

2017 REVISED BYLAW

Whereas, pursuant to 24 V.S.A. § 4441(d), the Planning Commission for the Town of Canaan held a public hearing on the proposed Zoning Bylaw on Nov-20, 2017.

Filing Date: Nov. 21, 2017

A copy of proposed bylaws with revision, reports as submitted by the Planning Commission to the Legislative Body and Clerk following final Planning Commission hearing.

RESOLUTION
BOARD OF SELECTMEN
TOWN OF CANAAN, VERMONT

WHEREAS; pursuant to 24 V.S.A. § 4441(g), the Planning Commission for the Town of Canaan has submitted to the Board of Selectmen a proposed revised Zoning Bylaw for the Town of Canaan, and

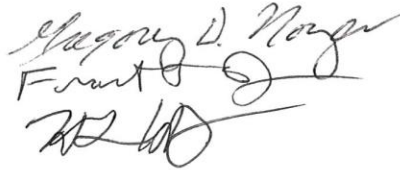
WHEREