems and location of septic systems;
 - d. existing and proposed structures and setbacks to property lines;
 - e. existing and proposed grading, location of roads, driveways, walkways, curbing, traffic circulation, parking spaces, points of vehicular access, including access for emergency vehicles, easements and rights-of-way;
 - f. existing trees, shrubs and other vegetation to be preserved on the site and proposed landscaping; and
 - g. other information as may be needed to determine compliance with this Bylaw.

and void and reapplication and approval under the regulations in effect at the time of reapplication shall be required. A one (1) year extension of an administratively approved zoning permit may be granted by the Administrative Officer only if the extension request comes to the Administrative Officer before the zoning permit expires and if it is determined that there was reasonable cause for delay in beginning development. Within 30 days of receipt of a complete application, including all applications materials, and fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or refer the application to the DRB. If the Administrative Officer fails to act with the 30-day period, a permit shall be deemed issued on the 31st day in accordance with the Act.

2. **Board Approvals.** All approvals granted by the DRB, including conditional use approvals and variances, shall expire upon the expiration of the zoning permit. The DRB may initially grant a longer period of approval to accommodate phased development or other projects that reasonably require a longer period of time for project commencement. In addition, the DRB may grant a one (1) year extension to a DRB approval if the extension is requested prior to the permit expiration date, and the DRB determines that there was reasonable cause for delay in the start of development, and that the proposed development remains unchanged from the time of the initial approval. The initial approval process will be the process used to hear the request for the extension.
3. **Recording Requirements.** Within 30 days of the issuance of a zoning permit it must be delivered to the Town Clerk for recording in the land records in accordance with Section 215.F.1. of this Bylaw. The applicant ~~may~~ will be charged for the cost of the recording fees as established by the Selectboard State of Vermont.

215 Administrative Requirements & Procedures.

A. Administrative Officer.

1. **Appointment.** The Selectboard shall, from nominations submitted by the Planning Commission, appoint an administrative officer for a term of three (3) years. An Acting Administrative Officer may be nominated by the Planning Commission and may be appointed by the Selectboard, if necessary, who shall have the same duties and responsibilities as the Administrative Officer in his or her absence, in accordance with the Act.
2. **Duties.** The Administrative Officer shall:
 - a. Administer the bylaws literally, and strictly enforce the provisions of this Bylaw,

2. **Duties.** The Planning Commission shall have all of the powers and duties specified in the Act, including:
 - a. Prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition;
 - b. Prepare and approve written reports on any proposed amendment to these regulations as required by the Act; and
 - c. Hold at least one public hearing after public notice on proposed amendments to this Bylaw, before submission of the proposed amendment and written report to the Selectboard, as required by the Act.
 - d. Review applications for a Certificate of Public Good from the Public Service Board and respond appropriately.

C. Development Review Board.

1. **Appointment.** The DRB members and its alternates are appointed by the Westminster Selectboard for specified terms in accordance with the Act. There may no less than 5 or more than 9 members. The DRB shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its conduct, as required under the Act and Vermont's Open Meeting Law [1 V.S.A. §§310-314]. Any member of the DRB may be removed for cause by the Selectboard upon written charges and after public hearing.
2. **Alternates** on the DRB may participate in quasi-judicial proceedings when one or more members are disqualified according to its conflict of interest rules, or are otherwise unable to serve. Alternates shall be selected in accordance with the DRB's rules of procedure. Once an alternate begins serving in a proceeding before the DRB, that alternate shall participate until the conclusion of the proceeding and a decision is rendered.
3. **Duties.** The DRB 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:
 - a. Applications for rights-of-way or easements for development lacking frontage,
 - b. Appeals from any decision, act or failure to act by the Administrative Officer and any associated variance requests,
 - c. Requests for waivers of dimensional standards,
 - d. Applications for site plan approval,

noted applications shall be given not less than 15 days prior to the date of the public hearing by all of the following for complete applications submitted 21 days before the hearing:

- i. Publication of the date , place and purpose of the hearing in a newspaper of general circulation in the Town of Westminster;
 - ii. Posting of the same information in three (3) or more public places by the Administrative Officer within the municipality in conformance with the requirements with 1 V.S.A. § 312 (c)(2), the applicant shall post the hearing notice within view from the public right of way nearest to the property for which the application is being made; and
 - iii. Written notification by the Administrative Officer to the applicant and to owners of all properties adjoining the subject property, without regard to public right 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 prerequisite to the right to take any subsequent appeal.
- b. Public notice for all other types of hearings, including site plan review (Section 311), historic preservation review (Article IX) and pre-application and preliminary hearings for Planned Development Review (Article VII), 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:
- i. Publication of the date , place and purpose of the hearing in a newspaper of general circulation in the Town of Westminster;
 - ii. Posting of the same information in three (3) or more public places by the Administrative Officer within the municipality in conformance with the requirements with 1 V.S.A. § 312 (c)(2), the applicant shall post the hearing notice within view from the public right of way nearest to the property for which the application is being made; and
 - iii. Written notification by the Administrative Officer to the applicant and to owners of all properties adjoining the subject property, 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.

D. Meetings and Hearings.

1. **Development Review Board.** In accordance with the Act, all meetings and hearings of the DRB, except for deliberative and executive sessions, shall be open to the public. In addition:

after the close of the hearing. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filled according to Section 218 of this Bylaw.

1. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence contained in the hearing 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 218 of this Bylaw.
2. In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, this Bylaw, and the town plan currently in effect.
3. All decisions shall be sent by certified mail, within the required 45 day period, to the applicant or to the appellant on matters of appeal. Copies of the decision also will be mailed to every person or body appearing who have been granted interested party status and at the DRB's discretion for those who have been heard at the hearing, and filed with the Administrative Officer and Town Clerk as part of the public record of the municipality.

F. Recording Requirements.

1. Within 30 days of the issuance of a municipal land use permit (including but not limited to zoning permits and DRB decisions) or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the municipal land use permit or notice of violation to the Town Clerk for recording in the land records of the town generally as provided in 24 V.S.A. §1154(c), and file a copy in the Town Office in a location where all municipal land use permits shall be kept in accordance with the Act. The applicant may be charged for the cost of the recording fees as established by the State Statute Selectboard.
2. For development within the Flood Hazard Area Overlay District, the Administrative Officer shall also maintain a record of all permits, elevation certificates, elevations, flood proofing certifications and variance actions issued for development within the district as required under Article XI of this Bylaw.

216 Appeals.

- A. **Administrative Officer Decisions.** An applicant and an interested person as defined in the Act may appeal a decision or act of the Administrative Officer by filing a written notice of appeal with the secretary of the DRB or the Town Clerk, if no secretary has been elected. This appeal must be filed within 15 days of the decision or action. The secretary or Town Clerk shall give a copy of the notice to the Administrative Officer.

2. Notice of the appeal shall be filed by certified mailing, with fees, to the environmental division and by mailing a copy to the Administrative Officer, who shall supply a list of interested persons to the appellant within five 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, and, 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.

218 Violations & Enforcement.

- A. **Violations.** The commencement or continuation of any land development, subdivision or use that is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with the Act. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute in the name of the town, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected for violations shall be paid over to the town.
- B. **Notice of Violation.** No action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists, as required under the Act. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven (7) day notice period and within the next succeeding 12 months.
- C. **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. 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 in accordance with Section 215.F.

1. An application for site plan, conditional use, and/ or variances or waivers, must be submitted to the Administrative Officer. In addition to a zoning permit application, required under Section 214 of this Bylaw, and all applicable fees, the applicant must submit two complete sets of application materials. The Administrative Officer shall refer any application requiring a review by the DRB for its action. An application will not be considered complete until all necessary materials have been submitted or expressly waived by the DRB, as outlined, below.
2. The Board may waive required application materials if it determines that such information is unnecessary for a comprehensive review of the application. However, the DRB may request additional information as needed, or request independent technical review as provided for under Section 215 to determine compliance with this Bylaw.

Section 311 Site Plan Review.

- A. **Purpose.** Site plan review is intended to ensure that site layout and design are functional, safe, and consistent with the purpose and character of the districts in which the development is located. Standards address internal layout of the site and its physical design; and the functional integration of the site with adjoining properties, uses and infrastructures. The DRB shall review and decide upon site plan applications.
- B. **Review Process.** Within 30 days of receipt of a complete application for site plan review, the Administrative Officer shall refer the application for review by the DRB. A hearing shall be warned in accordance with Section 215 C.5 of this Bylaw. The DRB shall act to approve, approve with conditions, or disapprove an application for site plan review within 45 days of the closed hearing, and issue a written decision to include findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 216 of this Bylaw.
- C. **Site Plan Review Criteria.** In reviewing site plans, the DRB may impose appropriate conditions and safeguards as part of the decision according to Section 215 E. The DRB shall take into consideration the following criteria in reviewing applications:
 1. Maximum safety of traffic between the sites and the streets;
 2. Adequacy of traffic circulation within the project, parking and loading facilities;
 3. Adequacy of landscaping, screening and setbacks in achieving maximum compatibility and protection of adjacent property;
 4. Protection of the utilization of renewable energy resources;
 5. Provision of emergency services;
 6. Adequacy of solid waste disposal plans;

6. the proposed project will not have an undue adverse effect on all of the following:
 - a. Surrounding properties and property values;
 - b. The character and aesthetics of the neighborhood;
 - c. Traffic patterns and circulation;
 - d. Public health, safety, and utility services;
 - e. Storm water management; and
 - f. Water and wastewater capacity.

Section 313 Variances.

- A. **Granting of Variances.** The DRB shall hear and decide requests for variances in accordance with the Act, and the appeal procedure outlined in section 216. The DRB may grant a variance to the Bylaw, and issue a decision in favor of the appellant, only if all the following facts are found and the findings are specified in its decision:
 1. That there are unique physical circumstances or conditions, including irregularity in the, 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 such conditions, and not the circumstances or conditions generally created by the provisions of the zoning bylaw 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 the zoning bylaw and that the authorization or variance is therefore necessary to enable the reasonable use of the property;
 3. 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;
 5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning bylaw and from the Town Plan.
- B. **Renewable Energy Structures.** Where a variance is sought for a structure that is primarily a renewable energy resource structure (solar panel, wind facility, and other similar renewable energy structures), the DRB may grant such variance only if all of the following facts are found, and the findings are specified in the written decision:
 1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.
 2. The hardship was not created by the appellant.

- f. Require suitable landscaping and screening to accomplish the purpose of screening buffering, erosion control, etc., and to maintain the district character;
- g. Require the installation of devices or methods to prevent or control the polluting of waters and the emission of fumes, gas, dust, smoke, odor, noise or vibration, except for agricultural uses; and
- h. Apply any additional standards including levels of operation as provided for within the Act or this Bylaw.

C. Conditional Use Review Criteria. The DRB shall determine that the proposed conditional use shall not result in an undue adverse effect on any of the following:

- 1. The capacity of existing or planned community services or facilities;
- 2. The character of the area affected as defined by the purpose or purposes of the zoning district within which the property is located and specifically stated policies and standards of the Town Plan;
- 3. Traffic on roads and highways in the vicinity;
- 4. Any land use or land development regulations or Bylaws of the Town then in effect; and
- 5. Utilization of renewable energy resources.

with answering questions which may arise with respect to particular land uses in particular locations. The district shall not be used contrary to the statement purposes.

SECTION 420 ZONING AND OVERLAY MAPS

421 Maps. The following maps are part of this Bylaw:

- A. Westminster Zoning Map - showing zoning districts,
- B. Water Resources Map - showing public water systems, wellhead protection areas, wetlands, and areas within the 100 and 500 year flood hazard areas.
- C. Historic Preservation Overlay District Map - showing the Westminster Historic District as established by the Commission in 1992
- D. Agricultural Land Overlay District Map - showing lands protected for agricultural use, such lands obtaining a score of 195 or higher in the "Summary Report: Agricultural Land Evaluation and Site Assessment, Westminster, Vermont, 1990.
- E. Road Name Map
- F. Community Facilities/ Utilities
- G. Ridgeline Protection Overlay Map

422 Boundaries. Boundaries between districts are, unless otherwise indicated, the center lines of streets or streams, or lines parallel or perpendicular thereto; or follow property boundaries or contour lines where indicated on the Maps in or described Section 230 or elsewhere in this Bylaw.

423 Interpretation. Where due to scale, lack of detail or illegibility of the maps, there is any uncertainty, contradiction or conflict as to the intended location of any district boundary, the DRB shall make an interpretation upon an appeal from a decision of the Administrative Officer.

424 Lots in Two Districts. Unless otherwise specified, where the boundary line between two zoning districts divides a lot, the provisions of the least restrictive district may be extended into the more restrictive district in an amount equal in area to the portion of the lot in the least restrictive district.

SECTION 430 DESCRIPTION OF ZONING DISTRICT LOCATIONS

A full description of the zoning district boundaries is on file at the Westminster Town Hall.

right-of-way, unless otherwise indicated for an individual zoning district at least fifty (50) feet in width and capable of being traversed by a motor vehicle. The creation of two (2) lots from one (1) lot constitutes development as defined in this Bylaw: a right-of-way must therefore secure the approval of the DRB.

- B. The lot frontage requirement for the District shall serve as the lot width requirement for non-frontage lots.

441.6 Minimum and Maximum Requirements. For lot areas, lot frontage, lot depth and all yard setbacks, the requirement specified is the minimum standard to be met. For coverage, the requirement specified is the maximum permitted.

441.7 Existing Small Lots. As per the Act, any lot 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 (1/8th) acre in area with a minimum width or depth dimension of forty (40) feet.

441.8 Listing of Uses. Uses are listed by category as permitted or conditional.

- A. **Uses Not Listed.** Any use that is considered in the Bylaw but that is not listed in a specific district is not permitted in that district.
- B. **Uses Not Provided For.** Uses which are not considered by the Bylaw or listed below as a prohibited use may be permitted upon a finding by the DRB that:
 - 1. The proposed use is of the same general character as those permitted within the district; and
 - 2. The proposed use will not be detrimental to the other uses within the district or to the adjoining land uses.

If a finding is made by the DRB that a use is similar to a Permitted Use, site plan approval and a zoning permit shall be required. If a finding is made by the DRB that a use is similar to a Conditional Use, conditional use approval, site plan approval, and a zoning permit shall be required

- C. **Prohibited Uses.** Any use not designated as a permitted or conditional use within this Bylaw or not meeting the criteria established in Section 241.8(b) is prohibited. Dumps, as defined herein, are strictly prohibited in all districts.

D. Area and Dimensional Requirements.

Minimum Lot Area

Municipal Sewer	1 acre
On-Site Septic	2 acres
Minimum Lot Frontage	150 Feet
Minimum Lot Depth	150 Feet
Minimum Front Yard Setback	40 Feet
Minimum Side & Rear Yard Setback	25 Feet

442.2 Commercial District (COM)

A. **Purpose.** The purpose of this district is to provide for commercial and light industrial development and other compatible uses at moderate densities that will conveniently serve the retail, service, and business, needs of the town. In order to prevent commercial strip development, minimize adverse visual impacts and encourage orderly growth, landscaping buffers, clustering and the judicious placement of parking and other facilities shall be required in this zone.

B. **Permitted Uses.** The following uses are permitted by right:

- | | |
|----------------------------------|--|
| 1. One and Two-Family Dwelling | 12. Retail Store |
| 2. Residence Office | 13. Repair Service |
| 3. Personal Service | 14. Mini Storage |
| 4. Professional Office | 15. Public Assembly Facility |
| 5. Business Office | 16. Subdivision |
| 6. Bed and Breakfast | 17. Accessory Uses |
| 7. Agriculture | 18. Funeral Home |
| 8. Forestry | 19. Automobile/Farm Vehicle Sales & Service |
| 9. Garden/Farm Supply or Nursery | 20. Child Care Home |
| 10. Boarding House | 21. Mini-Mart |
| 11. Restaurant | 22. Group/Residential Care Home
(see Section 616) |

C. **Conditional Uses.** The following uses require conditional use permit from the DBA:

- | | |
|-----------------------------|-----------------------------|
| 1. Multi-Family Dwelling | 13. Kennel |
| 2. Planned Unit Development | 14. Public Utility Facility |
| 3. Indoor Recreation | 15. Truck/Bus/Terminal |
| 4. Outdoor Recreation | 16. Excavation/Quarry |
| 5. Mobile Home Park | 17. Childcare Facility |

- | | |
|-------------------------------|--|
| 3. One & Two Family Dwellings | 8. Accessory Uses |
| 4. Bed & Breakfast | 9. Child Care Home |
| 5. Professional Office | 10. Group/Residential Care Home
(see Section 616) |

C. Conditional Uses. The following uses require a conditional use permit from the DRB

- | | |
|-----------------------------|------------------------------------|
| 1. Multi Family Dwelling | 9. Veterinary Clinic |
| 2. Planned Unit Development | 10. Child Care Facility |
| 3. Retail Sales & Service | 11. Public Assembly Facility |
| 4. Inn | 12. Garden, Farm Supply or Nursery |
| 5. Boarding House | 13. Home Business |
| 6. Personal Service | 14. Cottage Industry |
| 7. Health Care Facility | 15. Telecommunications Facility |
| | <u>16. Government Facilities</u> |
| 8. Restaurant | |

D. Area and Dimensional Requirements.

Village	Min. Lot Size ¹		Minimum Setback			Minimum Frontage
	Septic	Sewer 2 ²	Front	Side	Rear	
Westminster Village	1 acre	-	50 ft.	25 ft.	25 ft.	150 ft.
Terrace Village	-	10,000 sq. ft.	20 ft.	10 ft.	10 ft.	50 ft.
Kissell Hill	-	10,000 sq. ft.	20 ft.	10 ft.	10 ft.	50 ft.
Westminster Station Village	1 acre	8,000 sq. ft.	15 ft.	10 ft.	20 ft.	30 ft.
N. Westminster Village	1 acre	8,000 sq. ft.	15 ft.	25 ft.	25 ft.	100 ft.
Westminster West Village	1 acre	-	35 ft.	25 ft.	25 ft.	100 ft.

¹ For Residential uses, each dwelling must meet the minimum lot size requirement.

² For the Purpose of this Bylaw, sewer means the municipal sewer system.

442.5 RESIDENTIAL DISTRICT (R)

A. **Purpose.** The purpose of the Residential District is to provide for residential development and other compatible uses at moderate densities which are easily accessible to public roads, services, and commercial activity. It is anticipated that the bulk of new residential growth will take place within this district. Special care should

physical capability of the land and the rural character of the Town. Development should not harm any irreplaceable, unique, or scarce resources or natural areas.

B. Permitted Uses. The following are permitted by right:

- | | |
|-------------------------------|--------------------------------|
| 1. Agriculture | 6. Subdivision |
| 2. Forestry | 7. Accessory Uses |
| 3. Wildlife Refuge | 8. Child Care Home |
| 4. One & Two-family Dwellings | 9. Group/Residential Care Home |
| 5. Cemetery | |

C. Conditional Uses. The following uses require a conditional use permit from the DRB:

- | | |
|---------------------------------------|-----------------------------------|
| 1. Multi-Family Dwellings | 11. Resource Industry |
| 2. Planned Unit Development | 12. Child Care Facility |
| 3. Mobile Home Park (see Section 630) | 13. Veterinary Clinic |
| 4. Bed and Breakfast | 14. Health Care Facility |
| 5. Professional Office | 15. Kennel |
| 6. Inn | 16. Public Assembly Facility |
| 7. Boarding House | 17. Public Utility Facility |
| 8. Indoor Recreation | 18. Excavation/Quarry |
| 9. Outdoor Recreation | 19. Garden/Farm Supply or Nursery |
| 10. Campground | 20. Home Business |
| | 21. Cottage Industry |

D. Area and Dimensional Requirements.

- | | |
|------------------------------------|----------|
| Minimum Lot Area | 5 acres |
| Minimum Lot Frontage | 250 feet |
| Minimum Lot Depth | 200 feet |
| Minimum Front Yard Setback | 50 feet |
| Minimum Side and Rear Yard Setback | 50 feet |

442.7 RESOURCE CONSERVATION DISTRICT (RC)

A. Purpose. The purpose of the resource district is to protect the natural resource value of lands within the district. These areas are suitable for low intensity development and should be reserved primarily for outdoor recreation, forest management, wildlife habitat, and watershed protection.

B. Permitted Uses. The following uses are permitted by right:

C. **Conditional Uses.** The following uses require a conditional use permit from the DRB:

1. Limited Outdoor Recreation
2. Subdivision

D. **Area and Dimensional Requirements.**

Minimum Lot Area	50 acres
Minimum Lot Frontage	300 feet
Minimum Lot Depth	300 feet
Minimum Front Yard Setback	50 feet
Minimum side and Rear Yard Setback	50 feet

E. **Riparian Buffer**

1. Where existing, a riparian buffer shall be maintained within 150' of the top of the stream bank of the Connecticut River. The riparian buffer shall remain undisturbed and in natural vegetative cover. The DRB may permit a reduction in the riparian buffer pursuant to the standards in Section 312.
2. Within the riparian buffer the following provisions shall apply:
3. The clearing of trees that are dead, heavily damaged by natural events, or the clearing of invasive species is permitted. Any other clearing activity is permitted only in conjunction with DRB approval pursuant to the standards in Section 312.
4. Stumps and their root systems which are located within 50' of the top of stream bank shall be left intact in the ground.

F. **Water Dependent Uses and Structures**

Water dependent uses and structures may be permitted provided that the use and or structure meets the conditional use standards set forth in Section 133(d).

but shall not be moved, enlarged, altered, extended, reconstructed or restored, except as provided below.

522 Nonconforming Use.

- A. **Change of a Nonconforming Use.** A nonconforming use may be changed to another nonconforming use of equal or less intensity upon conditional use approval of the DRB, but such use shall not then be permitted to change back to a more intensive, more nonconforming use.
- B. **Reestablishment.** A nonconforming use shall not be re-established or restored without conditional use approval of the DRB if such use has been discontinued in whole or in part for a continuous period of one (1) year, or has been changed to or replaced by a conforming use. The nonconforming use shall not be re-established or restored if such use has been discontinued for a period of more than one (1) year. If the nonconforming use has been changed to or replaced by a conforming use, the nonconforming use shall not be re-established or restored.
- C. **Reconstruction after a disaster.** If a structure housing a nonconforming use is destroyed, the provided that the nonconforming use shall not be increased beyond its extent prior to the disaster and shall be made only in accordance with this Bylaw. A zoning permit shall be obtained for all reconstruction occurring under the provisions of this section.
- D. **Approval.** A change or modification of a nonconforming use shall require conditional use approval by the DRB. Except as provided for in Section 131e, a change of a nonconforming use to a permitted use may require site plan approval by the DRB.

523 Nonconforming Structures.

- A. **Extension or Enlargement.** No extensions for enlargements may be made to any nonconforming structure, except that extensions or enlargements may be made to the complying portion of a nonconforming structure in accordance with all applicable requirements of this Bylaw.
- B. **Maintenance and Repair.** 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 or create any new nonconformity with regards to the regulation pertaining to such structures.

524 Reconstruction. If any nonconforming structure is destroyed to an extent of more than seventy-five percent (75%) of its value as appraised by the Town, repairs or reconstruction shall be made only in accordance with this Bylaw. Where the cost of such repairs or reconstruction is less than seventy-five percent (75%) of its appraised value, it may be repaired or restored, provided that such work is commenced within one (1) year from the date of destruction and is diligently pursued. A zoning permit shall be obtained for all reconstruction occurring under the provisions of this section.

- B. Commercial and industrial uses shall provide for a strip of land at least twenty-five (25) feet in width which shall be maintained as a landscaped area or a natural wooded area in the front, side and rear yards, unless waived or amended by the DRB. Parking facilities may not be located within this landscaped buffer area.
- C. Where required by the DRB, additional landscaping shall be installed to screen outdoor storage areas from adjoining residential properties and roadways.
- D. In any Planned Residential/Planned Unit Development, landscaping shall be installed as required by the DRB pursuant to Article VII of this Bylaw.

SECTION 550 OFF STREET PARKING REQUIREMENTS

Off-street parking spaces shall be provided as set forth below. These represent the minimum standards permitted under this Bylaw. The DRB may require more parking spaces or a different parking circulation and layout based on a review of the site and proposed use under Site Plan Review.

551 General Standards.

- A. A parking space shall be at least nine (9) feet by eighteen (18) feet.
- B. A required driveway shall be not less than twenty (20) feet clear width, except for one- and two-family dwelling units, where it may be smaller.
- C. Parking spaces shall not be within the required landscaped area and must be behind the frontyard setback line.
- D. "Gross floor area" means the total floor area of the structure for which parking is to be used. This includes all public and nonpublic areas.
- E. Parking spaces shall not interfere with loading dock or emergency vehicle access.

552 Specific Standards.

552.1 Residential Uses.

- A. **One-family, two-family and multiple family dwelling units:** two (2) parking spaces for every unit.
- B. **Professional residence/office:** one (1) parking space, plus one (1) additional parking space for every three hundred square feet of office space.
- C. **Bed and Breakfast, Tourist Home:** one (1) space per rented bedroom or sleeping room, plus one (1) space for the owner of the property.
- D. **Home Occupation:** there shall be two (2) parking spaces per dwelling unit for each home occupation.
- E. **Home Business and Cottage Industries:** there shall be two (2) parking spaces per dwelling unit plus one (1) additional parking space for each additional non-resident employee, plus a minimum of two (2) parking spaces for customers.
- F. **Residential Care Home, Group Home, Therapeutic Community Residence:** One (1) space per employee on the largest work shift, plus one space for every three (3) bedrooms or sleeping rooms.

ARTICLE VI: SPECIAL REGULATIONS

SECTION 610 SPECIFIC STANDARDS FOR CERTAIN USES & AREAS

The uses below have specific standards they must meet in order to be considered as a permitted or a conditionally permitted use in a designated district. If there is a conflict between a standard in this section and a standard in another section of this Ordinance, the more restrictive standard shall apply.

611 Automobile Service Station. In all districts where permitted, automobile service stations, with or without repair garages, shall comply with the following:

- A. **Pumps**, lubricating and other outdoor service devices shall be located at least fifty (50) feet from the front, side and rear lot Lines.
- B. **All stored fuel** and oil, including underground tanks, shall meet state fire codes and obtain all applicable state permits.
- C. **All automobile parts** and dismantled vehicles shall be screened from public view.
- D. **Landscaping requirements** as set forth in Section 540 of this Ordinance shall be met.
- E. **There shall be no more than two access driveways** from the street(s), access driveways shall be clearly defined.
- F. **When located within the Flood Hazard Area Overlay District**, the provisions of Article VII shall also be complied with.

612 Excavation/Quarry. Where permitted by this Ordinance, the removal of soil, sand, stone or gravel, except when incidental to construction of a building on the same premises, shall be permitted only after the DRB finds, following conditional use review, that the proposed activity meets the standards below in addition to any other applicable standards contained in this Ordinance. The applicant for a conditional use permit for an excavation/quarry operation shall submit two (2) copies of a proposed Site Restoration Plan along with all other required documents.

- A. The operation conforms to all standards in Section 510, General Performance Standards.
- B. It will not cause an unreasonable burden on any existing water supply, including that of a neighboring property.
- C. It will not cause unreasonable soil erosion or reduction in the capacity of land to hold water during the operation.
- D. It will not cause unreasonable highway congestion, unsafe conditions or excessive use with respect to highways existing or proposed in the area.
- E. It will not have an undue adverse effect on the scenic or natural beauty of the area, other aesthetic values, historic sites, or rare and irreplaceable natural resources or areas.
- F. It will not result, in an embankment with a slope steeper than one (1) foot vertical to two (2) feet horizontal upon completion of an area of work
- G. It will provide, in the form of a Site Restoration Plan, for restoration of the area

613.4 Cottage Industries. Cottage industries, as defined in Article XV, are permitted in designated zoning districts subject to site plan review, conditional use review (when required) and the following additional provisions:

- A. The business owner shall reside on the lot.
- B. The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall occupy less than 50 percent of the combined floor area of all structures on the lot. However, the DRB may permit the use of floor space in excess of 50 percent of the combined floor area of all structures on the lot providing such space is limited to the storage of goods and materials associated with the operation of the Cottage Industry and that such storage occurs in an accessory structure.
- C. The business shall not necessitate any change in the outward appearance of the dwelling unit or accessory structures on the lot other than the addition of one non-illuminated sign that meets the standards of the Westminster Sign Ordinance.
- D. The residents of the dwelling unit and no more than six (6) non-resident employees may be employed on site at any one time.
- E. The business shall not generate traffic including, but not limited to, delivery truck traffic in excess of volumes that are characteristics of the neighborhood.
- F. Adequate off-street parking shall be provided for all residents, employees, and customers in accordance with Section 550. If it is determined that there will be no customer traffic associated with the Home Business, any required customer parking may be waived.
- G. There shall be no storage of hazardous waste or materials; fuel storage shall be limited to that needed for heating and the operation of equipment and vehicles associated with the business.
- H. The business shall be visually compatible with neighboring lots and uses; landscaping and screening may be required as appropriate. In addition, any outdoor storage of materials, including building or construction materials, unregistered vehicles or heavy equipment, firewood or lumber, must be completely screened year-round from the road and from neighboring properties.
- I. On-site wholesale and/or retail sales shall be primarily limited to products produced on the premises. The sale of products produced off-premises shall be of a similar nature to those produced on-premises and shall not exceed 35 percent of gross sales.
- J. The business shall not result in hazards to public safety and welfare or to neighboring properties and shall be subject to applicable performance standards under Section 310. Conditions may be placed on the hours of operation as appropriate.
- K. The permit for a cottage industry shall clearly state that the industry is a home-based business that is an accessory use to the principal residential use and shall be retained in common ownership and management.

614 Secondary Uses are permitted in most districts in order to provide for limited but sensible mixed use of properties within the community. In order for a use to be permitted as a

serving not more than eight (8) persons who are developmentally disabled or physically handicapped shall be considered by right to constitute a permitted single family residential use of property, except that not such home shall be considered if it is located within 1,000 feet of another. A zoning permit shall be required. The zoning permit shall not be issued until the applicant submits proof that the facility is properly registered by the Vermont Department of Social and Rehabilitative Services or Department of Rehabilitation and Aging, as applicable. Site plan approval is not required.

- B. A state licensed or registered residential care home or group home serving not more than eight (8) persons but located within 1,000 feet of an existing state licensed or registered residential care home or group home shall be allowed as a conditional use in all zoning districts. Conditional use approval, site plan approval, and a zoning permit shall be required.
- C. A state licensed or registered residential care home serving more than eight (8) persons or group home facility serving persons who are developmentally disabled or physically handicapped may be permitted in certain districts as a Conditional Use. Conditional use approval, site plan approval, and a zoning permit shall be required.

616.2 Consideration of Child Care Homes and Facilities.

- A. Pursuant to the Act, a state registered or licensed family child care home serving six (6) or fewer children full-time and four (4) or fewer children part-time as defined in Title 33, subdivision 4902 (3)(a) of the Vermont Statutes, conducted within a single family dwelling by a resident of that dwelling shall be considered by right a permitted single family residential use of the property. Such uses shall require a zoning permit issued by the Administrative Officer in accordance with Section 120. The zoning permit shall not be issued until the applicant submits proof that the facility is properly registered by the Vermont Department of Social and Rehabilitative Services. Site Plan approval is not required.
- B. State registered or licensed family child care homes serving greater than six (6) full time and four (4) part-time children and non-residential child or day care facilities may be permitted in designated zoning districts as a Conditional Use. Conditional use approval, site plan approval, and a zoning permit shall be required.

617 Ponds, Impoundments and Dams.

As defined within this Ordinance, the construction of a pond or other impoundment, and the damming of a stream constitute "land development" and therefore require a zoning permit. No zoning permit shall be issued by the Administrative Officer until the applicant submits the following information:

- A. Proof that all applicable State permits or approvals have been secured. Depending upon the size and nature of the impoundment, approvals may be required from various departments and authorities within the Department of Environmental Conservation.
- B. Written certification from the applicant that the pond or impoundment will not have undue adverse impacts on upstream or downstream properties.

618 Land Developments in Wetland Areas and Along Surface Water Courses.

SECTION 630 MOBILE HOME PARKS

A mobile home park shall be developed in accordance with:

- A. The procedures for Planned Unit Development; and
- B. The requirements of Chapter 153, 10 V.S.A. Where there is a conflict between the provisions of this Ordinance and that of Chapter 153, 10 V.S.A., and the latter shall take precedence.

SECTION 640 TENT, TRAVEL TRAILER, RECREATIONAL VEHICLE, CAMPGROUND

No person or persons shall construct or operate a campground for tents, travel trailers or recreational vehicles without first obtaining a zoning permit from the Administrative Officer following site plan approval from the DRB and conditional use approval.

641 Specific Standards: In addition to the above requirements, the following specific standards must be satisfied.

- A. An individual access driveway and parking area, suitably surfaced, shall be provided for each campsite.
- B. Each site shall be at least 1500 square feet in area. Each travel trailer and recreational vehicle site shall have a compacted gravel surface at least twenty-five (25') feet in width.
- C. Each site shall be located in a clean, dry and well-drained area.
- D. There shall be an undeveloped area of not less than 100 feet in depth between all camping sites and the traveled portion of any adjacent highway and other boundaries of the campground. These areas shall be landscaped with existing or planted trees or other plant materials for screening purposes.
- E. Each site shall have access to water and sewage disposal in compliance with and approved by the State (Division of Protection, Agency of Environmental Conservation) and in conformance with any local health regulations.
- F. All roads within the campground shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the utilization of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established.
- G. All campgrounds shall keep at least 25% of the total ground area for recreation or open space purposes.

642 Exceptions: The owner of a travel trailer or recreational vehicle may park it on his or her own property in the rear or side yards and no closer than six feet to any lot line. A travel trailer or recreational vehicle so parked shall not be permanently used as living quarters and shall not be permanently hooked up to any utilities.

SECTION 730 Application and Review Procedures for Planned Unit Development.

731. Pre-application Hearing.

A. A pre-application hearing may be held by the DRB at the request of the applicant. The purpose of this hearing is to acquaint the DRB with a project at the conceptual stage before the applicant incurs significant expense. The pre-application hearing is an opportunity to exchange information and reach an understanding of the nature and scope of the proposal, the requirements of this Bylaw, and quantitative data necessary for a preliminary application.

- A. For the purposes of pre-application discussions, the applicant shall submit to the Administrative Officer conceptual sketch plans showing proposed land uses, adjacent land uses, proposed density, the treatment of open/common space, and include all requests for modifications of the zoning district dimensional requirements. This information shall be submitted at least twenty one (21) days prior to a regularly scheduled meeting of the DRB, and shall include payment of fees. A hearing shall be warned in accordance with Section 215 C.5.b of this Bylaw.
- B. Within forty-five (45) days of the close of the pre-application hearing, the DRB shall give the applicant written comments and appropriate recommendations with respect to the pre-application hearing to inform and assist the applicant in the preparation of the next step in the PUD review process. The comments associated with a pre-application hearing are a nonbinding determination of a development plan's conformance with the town plan and the provisions of this Bylaw. The completion of this initial step does not in any way imply formal approval of the development plan by the DRB.

732. Preliminary Development Plan Application and Review [Major PUD Review].

- A. All applications for a major PUD (Section 720.C.) require preliminary development plan review from the DRB.
- B. After issuance of the DRB's written comments (Section 731.C.), the applicant shall submit two complete preliminary development plan applications to the Administrative Officer for review by the DRB.
- C. **Public Hearing.** The applicant shall submit a complete preliminary development plan application to the Administrative Officer. It shall include the payment of fees and submission of all materials, and address all issues outlined in the pre-application hearing comments. Within 30 days of receipt of the application, the Administrative Officer shall warn a hearing in accordance with Section 215.C. 5.b.
- D. **Application Materials.** The preliminary development plan application shall include:
 - 1. Name and address of the owner of record, applicant, and designer of the preliminary development plan. Date, true north point, and scale.
 - 2. A narrative statement by the applicant describing the character of the development and the reasons for the particular approach proposed, and its conformance with the Town Plan.
 - 3. A development schedule indicating the approximate date when construction of the PUD or phases of the PUD can be expected to begin and be completed.

resubmission of a preliminary development plan for reconsideration.

- C. **Application Materials.** The final development plan application shall include all fees and shall contain the information identified in Section 732.D of this Bylaw, including all changes in, or modifications contained in the preliminary development plan approval.
1. All additional materials, maps or information required by any applicable bylaws (subdivision or conditional use) in effect must be submitted along with final development plan application.
 2. Specific uses as well as general categories of uses within PUD shall be listed. (It should look like a zoning district use list.)
- D. **Public Hearing.** The applicant shall submit two complete final development plan applications to the Administrative Officer. It shall include the payment of fees and submission of all materials, and address all issues outlined in the preliminary development plan approval. Within 30 days of receipt of the application, the Administrative Officer shall warn a hearing in accordance with Section 215.C.5.a.
- E. **Determination.** Within forty-five (45) days after the final public hearing held under Section 733.D of this Bylaw, the DRB shall determine compliance and shall approve, approve with conditions, or disapprove the PUD. A decision shall be based on the findings of the DRB that the PUD is in conformance with the municipal plan and all applicable bylaws. This decision shall be in conformance with Section 215.D. and E. of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filled according to Section 218 of this Bylaw.
- F. **Filing.** Within one hundred eighty (180) days of the DRB approval, the PUD and subdivision plat, where applicable, shall be filed or recorded, at the owner's expense, in the office of the Town Clerk.

734. Specific Standards and Criteria.

- A. **Coverage.** The total ground area covered by buildings, structures and other impervious surfaces shall not exceed forty percent (40%) of the total ground area within a PUD, except as may otherwise be required under the Agricultural Land Overlay district, Article X.

covenants or deeds of the individual property owners in the PUD, or to a homeowners association. The terms of the conveyance must include provisions for guaranteeing:

1. The continued use of the land for the intended purposes.
2. Continuance of proper maintenance of the common open space.
3. The availability of funds for proper common open space maintenance.

- E. **Privacy and Access.** Dwelling units shall be assured reasonable visual and aural privacy and shall have access to a public street, walkway or other area dedicated to common use.
- F. **Parking.** Parking shall be provided as required under Section 550 of this Bylaw. Screening of parking and service areas is required by use of landscaping, walls or fences. Traffic circulation and flow shall be designed to minimize both large-scale parking areas and through-traffic to other parking areas. Lighting in parking areas shall not reflect further than in the area itself.
- G. **Phased Development.** The PUD may be proposed in phases over a reasonable period of time to ensure project conformity with the town plan and orderly development of the PUD, and/or to avoid overburdening municipal facilities and services. Each phase of the proposed development must contain the required parking spaces, landscaping, and utility areas necessary for creating and sustaining a desirable and stable environment. These amenities must be installed and completed for each phase prior to the issuance of a zoning permit for the commencement of construction of a subsequent phase, unless otherwise waived by the DRB in writing. If waived, the DRB may require the developer to secure a performance bond, letter of credit, or equivalent surety in an amount sufficient to secure the full completion of such improvements.
- H. **Setbacks.** The zoning district requirements for lot size, yard setback and frontage are waived for the PUD. However, structures located on the perimeter of the development must be set back at least to the requirement of the underlying district and must be screened in a manner approved by the DRB.
- I. **Protection of Agricultural Land.** Where a PUD involves land which meets the definition of "locally important farmland" (see Definitions), the development shall make provisions for the use of such land for agricultural purposes and/or for maintaining its open, scenic quality. Examples of such provisions include minimizing the land that is developed by impervious surfaces, placing the land in common/usable open space to facilitate lease-back for farming, and annual mowing of meadowland (see Article X, Agricultural Land Overlay District).

ARTICLE VIII SUBDIVISION OF LAND

SECTION 810 AUTHORIZATION AND PURPOSE

Section 811 Statutory Authorizations. As provided for in of the Act, there is hereby established Subdivision Regulations. These Regulations are intended to be a part of a comprehensive planning process, to accommodate the subdivision of land in an orderly and deliberative pace without undue burden on the Town or private property owners, to support the natural as well as built environment, to promote public health and safety, and to encourage citizen participation. This document hereinafter shall be referred to as these "Regulations,"

Section 812 Purposes. The purpose of this overlay district is to establish standards for the subdivision of land in a manner which will protect and promote the public health, safety and general welfare of the Town, its property owners and its inhabitants.

- A. To insure that the subdivision of parcels conforms to and is in harmony with the policies set forth in the Westminster Town Plan. The DRB shall refer to the goals, objectives, policies, and data contained in the Westminster Town Plan in making discretionary decisions;
- B. To insure that all subdivision is compatible with the ecology, topography, geology, natural drainage, surface water runoff, groundwater resources, agricultural resources;
- C. To insure conformity and compatibility of proposed subdivisions with other applicable laws, as presently enacted or as from time to time hereinafter enacted, including but not limited to the Westminster Zoning Bylaw;
- D. To protect the character and the social and economic stability of all parts of the Town, including historic resources;
- E. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land, and to insure proper legal descriptions and monumenting of subdivided land;
- F. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Westminster Town Plan, and;
- G. To make these Regulations available to all Town officials, applicants, citizens, and all other interested parties, and all other interested parties.

instrument requirements may be included in accordance with Section ?? of these Regulations.

- E. The applicant in the office of the Town Clerk must record the final plat within one hundred eighty days (180) of the date of the Final Plat Approval. One copy of the approved final plat approval shall be filled on a permanent recordable print(s) of 18" x 24" size or a size determined by the Town Clerk. Failure to file a timely recorded shall result in expiration of the permit.

843 Major Subdivisions.

A major subdivision consists of up to three reviews before the DRB:

- A. An informational meeting may occur,
- B. Preliminary Plat review.
- C. Final Plat Review.

844 Applications. An applicant of a major subdivision must submit a preliminary plat application and proceed to a final hearing on such application. Only after the DRB has approved a preliminary plat, with or without modification, then an applicant may submit a Final Subdivision Plat application and proceed to a final hearing on such application.

845 Coordination with PUD Review. Where the applicant submits a proposal for a planned unit development or planned residential development, the DRB shall simultaneously review the application under the criteria established in both these Regulations and the Westminster Zoning Bylaw.

846 Preliminary Plat

- A. The Preliminary Plat and Application must be submitted to the Zoning Administrator for Preliminary Plat approval at least twenty (21) days prior to the date of the regular monthly meeting of the DRB in order for it to be given consideration at that meeting. This plat must satisfy the requirements of these Regulations to be considered complete, and all supporting documents must be presented in duplicate with large sized documents submitted electronically.
- B. There will be a public hearing in accordance with the Act within thirty (30) days after submission of a completed subdivision plat plus all essential supporting documents to the DRB. The applicant or authorized representative shall attend the hearing.
- C. The DRB shall, within forty-five (45) days of the adjournment of the public hearing on the Preliminary Plat, give approval the subdivision plat, give approval subject to stated conditions, or deny with the reasons stated therefore. The DRB's action shall be in writing, and shall specify variances, waivers, restrictions and conditions. Performance instrument requirements may be included in accordance with Section 897 of these Regulations.
- D. The approval of a Preliminary Plat shall be effective for a period of six (6) months from the date of the written notice of approval by the DRB. The DRB may extend this period upon request.

- C. In the event the subdivision grants an easement or right(s)-of-way, the applicant must provide a recordable instrument delineating the responsibility for maintenance of easement or right(s)-of-way, if required.

853 Major Subdivision Application.

- A. **Application for Preliminary Plat** The applicant shall file, as part of the zoning permit application as outlined in Section 214 of this Bylaw and:

1. The Preliminary Plat Application for a major subdivision shall consist of the required maps and information filed 21 days before the DRB meeting. The submittal shall be made in two (2) copies to the Zoning Administrator. Maps shall be at a scale no greater than one hundred (100) feet per inch and indicate phasing of development.
2. The Preliminary Plat Application shall include all of the following. If a certain element is not applicable to the subdivision in question, the Preliminary Plat shall so state.
 - a. A statement detailing the proposed subdivision's compliance with the Westminster Town Plan, the Westminster Zoning Bylaw, including reference to any zoning variances, and other bylaws in effect.
 - b. A complete survey of the boundaries of the subdivision parcel by a Vermont licensed surveyor.
 - c. Description of proposed water supply system(s). If source is an existing community water supply system, evidence of the right to use such system and the adequacy of such a system to meet water supply requirements shall be shown. All design criteria shall be in accordance with applicable State and local health regulations.
 - d. Description of proposed sewage disposal system(s). If on-site sewage disposal is proposed, then a State Subdivision permit is required as part of the application.
 - e. If a community sewage disposal system is to be used, demonstrate the institutional arrangements are in place addressing the legal relationships of parties responsible for the continued operation of a shared system and a financial mechanism to assure continued operation and maintenance/replacement in the event of failure.
 - f. Preliminary grading plans showing areas of cut and fill and revised contours at a contour interval not greater than five (5) feet.
 - g. In addition all maps and plans will be submitted electronically.
 - h. Storm water drainage plan, drawn at a contour interval not greater than five (5) feet, shall indicate the methods of collecting and discharging of drainage, as well as methods for temporary and permanent erosion control.
 - i. All existing and proposed right-of-way lines, widths of roads, typical road profiles, dimensions of all lot lines and size of all lots, locations of all buildings, walkways, amenities, utilities and other manmade improvements.

Subdivision development and the resulting lots shall be of such character that they can be used safely without danger to health or peril from fire, flood, or other menace in accordance with the Act. Subdivision development and the resulting lots shall be in harmony with the Westminster Town Plan and shall conform to the Westminster Zoning Bylaw and these Regulations in accordance with the Act. Subdivision development and the resulting lots shall conform to all applicable State and local health regulations and all applicable State and federal environmental regulations.

862 Informal Review Criteria.

This review is informal and can be free flowing. Generally the DRB and other participants are looking for items that might need extra care in presentation and review and/or require minimum review. It should help to anticipate irregularities and propose a way to resolve them procedurally or by adding information required in the application.

863 Minor Application Review Criteria.

Review criteria for a minor subdivision is the same as for the Final Plat review process in Section 864.

864 Final Plat Review Criteria.

865 Character of the land.

All land to be subdivided shall be, in the judgment of the DRB, of such a character that it can be used for the intended purposes without danger to public health or safety, to the environment or to critical resources, as identified in the Town Plan. Land designated as flood hazard areas or characterized by poor drainage or steep slopes, or subject to other hazardous conditions shall not ordinarily be subdivided.

866 Lot Layout/Siting.

The layout of lots and the siting of structures shall conform to the requirements of these Regulations and the Westminster Zoning Bylaw. Consideration in lot layout and siting shall be given to topographic and soil conditions and compatibility with existing scenic conditions.

867 Preservation of Existing Features.

Due regard shall be given to the preservation and protection of existing features such as, but not limited to, trees, scenic points and roads, brooks, streams, rock outcroppings, water bodies, forest resources, other natural resources, wildlife habitat, historic resources, cultural resources, and prime agricultural soils. Specifically, the following areas shall be treated as follows:

A. Wetlands.

Wetlands, as identified and defined by the State of Vermont, shall not be drained, filled or altered to accommodate subdivision. Proposals for the subdivision of a lot involving or adjacent to an identified wetland shall provide for adequate setbacks of roads, buildings, structures and sewage systems from the wetland. Setbacks in excess of those as specified by the Westminster Zoning Bylaw may be established by the DRB to protect the following wetland values:

E. Energy Conservation:

Energy efficient site planning and layout shall be encouraged in the review of a proposed subdivision.

868 Roads.

Every road shall be deemed to be a private road until such time as it has been formally accepted by the Selectboard, in accordance with the Act and Westminster Road Specifications. In order for a road to be accepted by the Town an applicant must prepare and submit to the Selectboard a warranty deed for a fifty- (50) foot wide right-of-way, including the necessary slope and drainage rights. Submission of said warranty deed does not commit the Selectboard to accepting the road.

A. Layout.

All roadways and intersections shall be designed to insure the safe and efficient movement of vehicles, including but not exclusive to, all emergency vehicles, maintenance, and snow removal in accordance with the Act and Westminster Road Specifications. Roads shall be logically related to the topography so as to produce usable lots and reasonable road grades. Wherever extensions of proposed roads could rationally provide access to adjacent properties or connection to existing public State or Town highways, a right-of-way across the applicant's property may be required. In the event the subdivision grants an easement or right(s)-of-way, the applicant must provide a recordable instrument delineating the responsibility for maintenance of easement or right(s)-of-way.

B. Traffic Management.

If, in the judgment of the DRB or Selectboard, a proposed subdivision presents the potential for significant traffic impact on Town or State roads, village centers, historic areas, or other significant features, a traffic impact study may be required. The purpose of such a study shall be to identify the traffic impact potential of a proposed subdivision and to identify necessary and appropriate mitigating measures. Such studies shall be funded by the applicant and shall be prepared by a qualified, licensed professional engineer or transportation planner. Such studies shall include:

1. A description of the general location of the project;
2. A statement of existing traffic conditions and projected traffic conditions on all impacted roadway(s) for ten (10) years;
3. A statement comparing the operating Level of Service (LOS) of the impacted roadway(s) and/or intersection(s) at the opening date of the project and for ten (10) years; and
4. A statement of recommendations outlining any adverse traffic impact of a proposed project and the necessary improvements to mitigate negative impacts.

Road name signs shall be furnished and installed by the applicant. The type, size and location shall be by the approval of the Road Commissioner and e911 coordinator.

5. Easements and Rights-of-Way.

The DRB may require appropriate easements and rights-of-way for utilities and drainage facilities and for pedestrian access to schools, open space, parks, streets, and other public facilities.

The DRB's approval of any Applicant's right-of-way or easement in no way implies that the Town of Westminster is responsible or liable for any property or personal damage caused by a lack of maintenance or upgrading of same.

869 Monuments.

- A. The DRB may require permanent monuments to be set at all corners and angle points of subdivision boundaries and at all road intersections and point of curve in accordance with Section 4417(4) of the Act.
- B. Monuments shall be of stone or concrete with a one-inch or greater diameter metal pipe at least two feet long set in the center and located in the ground at final grade level.
- C. The location of each monument shall be shown on the final plat.

Section 870 Schools.

The applicant shall indicate in his final application the impact of the major subdivision on Westminster schools.

871 Open Space.

When a subdivision development will accommodate more than fifteen (15) dwellings, the DRB may at its discretion require that the applicant set aside an area not to exceed ten (10) percent of the total area being subdivided as a park or other recreation area, in accordance with Section 4417(5) of the Act. Each conveyance in such subdivisions shall include an undivided interest in said park or other recreation area vested in the purchaser of the lot sold. Each such lot deed shall contain the provision that in accepting the conveyance, the purchaser accepts the obligation of his proportionate share of the expenses of maintaining said park or other recreation area.

872 Power, Telephone and Cable.

Poles, power lines and cable installations are to be approved by the local power company and the Town. The DRB may require the underground installation of power, telephone lines and cable installations wherever it is necessary to maintain and protect the character of a highly

- D. In any Planned Residential/Planned Unit Development, landscaping shall be installed as required by the DRB.
- E. The DRB may require greater setbacks from property boundaries or changes in use in order to create buffer zones. Conditions for requiring buffer areas may include, but not be limited to, lack of dense vegetation, proximity to scenic highways, streams or waterways, heightened visibility due to differences in elevation, concentration of uses on the site, and incompatibility of adjacent uses or other aesthetic considerations. The DRB may require that the applicant coordinate buffer zones on his parcel with buffer areas on adjoining parcels in order to provide a continuous system of greenbelts.

876 Site Preservation and Improvements.

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

Topsoil removed in the process of grading the subdivision site shall be replaced, except in proposed roads, driveways, parking lots, and building locations.

878 Landscaping.

The DRB may require properly planned and installed landscaping to reduce the potential for conflicts between different adjoining land uses; it can also help to reduce noise, glare and can provide privacy separation. The DRB may require that suitable landscaping be established in areas where it does not exist. The DRB shall determine the minimum acceptable size of trees.

879 Excavation and Grading.

The DRB may require a program of soil stabilization and the establishment of appropriate, permanent vegetative cover following excavation or grading. The DRB may also require embankments to be planted with a stabilizing shrub or ground cover to prevent erosion.

880 Water Supply.

A water supply shall be provided for each residential, commercial and industrial unit at the expense of the applicant, designed and installed to conform to State and Town health regulations.

881 Sewage Disposal.

Either individual septic systems or a public sewage disposal system shall be provided to service each residential, commercial and industrial unit at the expense of the applicant, designed and installed to conform to State health regulations and the Westminster Sewage Disposal Bylaw.

882 Fire Hydrants.

When fire hydrants are installed, the applicant shall install them at the expense of the applicant, designed and installed to conform to Vermont fire Insurance Rating Organization specifications

- B. All subdivisions must be recorded by the applicant in the office of the Town Clerk within ninety (180) days of the date of the Final Subdivision Plat approval. One copy of the approved Final Subdivision Plat shall be filed with Town Clerk on a permanent recordable print(s) of 18" x 24" size. Failure to so timely record shall result in an expiration of the approval.

894 Revision of Approved Plat.

No changes, modifications or revisions that alter the conditions attached to a subdivision application shall be made unless the plat is first resubmitted to the DRB and the DRB approves such modifications at a public meeting.

895 Public Acceptances of Roads and Open Spaces.

- A. Nothing in these Regulations shall be construed to constitute the acceptance by the Town of Westminster of any road, easement, utilities, park recreation area or other open space shown on the Final Subdivision Plat.
- B. Consistent with the objectives of the Town plan, and in accordance with 10 VSA, Chapter 155, the Town may accept less than fee interest in property to protect its open, scenic or resource value. Donation of a conservation easement to a qualified non-profit organization may also serve as a means of meeting the Westminster Town Plan objectives. In either case, acceptance is conditional upon approval of written agreements between the parties.

895 Compliance with Other Bylaws.

Nothing in these Regulations shall be so construed as to supersede the conditions and criteria for permit approval set forth in other bylaws or Bylaws in effect. This includes, but is not limited to conditional use criteria and planned residential development and planned unit development requirements as set forth in the Westminster Zoning Bylaw and water and sewer requirements stipulated in the State of Vermont Water and Wastewater regulations.

897 Performance Surety Requirements.

- A. The DRB shall require from the applicant, for the benefit of the Town, a performance bond or other instrument in an amount sufficient to cover the full cost of constructing any public improvements that the DRB may require in approving the project; such performance bond to be submitted prior to approval of the Final Subdivision Plat. Security that the project shall be completed, as approved, may be required in the form of:

ARTICLE IX: HISTORICAL PRESERVATION OVERLAY DISTRICT

SECTION 910 AUTHORIZATION AND PURPOSE

911 Statutory Authorization. As provided for in of the Act, there is hereby established a Historical Preservation Overlay District (hereinafter the Historic District).

912 Purpose. The purpose of this overlay district is to preserve, protect, and enhance the historic character of Westminster Historical Preservation Overlay District.

SECTION 920 ESTABLISHMENT OF DISTRICT BOUNDARIES

District boundaries are identified on the attached Historical Preservation Overlay District Map. A list of the structures located within the Historical Preservation Overlay District can be found on the maps in Appendix A of this Bylaw.

SECTION 930 HISTORICAL REVIEW BOARD

A. **Appointment.** The Selectboard shall appoint a Historical Review Board that shall be composed of at least three (3) persons having knowledge of and interest in design, architecture, historic development and/or the community. One member may live outside of the Historic district with at least two (2) residing within the Historic District. Members will serve a term of three (3) years each on a staggered schedule. The purpose of the Historical Review Board is to advise the DRB on applications considered under this Article.

1. The Historical Review Board, at its organizational meeting shall adopt by a majority vote of those present and voting the rules as it deems necessary and appropriate for the performance of its functions. It shall also annually elect a chairperson, a treasurer, and a clerk.
2. Times and places of meeting of the Historical Review Board shall be publicly posted in the municipality, and its meeting shall be open to the public in accordance with Vermont's Open Meeting Law.
3. The Historical Review Board shall keep a record of its transactions that shall be filed with the town clerk as a public record of the town.
4. The Historical Review Board shall comply with the ethical policies or Bylaws as adopted by the town or town Selectboard.

B. **Duties.** The Historical Review Board shall have the following responsibilities based on the Act.

1. Advising and assisting the legislative body, planning commission, and other

proposed scheme is compatible with the existing historic structures of the surrounding area and with the distinctive characteristics of the Historic District itself.

942 Review Process.

1. Within 30 days of receipt of a complete application for historic review, the Administrative Officer shall refer the application for review by the Historical Review Board along with copies of application materials, in accordance with the Act. The Historical Review Board shall review the application and prepare recommendations on each of the review standards within the Board's purview. This review shall be noticed as a regular or special meeting of the Board in accordance with Vermont's Open Meeting Law.
2. If the Historical Review Board finds that the application fails to comply with the one or more of the review standards, it shall inform the applicant of the negative recommendations, or suggest remedies to correct deficiencies before the public hearing of the DRB, giving the applicant an opportunity to withdraw the application or otherwise prepare a response to the Board's recommendations at the public hearing. The Historical Review Board's recommendations shall be presented in writing at or before the public hearing of the DRB on the application.
3. In order to understand the application, the Historical Review Board either as a group or independently may meet with the applicant, interested parties, or both, conduct site visits, and perform other fact-finding that enable the preparation of the recommendations.
4. Within 10 days of Historical Review Board review, a hearing shall be warned in accordance with Section 215 C. this Bylaw. The DRB shall act to approve, approve with conditions, or disapprove an application within 45 days of the date the hearing is closed, and issue a written decision including findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E. of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filled according to Section 218 of this Bylaw.

SECTION 950 CRITERIA FOR APPROVAL.

In its consideration of a historic review approval, the Historical Review Board and the DRB shall consider the following criteria when reviewing applications in the Historic District:

1. That the materials, their texture and arrangement, proposed for use in any rehabilitation, restoration, or substantial reconstruction project, or for any new structure, be compatible with the existing buildings of the Historic District, and most especially with the buildings, structures, et cetera, in the immediate vicinity of the project in question, and

question, or part thereof, is structurally unsound, or

- B. That rehabilitation of the structure, or part thereof, would cause undue financial hardship for said structure's owner or owners, or
- C. That there is a demonstrated public need for the proposed new use of the property in question which would outweigh any public benefit that could be obtained were the subject building or site to be preserved; and
- D. that the demolition and site restoration plan minimizes adverse visual impact and prevents hazards to public safety and adjoining properties.

965 Technical Review. In order to verify claims respecting the alleged structural soundness, or lack thereof, of a building or structure, the DRB may require a report by a licensed structural engineer who has had experience evaluating historic buildings or structures. The selection of such an engineer, should the DRB decide that one needs to be hired, shall be negotiated between the DRB and the Applicant, and the cost of the agreed upon engineer's services shall be borne by the Applicant, in accordance with Section 215 C. 4. of this Bylaw.

966 Approval Conditions. When approving an application for the demolition of an historic structure, one listed on the National Register of Historic Places Inventory, the DRB may stipulate that one or more of the following steps be undertaken so as to mitigate the loss that such a demolition will necessarily entail:

- A. That a photographic, video, or drawn recordation of the property to be demolished be compiled and turned over to the Town, the cost of said recordation to be borne by the Applicant.
- B. That provision be made to salvage and preserve significant elements of the building or structure that is to be demolished, and/or
- C. That certain other reasonable measure of mitigation, which may occur to the DRB, or to the Applicant, be affected, provided that the measures in question are both feasible and not cost prohibitive.

SECTION 970 ADDITIONAL GUIDELINES FOR REVIEWING APPLICATIONS

In order to achieve the purposes of the Historical Preservation Overlay District, the Historical Review Board and the DRB shall be guided in their decisions by the stated purposes of the Historic District and by the further guidelines set forth below.

971 Additions and Alterations.

- A. A non-character defining elevation of an historic structure may be added to, provided

- J. Additions required for safety, or for accessibility, such as fire escapes or handicap entrances shall be designed so as to be as compatible as possible with the existing building or structure.

972 New Construction.

- A. The heights of new buildings shall be similar to the heights of the existing buildings within the Historic District.
 - 1. Building setbacks from the street shall be consistent with the setback distances of adjacent buildings.
 - 2. Side setbacks from adjacent buildings shall recognize and compliment the spacing between existing buildings.
 - 3. The architectural components of any projected new building shall in principle be similar in size, shape, and materials to those of the more significant historic buildings of the Historic District.
 - 4. The scale and placement of windows in a new building shall relate to the surrounding buildings and to itself.
 - 5. Exterior siding materials, textures, and colors shall compliment the existing buildings.
 - 6. Building width and mass of a proposed new building shall be compatible with the width and mass of the existing buildings of the Historic District.
 - 7. Proposed new building shall be positioned on their lots so as to preserve the pattern of front entrances facing the street.

973 Signs.

- 1. The proportion and location of the sign shall compliment the building's composition and
- 2. Architectural details. Important architectural details such as the cornice, window and door trim, porch railings, etc. shall not be obscured. The location of freestanding signs shall not obscure the building's main façade or break patterns in the streetscape. The sign shall consist of colors, materials, sizes, and shapes, which are appropriate to the façade design, and materials.
- 3. The design of the sign including lettering styles, size, and composition should relate to the architectural style of the building. The design shall also consider the conforming signs in the Historic District.
- 4. Signs shall be illuminated externally and shall be the minimum to adequately light the sign.

1. Agricultural uses and buildings and customary agricultural accessory uses (e.g. barns, sugar houses, silos, etc);
 2. Forestry and Wildlife Refuge uses;
- B. Conditional Use. The following uses are Conditional Uses within the Agricultural Land Overlay District and require approval from the DRB:
1. All other uses which are either Permitted or Conditional Uses according to the underlying zoning district.
 2. The subdivision of land.

SECTION 1020 APPLICATION.

In additions to the provisions of Section 511 of this Bylaw, all applications for development within the Agricultural Land Overlay District shall require site plan review.

1021 Application Requirements. The applicant shall file as part of the zoning permit application as outlined in Section 214 of this Bylaw and include:

- A. Rational for the locations the building(s) and road(s).
- B. Calculations describing the percentage of remaining land available for agriculture.

1022 Review Process.

The DRB shall act to approve, approve with conditions, or disapprove an application within 45 days of the date the hearing is closed, and issue a written decision including findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E. of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filled according to Section 218 of this Bylaw.

1032 Criteria for Approval. In its consideration of a Ag Lands review approval, the DRB shall consider the following criteria when reviewing applications in the Agricultural Overlay District:

- A. Lots shall be located and sized, and proposed development shall be designed and sited, so as to preserve large blocks of contiguous farmland within the AG District to the maximum extent possible.
- B. Land subdivision and development shall be compatible with agricultural land uses and operations, and shall not interfere with accepted farming practices carried out on adjacent lands.
- C. Buildings and other structures, as well as roadways, shall not be sited in the middle of open farmlands, but shall be located in wooded areas, or at the edge of fields; every effort shall be made to locate the proposed use or subdivision upon land which is unsuitable or least productive for agricultural use and has the least impact on the agriculturally productive use of the remainder of the parcel.

ARTICLE XI: FLOOD HAZARD AREAS OVERLAY DISTRICT

SECTION 1110 AUTHORIZATION AND PURPOSE.

1111 Statutory Authorization. To effect the purposes of the Act, there are hereby established Flood Hazard Area Regulations for the Town of Westminster.

1112 Purpose. It is the purpose of these regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard and to minimize losses due to floods by:

- A. Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood or cause excessive increase in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time of initial construction;

SECTION 1120 ESTABLISHMENT OF DISTRICT BOUNDARIES.

These regulations shall apply to all lands in the Town of Westminster, Vermont, identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations. The requirements of the Flood Hazard Areas Overlay District supersede those of the underlying district and may render otherwise permitted uses conditional or not permitted.

1121 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 the provisions of these regulations.
- 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 (i.e., Zone A), base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained by the Administrative Officer and reasonably utilized to administer and enforce the provisions of these regulations.
- C. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill), shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the

1142 Application Requirements. In addition to the requirements of Section 126 (b) of this Bylaw, an application for conditional use review in the Flood Hazard Areas Overlay District shall include:

- A. An Elevation Certificate prepared by a licensed surveyor.
- B. Existing and proposed structures including the elevation of the lowest habitable floor including basement and certifications to whether such structures contain a basement;
- C. Proposed fill and/or storage of materials;
- D. The method and levels to which any structure will be flood proofed and certification by the applicant's engineer or architect that the design and proposed methods of construction are in accordance with the flood proofing requirements of these regulations;
- E. The relationship of the proposal to the location of the channel;
- F. Base flood elevation data for subdivisions and other proposed developments that contain at least 50 lots or 5 acres, whichever is smaller;
- G. Such additional information as the DRB deems necessary for determining the suitability of the particular site for the proposed use. This information in paper and electronic form may include:
 - 1. Plans in duplicate, drawn to scale, showing the location, dimensions, contours, and elevation of the lot; the size and location of the site of existing or proposed structures, fill or storage of material; the location and elevations of streets, water supply, and sanitary facilities; and the relation of the above to the location of the channel, floodway and base flood elevation.
 - 2. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, and cross-sectional areas to be occupied by the proposed development.
 - 3. A profile showing the slope of the bottom of the channel or flow line of the stream.
 - 4. Specifications for building construction and materials, flood proofing, mining, dredging, filling, grading, paving, excavation or drilling, channel improvement, storage of material, water supply and sanitary facilities,

1143 Special Permit Application Requirements.

- A. **State Review.** Prior to issuing a permit for any development in a flood hazard area, a copy of the application shall be submitted to the Vermont Department of Water Resources and Environmental Engineering in accordance with Section 4409 of the Act. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date they application was mailed to the Department, whichever is sooner. If a variance is required, a written decision of the variance from the State representative of National Flood Insurance Program shall be part of a complete application.
- B. **Notification.** Adjacent communities and the Vermont Department of Water Resources and Environmental Engineering shall be notified at 30 days prior to issuing any permit

1152.2 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 the base flood elevation. New construction and existing buildings to be substantially improved that are located in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in the feet on the community's FIRM or at least two feet if no depth number is specified.
- B. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - 1. located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood 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.
 - 2. located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.
- C. Residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

1152.3 Non-Residential Development

- A. New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation. New construction located in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in the feet on the community's FIRM or at least two feet if no depth number is specified.
- B. Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below 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. Existing buildings to be substantially improved located in AO zones shall have the lowest floor, including

with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

1152.6 Recreational Vehicles.

Recreational Vehicles placed on sites with special flood hazard areas shall either:

- A. be on the site for fewer than 180 consecutive days,
- B. be fully licensed and ready for highway use, or
- C. is permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2. (b).

1152.7 Accessory Structures. A small accessory building (less than 150 square feet) that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following:

- A. the structure shall only be used for parking or storage;
- B. shall have the required openings to allow floodwaters in and out;
- C. shall be constructed using flood resistant materials below the Base Flood Elevation;
- D. shall be adequately anchored to resist flotation, collapse, and lateral movement; and
- E. shall have all utility equipment including electrical and heating equipment elevated or flood proofed.

1152.8 Water Supply Systems. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

1152.9 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.

1152.10 On-Site Waste Disposal Systems. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. The lowest elevation of the wastewater distribution field shall be located at least 1 foot above the base flood elevation.

1152.11 Watercourse Carrying Capacity. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

1152.12 Variances to Flood Hazard Area Development Standards.

Varinces shall be granted only in accordance with the criteria found in 44 CFR, Section 60.6, of the National Flood Insurance Regulations.

SECTION 1160 ADMINISTRATION AND ENFORCEMENT

1161 Duties of the Administrative Officer. The administrative officer shall maintain a record of:

- A. All permits issued for development in areas of special flood hazard;

1182 Precedence of Regulations. The provisions of this Bylaw shall not in any way impair or remove the necessity of compliance with any other applicable Bylaws. Where this Bylaw imposes a greater restriction, the provisions of this Bylaw shall take precedence.

1. On-site disposal, bulk storage, processing or recycling of toxic or hazardous materials or wastes.
 2. Underground storage tanks, except septic tanks as regulated by the Town of Westminster Sewage Disposal Bylaw and the Vermont Department of Environmental Conservation, Wastewater Management Division.
 3. Industrial uses which discharge contact-type process waters on site.
 4. Unenclosed storage of road salt.
 5. Dumping of snow carried from off-site.
 6. Automotive uses: automobile service stations, repair garages, carwashes, junkyards, and truck stops.
 7. The siting or operation of a wastewater or septage lagoon.
 8. Sale, storage, lease or rental of used and new cars or other motorized vehicles.
 9. Laundry and dry cleaning establishments.
 10. Landfills.
- B. **Use List Not Exhaustive.** The uses prohibited by this district represent the state of present knowledge and most common description of said uses. As other polluting uses are discovered, or other terms of description become necessary, it is the intention to add them to the list of uses prohibited by this district. To screen for such other uses or terms for uses, no use shall be permitted in this district without first submitting its building, site, and operational plans for DRB review and approval under Section 17.05 of this Bylaw.
- C. **Changing Technology.** The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, which technology causes the uses as a class to be groundwater pollution risks. As the technology of identified use classes changes to non-risk materials or methods, is the intention to delete from the prohibited list or allow conditionally, uses which demonstrate convincingly that they no longer pose a pollution hazard.

1233 Conditional Uses.

The following uses, if allowed in the underlying district, are permitted only after conditional use approval is granted:

- A. Industrial and commercial land uses not otherwise prohibited by Section 932.
- B. Multi-family residential development.
- C. Sand and gravel excavation and other mining provided that such excavation or mining is not carried out within six vertical feet of the seasonal high water table.
- D. Animal feedlots and manure storage facilities provided the applicant consults with the Vermont Natural Resource Conservation District before such uses are established.
- E. Photography studios.
- F. Printing and publishing establishments.
- G. Hair salons.

- A. All such proposals are consistent with the need to protect surface and groundwater supply sources in the Town of Westminster and adjacent communities.
- B. All sanitary sewer systems are designed to minimize or eliminate leakage and discharges from the system into the groundwater.
- C. On site waste disposal systems are located so as to avoid or minimize groundwater contamination.
- D. Streets, road, and parking areas are constructed so that direct application of road salt is not required for winter safety and so that runoff from such uses is channeled so as to avoid or minimize groundwater contamination.

Industrial District
Commercial District
Village District
Resource and Conservation District

Additionally, freestanding telecommunications towers over 20 feet in elevation and associated equipment, buildings, and infrastructure shall not be located in any of the following locations:

- A. Historic Preservation Overlay District as defined in the Town Plan and on the Official Zoning Map.
- B. Closer than 300 feet horizontally, or twice the tower elevation, whichever is greater, to any residential structure, residential land, or school.
- C. Within 100 feet horizontally, or twice the tower elevation, whichever is greater, of a State or Federal designated wetland.
- D. Within 50 feet horizontally, or twice the tower elevation, whichever is greater, of any river or stream. Applicants are encouraged to locate antennas within existing tall structures such as church steeples or barn silos; in these instances, the above standards may be modified.

1322 Setbacks. The minimum setback for any telecommunications facility or associated structure shall be as required in the applicable zoning district, plus an additional setback equal to the height of the tower, (the “fall zone”). The fall zone may be allowed to cross property lines where an alternative protection to abutting properties can be provided by way of easement. The area of the easement shall be shown on the site plan, the terms of the easement shall be provided as part of the conditional use application materials, and the easement shall be recorded in the Town of Westminster land records. Where a tower is mounted on an existing structure such as a barn silo, church steeple, or utility pole, and the tower does not increase the height of the structure more than ten feet, then the additional “fall zone” setback is not required.

1322 Temporary Wireless Communication Facilities. Any wireless facility designed for temporary use is subject to the following:

- A. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town of Westminster.
- B. Temporary facilities are permitted for no longer than five days use during a special event.
- C. The maximum height of a temporary facility is specified in Section 330.

SECTION 1330 APPLICATION REQUIREMENTS

1331 Small Scale Facilities. The placement of the wireless telecommunications antennas, repeaters, or microcells on existing towers, buildings, structures, roofs, or walls, and not

4. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures, or structures proposed by the applicant within 5 miles of the proposed site, including in New Hampshire, cannot reasonably provide adequate coverage and adequate capacity to the Town of Westminster as well as the intended service area. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable.
5. Demonstrates that the applicant has analyzed the feasibility of using “repeaters” or microcells to provide coverage to the intended service area.
6. Describes potential changes to those existing facilities or site in their current state that would enable them to provide adequate coverage.
7. Describes the output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
8. Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional coverage within the Town.
9. Demonstrates the tower’s compliance with the setback requirements of the Westminster Zoning Bylaw.
10. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure.
11. Includes other information requested by the DRB that is deemed necessary to evaluate the request.
12. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
13. For a facility to be installed on an existing structure, a copy of the applicant’s executed contract with the owner of the existing structure (to be provided to the Administrative Officer at the time an application is submitted).
14. To the extent required by the National Environmental Policy Act (NEPA) and the National Historic Preservation Act of 1966 (NHPA) as administered by the FCC, a complete draft or final report describing the probable impacts of the proposed facility. The applicant shall submit the Environmental Assessment to the DRB prior to the beginning of the federal 30-day comment period.
15. A copy of the application or draft application for an Act 250 permit, if applicable.
16. A copy of the terms of any easements associated with the tower or facility.
17. Studies of collocation opportunities as required by Section 941.
18. An itemized estimate of the current cost of complying with the requirements of Section 1362 (“Facility Removal”).
19. DRB may waive one or more of the application filing requirements of this section if they find that such information is not necessary for a thorough review of a proposed Facility.

1340 REVIEW PROCESS

- A. Within 30 days of receipt of a complete application for historic review, the Administrative Officer shall refer the application for review by the DRB on the application.

- B. The DRB shall act to approve, approve with conditions, or disapprove an application within 45 days of the date the hearing is closed, and issue a written decision including findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E. of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 218 of this Bylaw.

SECTION 1350 CRITERIA FOR APPROVAL.

1351 Technical Review. DRB 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.

1352 Collocation Requirements

- A. An application for a new wireless telecommunications facility shall only be approved if the DRB finds that the facilities planned for the structure cannot be accommodated on an existing or approved tower or structure, in either Vermont or New Hampshire, due to one of the following reasons:
 - 1. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
 - 2. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer and such interference cannot be mitigated at a reasonable cost.
 - 3. The proposed antennas and equipment, either alone or together with existing facilities, equipment, or antennas would create excessive radio frequency exposure.
 - 4. Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer.
 - 5. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or structure.
 - 6. There is not existing or approved tower in the area in which coverage is sought.

prominent ridgelines and hilltops. In determining whether or not a tower would have an undue adverse visual impact, the Development Review Board shall consider:

1. The period of time during which the traveling public on a public highway would view the proposed tower;
2. The frequency of the view experience by the traveling public;
3. The degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
4. Background features in the line of sight to the proposed tower that obscures the facility or makes it more conspicuous;
5. The distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;
6. The sensitivity or unique value of a particular view affected by the proposed tower;
7. Significant disruption of a view shed that provides context to a historic structure or district on the National Register or to a scenic resource;
8. Whether the tower violates a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area.

1355 Tower Lighting, Signs, and Noise Generated.

- A. Unless required by the Federal Aviation Administration (FAA), no lighting of towers is permitted. In any case where a tower is determined to need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. The applicant shall submit copies of required FAA applications. The DRB may require that heights may be reduced to eliminate the need for lighting or another location selected.
- B. No commercial signs or lettering shall be placed on a tower or facility. Signage shall be limited to that required by federal or state regulation.
- C. The DRB may impose conditions to minimize the affect of noise from the operation of machinery or equipment upon adjacent properties.

SECTION 1360 MAINTENANCE, INSURANCE AND REMOVAL.

1361 Continuing Obligations. Upon receiving a zoning permit, a permittee shall annually demonstrate that the facility is in compliance with all FCC standards and requirements regarding radio frequency exposure and provide the basis for the representations.

1362 Facility Removal. Abandoned, unused, obsolete, or non-compliant towers or facilities governed under this section shall be removed as follows:

- A. The owner of the facility and tower shall annually, between January 15 and 30, file a declaration with the Town of Westminster Administrative Officer certifying the continuing safe operation of every facility and tower installed subject to these

ARTICLE XIV: RIDGELINE PROTECTION OVERLAY DISTRICT

SECTION 1410 AUTHORITY AND PURPOSE.

1411 Authority Pursuant to authority granted of the Act a Ridgeline Protection Overlay District (RPOD) is hereby established.

1412 Purpose. The purpose of the RPOD is to protect Westminster's rural character and scenic landscape by ensuring that development is located and designed in a manner that protects the uninterrupted skyline and minimizes adverse visual impact on designated ridgelines, hilltops and adjacent slopes.

SECTION 1420 ESTABLISHMENT OF DISTRICT BOUNDARIES

1421 Boundaries. District boundaries are identified on the attached Ridgeline Protection Overlay District Map.

1422 Lots divided by the Overlay District Where the boundary of the RPOD divides a lot of record such that part of the lot falls within the RPOD and part of the lot is outside of it, the lot provisions of this Article shall only apply to development on the lot that occurs within the boundary of the RPOD.

SECTION 1430 DEVELOPMENT PERMIT REQUIRED.

1431 Uses within the District Uses allowed as a permitted or conditional in the underlying zoning district which are located in RPOD shall require conditional use approval, and the approval of the DRB in accordance with the standards set forth below and as specified in the Westminster Zoning Bylaw, unless specifically exempted under subsection 1033 below.

1432 Pre-application Site Development. Forest management activities designed as pre-development site preparation shall be reviewed by the DRB to determine compliance with the standards set forth in this Bylaw. Such activities include, but are not limited to, road and driveway construction, excavation related to the upgrade and conversion of logging roads to development roads or driveways, clearing and/or grading for house-sites and septic systems, or related work. Where a landowner fails to submit pre-development plans for review, the DRB may direct the manner in which the site will be restored or re-vegetated prior to development and/or limit development to a portion of the property which best meets the standards of this district.

1433 Exemptions. The following uses are exempted from review under the RPOD:

- A. Agriculture and Forestry activities in compliance with "Acceptable Management Practices for maintaining Water Quality on Logging Jobs in Vermont" (published by Vermont Department of Forests, Parks and Recreation) are exempt from review, except as follows:
 - 1. Clearing of forests for the purpose of further development within a 5 year period.

B. Development shall not:

1. Result in an adverse visual impact
2. Stand in contrast to the surrounding landscape patterns and features or
3. Serve as a visual focal point.

C. Forest Cover. On wooded sites, forest cover shall be maintained or established adjacent to proposed structures to interrupt the facade of buildings, provide a forested backdrop to structures, and/or soften the visual impact of new development as viewed from public roads.

1470 CONDITIONS OF APPROVAL

- A. The DRB shall consider the location of proposed structures relative to existing vegetation, and
- B. May require additional planting and/or limit the amount of clearing adjacent to proposed development to provide screening and maintain a forested backdrop.
- C. A tree cutting, landscaping and/or forest management plan may be required to ensure that ridges and hill tops remain wooded, and to ensure that trees remain standing immediately adjacent to buildings to visually interrupt facades and reduce reflective glare, as viewed from off site. Such a plan shall address specific measures to be taken to ensure the survival and, if necessary, replacement of designated trees during or after site development and the installation of all site improvements.
- D. **Landscaping & Screening.** In instances where existing forest cover or topography will not adequately conceal proposed development or mitigate the adverse visual impacts of a project, landscaping shall be provided and maintained to minimize the visibility of the structure as viewed from public roads and visually integrate the development site into the surrounding landscape.
- E. **Glare.** Exterior lighting shall be shielded and downcast. Exterior building materials of all structures shall be of a type and design to minimize reflective glare.
- F. **Determination of Visual Impacts.** Development shall not result in an adverse visual impact.

In determining whether a specific development would result in an adverse visual impact, the DRB shall consider the following:

1. Degree to which view of development from roads is screened by existing vegetation, topography, and existing structures at all times of day or night.
2. Contributing and detracting background features in the view of the proposed development.
3. Distance to development from vantage point.

1480 PERMIT APPLICATION AND REVIEW PROCEDURES.

1481 Application Requirements. In addition to the requirements set forth in this Section, applications for a zoning permit within the RPOD shall be filed as set forth in Sections 125 and 126, 214 (B) of this Bylaw.

ARTICLE XV DEFINITIONS

Words and phrases contained herein shall have the following interpretations for the purpose of these Regulations. Other words and phrases contained herein and not defined below shall be interpreted according to the definitions provided in the Act and the Town of Westminster's Town Plan and Zoning Bylaw.

Accepted Agricultural Practices (AAPs): Accepted practices for agriculture, including farm structures other than dwellings, as currently defined by the Commissioner of Vermont Department of Agriculture, Food and Markets in accordance with Section 4413(d) of the Act.

Accepted Management Practices (AMPs): Accepted silvicultural (forestry) practices as currently defined by the Commissioner of the Vermont Department of Forests, Parks and Recreation in accordance with Section 4413(d) of the Act.

Accessory Apartment: A secondary dwelling unit established in conjunction with and clearly subordinate to the primary unit, contained within a single family detached dwelling or its garage.

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

1. The property has sufficient wastewater capacity.
2. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
3. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Accessory Use or Structure: A use or building customarily incidental and subordinate to the principal use or building and located on the same lot. Accessory uses/structures do not include living quarters for human habitation,

Act: The Vermont Municipal and Regional Planning Development Act, 24 V.S.A., Chapter 117.

Adequate Capacity: Capacity for wireless telephony is considered to be "adequate" if the grade of service (GOS) is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, adequate capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, adequate capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

used, designed, or arranged for the keeping of five (5) or more domestic animals more than three (3) months of age for profit or exchange, inclusive of equines but exclusive of other livestock used for agricultural purposes in areas approved for agricultural uses. The keeping of four (4) or less such animals more than three (3) months of age for personal enjoyment shall not be considered "boarding" for the purposes of this ordinance.

- B. Domestic Animal: Any animal, including, but not limited to mammals, reptiles, birds, livestock and domestic pets, that have been bred or raised to live in or about the habitation of humans, including, but not limited to mammals, reptiles and birds, and is dependent on people for food and shelter.
- C. Domestic Pet: Any canine, feline, or European ferret (*Mustela putorius furo*) and such other domestic animals as the Secretary of the Agency of Agriculture, Food and Markets shall establish by rule and that has been bred or raised to live in or about the habitation of humans, and is dependent on people for food and shelter.
- D. Livestock: Cattle, sheep, goats, equines (including, but not limited to, horses, ponies, mules, asses, and zebra.), fallow deer, red deer, American bison, swine, water buffalo, fowl and poultry, pheasant, Chukar partridge, Coturnix quail, camelids (including, but not limited to, guanacos, vicunas, camels, alpacas and llamas), ratites (including, but not limited to ostriches, rheas, and emus), and cultured fish propagated by commercial fish farms.
- E. Grooming: Any establishment where domestic pets are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health.
- F. Hospitals: An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence. (See Veterinarian Office)
- G. Kennel: Accessory building or enclosure for the keeping of domestic pets.
- H. Barn or coop: Accessory building or enclosure for the keeping of livestock.
- I. Shelter: A facility used to house or contain stray, homeless, abandoned, or unwanted domestic animals for the purpose of providing temporary kenneling and finding permanent adoptive homes and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and human treatment of animals.
- J. Store, Pet: A retail sales establishment primarily involved in the sale of domestic pets, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, goats, sheep, and poultry.

Antenna: A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

Appurtenance, Attached or Detached: Any visible, functional or ornamental objects accessory to a building, structure, or site, including, but not limited to, windmills, sheds, outbuildings, garages, landscaping features, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings, solar panels, satellite dishes, and signs. (See Accessory Appurtenance, Building or Use)

Boarding House (Rooming House): A single family dwelling where more than two, but fewer than six rooms are provided for lodging for definite periods of time. Meals may or may not be provided, but there is one common kitchen facility. No meals are provided to outside guests.

Bonus: A bonus is an incentive to a developer in the form of additional floor area or dwelling units, in exchange for the provision of an amenity that meets Town Goals.

Brewery: A brewery is a dedicated building for the making of beer. A microbrewery, or craft brewery, is a brewery which produces a limited amount of beer. The maximum amount of beer a brewery can produce and still be classed as a microbrewery is 15,000 barrels (18,000 hectolitres/ 475,000 gallons) a year. A brewpub is a microbrewery which serves food or is combined with a pub.

Brownfield: Abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

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 Envelope: A building envelope is the maximum three-dimensional space on a zoning lot within which a structure can be built, as permitted by applicable height, setback and yard controls.

Building Front Line: The line parallel to the front lot line transecting the point in the structure face that is closest to the front lot line. This face includes porches, whether enclosed or unenclosed, but does not include steps.

Building Height: The vertical distance measured from the average elevation of the proposed finished grade at the front of the structure to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

Bulk Storage: The storage of chemicals, petroleum products and other similar materials in above-ground containers for subsequent resale to distributors or retail dealers or outlets. Bulk Storage is a warehousing operation.

Bond: Any form of security including a cash deposit, surety bond or instrument of credit in an amount and form satisfactory to the DRB.

Buffer: Any space between adjoining uses intended and designed to reduce the impact of one use upon the other including open space, woodland, landscaped areas and other types of visual and sound barriers.

Commercial Use: The provision of facilities, goods or services by a person to others in exchange for payment of a purchase price, fee, contribution, donation or other object have value.

Commission: The Westminster Planning and Development Commission of the municipality of Westminster created under 24 VSA chapter 117, subchapter 2.

Community Sewage Disposal System: Any sewage disposal system, other than a municipal sewage disposal system, owned by the same person, that disposes of sewage created by two or more residential, commercial, industrial, or institutional sources.

Community Water System: Any water system owned by a single entity and which supplies water for residential, commercial, industrial, or institutional uses to two or more customers or users.

Construction: The undertaking of the first improvement on a tract of land, including work preparatory to construction such as clearing, the staking out or use of a right-of-way or in anyway incidental to the altering of land according to a plan or intention to improve or to divide land by sale, lease, partition or otherwise transfer an interest in the land. Activities that are principally for the preparation of plans and specifications that may be required and necessary for making application for a permit such as test wells and pits, percolation tests and line of sight clearing for surveys are not commencement of construction.

Conditional Use: Certain uses that may be allowed only by approval of the Development Review Board subject to affirmative findings under general and specific standards, as outlined in Article 3 of this ordinance.

Conditions: Those requirements, as denoted or assigned in conjunction with the approval of a zoning permit, which must be met as part of implementation of the zoning permit

Condominium: A building or group of buildings in which units are owned individually, and accessory buildings, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Conservation Restrictions: See Covenants.

Contractor Yard: Storage yards operated by, or on behalf of, a contractor for storage of large equipment, vehicles, or other materials commonly used in individual contractor's type of business; storage of materials used for repair and maintenance of contractor's own

Convalescent Home: A health center or home licensed by the State of Vermont where patients are given custodial or chronic medical, psychiatric, or psychological care but shall exclude acute care on a continuing basis. Also known as a Nursing Home.

Cottage Industry: A business use conducted within a residence, its accessory structures, or a subsidiary structure where the resident is the principle proprietor and which employs, in addition to the residents of the parcel on which the use is located, no more than six persons.

Development: The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. For the purposes of these regulations, subdivision of land is considered development.

Direct Illumination: Illumination resulting from light emitted directly from a lamp or luminaire, not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.

DRB: The Westminster Planning and Development DRB of the municipality of Westminster created under 24 VSA chapter 117, subchapter 2.

Drive-Thru Use: A use involving window service to persons in automobiles requiring drive-in boxes or aisles to direct autos to a point of services. Such uses include, but are not limited to, drive-in restaurants, car washes, and financial institutions.

Driveway: a minor private way that provides access to a single lot or structure.

Driveway/Private Road: Every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.

Dump: A land site used for the disposal by abandonment, dumping, burial, burning or any other means for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind. Dumps do not include land sites used in a manner which complies with all applicable Vermont regulations (e.g., those governing the siting, construction and use of landfills, disposal of hazardous materials, junked vehicles, or septage, etc.)

Dwelling: A room or rooms connected together containing cooking, sanitary and sleeping facilities that constitute a separate, independent housekeeping establishment. It shall include prefabricated modular units, mobile homes and studio apartments, but shall not include a motel, hotel, boarding house, tourist home, shelter or similar structure.

Dwelling, Multiple-Family: A structure used as living quarters by three or more families living independently of one another.

Dwelling, One Family: A structure used as living quarters by one family. A one-family dwelling includes one accessory apartment.

Dwelling, Two-Family: A structure used as living quarters by two families living independently of one another.

Dwelling Unit: A room or rooms connected together containing cooking, sanitary and sleeping

whether the lessee works the leased lands during the lease period. See Agriculture.

Farm Products: Principally produced means that more than 50% (by volume or weight) of the agricultural products, which result from the activities stated in 10 V.S.A. §6001(22)(A) - (D) and which are stored, prepared or sold at the farm, are grown or produced on the farm. Farm principally produced products: Principally produced means that more than 50% (by volume or weight) of the agricultural products, which result from the activities stated in 10 V.S.A. §6001(22)(A) - (D) and which are stored, prepared or sold at the farm, are grown or produced on the farm.

Farm Structure: In accordance with the §4413(d) of the Act, any building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agriculture or accepted agricultural practices. This includes a silo or a farm stand for the sale of agricultural products principally produced on the farm, but specifically excludes other types of farm stands and dwellings for human habitation. See also Accepted Agricultural Practices.

FIA: Federal Insurance Administration.

Filling of Land: Filling of land with loam, rock, gravel, sand or other such material with a maximum of ten (42) cu. yds. and/or maximum thirty (30") inch grade change within a one year period is allowed in all districts as a permitted use provided that:

- (1) Finish contours are graded and measures taken to prevent erosion; and
- (2) Natural drainage flows are not obstructed or diverted onto adjacent properties

Final Subdivision Plat: The final drawings, on which the applicant's plan of subdivision is presented to the DRB for approval and which, if approved, may be filed for record with the Town Clerk.

Flood Hazard Area: Those lands subject to flooding from the one hundred (100) year flood, as defined in the existing or subsequently revised "Flood Insurance Study for the Town of Westminster, Vermont," and the: Flood Insurance Rate Map" (FIRM), published by the federal Emergency Management Agency (FEMA), and available at the Town Clerk's office.

Flood Insurance Rate Map (FIRM): 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: 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 proofing: Those methods that are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood. Any combination of structural and non-structural additions, changes, or adjustments to structures

as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; or (d) reduction of visual performance.

Grade Finished: The completed surface grade of grounds, lawns, walks, paved areas and roads.

Groundwater: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

Group Home Facility: A residential facility providing shelter and/or rehabilitation for more than eight (8) persons who are developmentally disabled or physically handicapped. Twenty-four-hour-a-day supervision is mandatory and professional supervision and consultations are available to these people. The purpose of these homes is to provide a service for people who do not present a threat to the community and are not institutional candidates. Group Home Facilities must be licensed or registered with the State of Vermont and/or must be court-sanctioned.

Group Home: A residential facility providing shelter and/or rehabilitation for not more than eight (8) persons who are developmentally disabled or physically handicapped. Twenty-four-hour-a-day supervision is mandatory and professional supervision and consultations are available to these people. The purpose of these homes is to provide a service for people who do not present a threat to the community are not institutional candidates. Groups Homes must be licensed or registered with the State of Vermont and/or must be court-sanctioned. As provided in Section 4409(d) of Chapter 117, 24 V.S.A. a Group Home is considered by right to constitute a permitted single-family residential use of property. See also Residential Care Home.

Habitable: A space in the building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Hazardous Materials: Shall be as defined in 10 V.S.A. Chapter 159.

Health Care Facility: A facility or institution, whether private or public, principally engaged in providing services for health maintenance and for the diagnosis and treatment of human ailments, that has equipment and facilities for extensive testing and provisions for extended periods of 24-hour care by full-time certified medical staff.

Highest Finished Grade: The highest point on the completed surface.

Historic Site: The location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance and is listed or eligible for listing on the State or National Register of Historic Places.

Historic Structure: Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by

Industry, Heavy: A use engaged in:

- the basic processing and manufacturing of materials or products predominately from extracted or raw materials,
- the storage of, or manufacturing processes using, flammable or explosive materials,
- the storage and manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.
- Or any other industrial use that does not meet the definition of 'Light Industry'.

Industry Light: Research and development activities, the manufacture, fabrication, processing or warehousing of previously prepared materials, which activities are conducted wholly within an enclosed structure. Finished or semi-finished products may be stored outdoors pending shipment.

Industry: An activity primarily concerned with enclosed manufacturing, fabrication, processing or warehousing of an article, substance or commodity.

Inn: A residential dwelling in design and/or previous use, now used for commercial purposes wherein the patronage is of a transitory nature, the guests being entertained from day to day. Such use must include food service for guests within the structure and may include a restaurant with or without a lounge.

Interested Person: A person who has participated in a municipal regulatory proceeding authorized under 24 VSA Ch. 117 who may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

Junkyard: Any place of storage or deposit, whether in connection with a business or not, which is maintained, operated or used for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. The term does not include a private garbage dump or a sanitary landfill which is in compliance with Section 2202 of Title 24 V.S.A. and under regulation of the Secretary of Human Services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than ninety (90) days for inspection or repairs.

Kennel: Any establishment in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold.

Land Development: See Development.

Leachable Waste: Waste materials including without limitation, solids, sewage sludge and agricultural residue capable of releasing contaminants to the surrounding environment.

Lot Improvement: Any building, structure, place or other object or improvement of the land on which they are situated which constitutes a physical betterment of real property or any part of such betterment.

Lot: A designated parcel, tract, or area of land established by plat or subdivision or created by survey or plot plan, to be used, developed or built upon as a unit. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yard and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or other means of access approved by the DRB. In no case shall the division or combination of land result in the creation of a parcel which does not meet the requirements of this Ordinance.

Lounge: See Bar.

Low output Lamps: Lamps with an internal lumen output of 2,000 lumens or less. Examples of lamp types of 2,000 lumens and below are: 100-Watt Standard Incandescent, 15-Watt Cool White Fluorescent, 15-Watt Compact Fluorescent, and 18-Watt Low Pressure Sodium.

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 44 CFR 60.3.

Lumen: A unit of measure of the quantity of light that falls on an area of one square foot every point of which is one foot from the source of one candela. A light source of one candela emits a total of 12.57 lumens.

Luminaire: Means the complete lighting system, including all necessary mechanical, electrical, and decorative parts.

Major Subdivision: Any residential subdivision containing four or more lots, or requiring any new road in excess of eight hundred (800) feet in length, or any commercial, industrial or commercial recreational project, multifamily housing project, planned residential development (PRD) or planned unit development (PUD), or a series of minor subdivisions of a tract of land occurring over a period of five years creating four or more lots, that meets the definition of a subdivision.

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

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

Monument: A permanent marker to indicate a boundary point or other point for measurement purposes.

Motel: A structure containing rooms which are rented as a series of sleeping units for transients, each sleeping unit consisting or at least a bedroom and a bathroom, wherein the patronage is of a transitory nature, the guests being entertained from day to day as opposed to having an express contract at a certain rate for a certain length of time, such as a boarding house.

Motor Vehicle Sales: The use of any structure, land area or other premises for the display and sale of more than one new or used automobiles, trucks, vans, trailers, farm machinery or recreational vehicles, and including any warranty repair work and other repair service conducted as an accessory use.

Mounting Height: The height of a light fixture or lamp above the finished grade.

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.

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

Non-complying Structures or Structure (pre-Existing): A structure or structure, the size, dimensions or location of which does not comply with all zoning regulations for the district in which it is located, where such structure or structure conformed to all applicable regulations prior to the enactment or amendment of this Ordinance.

Non-conforming Lot: A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this Ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Non-Conforming Use: A use of land that does not conform to the present Ordinance but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present Ordinance; including a use that was improperly authorized as a result of error by the Administrative Officer.

1. Tracts or lots of land which are divided by state or municipal highway rights-of-way or surface Waters with a drainage area greater than ten (10) square miles shall not be deemed contiguous;
2. Tracts or lots of land which are acquired by their owners with the same boundaries as they are to Be conveyed shall not be deemed contiguous to any other parcel owned by that person; and
3. A subdivision which is created by State or municipal condemnation for highway or utility construction shall not require a permit.

Parking Space: An off-street space available for the parking of one motor vehicle, and which complies with the standards set forth in this Ordinance.

Performance Standard: A performance standard is a minimum Requirement or maximum allowable limit on noise, vibration, smoke, odor and other effects of uses listed in each zoning district.

Person: any individual, partnership, corporation, association, unincorporated organization, trust or other legal or commercial entity, including a joint venture or affiliated ownership, which owns or controls the tract or tracts land to be developed. The word "person" also means any municipality or State agency.

Personal Service: A business establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Includes a barbershop, hairdresser, beauty parlor, laundry, Laundromat, dry cleaner, or other business providing similar services.

Planned Residential Development (PRD): An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling, lot coverage and required open space to the regulations established in any one or more districts created by the Westminster Zoning Ordinance.

Planned Unit Development (PUD): An area of contiguous land, controlled by a landowner or owners, to be developed as a single entity for a number of dwelling units in two or more structures and/or commercial or industrial uses, if any, the plan for which does not correspond in lot size, lot coverage and required open space to the regulations established in any one or more districts created by the Westminster Zoning Ordinance. (See 24 VSA, Section 4407(12).)

Plat: A map or representation on paper or Mylar of a piece of land subdivided into lots and roads, drawn to scale.

Preliminary Plat: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the DRB for its consideration.

Professional Office: The office of a member of a recognized profession maintained for the conduct of that profession, a studio, as defined herein, shall be considered a professional office.

permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Religious Institution: A place of worship or religious assembly, with related facilities such as offices, school, playground, etc. See Public Assembly/Facility.

Repair Service: Activities concerned with the repair and/or maintenance of small equipment, such as residential lawn mowers, television sets, appliances and other similar items.

Repeater: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

Residence: See Dwelling.

Residential Care Home: A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to (3) or more adults unrelated to the home manager. Personal care is defined as assistance with meals, dressing, movement, bathing, grooming or other personal needs, or general supervision of physical well-being, including nursing overview, supervision and administration of medication, but not full-time nursing care. Pursuant to Section 4409 of Chapter 117, 24 V.S.A., a Residential Care Home serving not more than eight (8) persons who are developmentally or physically handicapped shall be considered by right to constitute a permitted single-family residential use of property. See also Group Home.

Residential Child Care Facility: A residential child care facility is a place, however named, which provides a planned program aimed at behavioral change, administered by qualified staff, for children in a 24-hour residential setting, and licensed by the Vermont Department of Social and Rehabilitation Services. This definition does not include family foster homes, or summer camping programs.

Resource Industry: An activity involved in the primary processing of agricultural or forestry products, including saw mills, dairies, and slaughter houses, but excluding those activities identified in the definition of Agriculture and Agricultural Use.

Restaurant: A structure for public eating in which the primary business is the preparation and serving of food for consumption on the premises.

Resubdivision: A change of recorded subdivision plat of such change affects any road layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such change if it affects any map or plan legally recorded.

Retail Store: A personal service shop, department store or shop or store for the retail sale of goods, excluding any freestanding retail stand.

Sign: Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Westminster has a separate sign ordinance.

Site Plan: The plan for the development, including change in use, of one or more lots. Prepared in accordance with the requirements of Section 126 of this Ordinance.

Site plan review: Review of the spatial layout and proposed content of a parcel of land illustrated on a site plan in accordance with the authority, limitations and procedures set forth in the municipal development plan, 24 V.S.A. §4416, and this ordinance, all as amended.

Source water: Water drawn to supply drinking from an aquifer by a well or by a surface water body by an intake, regardless of whether such water is treated before distribution.

Store, retail: A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

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.

Street: A public traveled way including the land between street lines, whether improved or not, the right-of-way of which is dedicated by a deed or record, or a private way devoted to public use. The word "street" shall include the entire width between property lines of every way used for vehicular and pedestrian travel which has become public by authority of the law, and such

Studio apartment: A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities. See Dwelling.

Special flood hazard area: 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/AI-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".

Subdivider: Any person who shall lay out for the purpose of transfer of ownership or right to use any subdivision or part thereof. 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 or parcels or other divisions of land. For the purposes of this regulation, see definitions of major and minor subdivisions and the creation of two lots from one lot.

Substantial improvement: Repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (a) before the change or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement covers substantial change. However, the term does not include either of the following:

- a. Any project or improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions.
- b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

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

Substantially completed construction: The point at which the permitted use of a project may be safely started.

Telephone relay interface unit: A structure constructed and maintained by a telecommunications company for the purpose of housing relays and related equipment, and which is less than 20 square feet in area.

Uplighting: Any light source that distributes illumination above a ninety (90) degree horizontal plane.

Usable open space: Any lot area(s) or portion thereof, which enhance utility and amenity by providing space for active or passive recreation including improvements such as: recreational facilities, walkways, plazas, tennis courts, bikeways, boardwalks, recreational

Use: the conduct of an activity or the performance of a function or operation, on a site or in a structure or facility.

Use, accessory: A use that is subordinate in extent and purpose to the principle use, contributes to the comfort, convenience or necessity of the principle use, and is located on the same lot as the principal use.

Use, change of: The substitution of one use of a parcel for another, or the addition of a use to a parcel.

Use, commercial: An enterprise or activity at a scale greater than home industry involving retail or wholesale buying and/or selling of goods and activities, except for Agricultural Uses.

Use, conditional: A use which, because of special problems or conditions, requires reasonable but special limitations particular to the use for the protection of the public welfare or the integrity of the town plan. A conditional use is authorized in a particular zoning district only upon a finding by the Zoning Board of Adjustment that such use in a specified location will comply with the conditions and standards for the location or operation of such use as specified in this Ordinance.

Use, pre-existing: The use of a parcel or structure at the time of the enactment of this Ordinance.

Use, pre-existing non-conforming: A use lawfully occupied a parcel or structure on the effective date of this Ordinance and that does not conform to the use regulations of the district in which it is located, as defined in this Ordinance.

Use, permitted: A use allowed in a zoning district without the need for special administrative review and approval by the Zoning Board of Adjustment, upon satisfaction of the standards and requirements of this Ordinance.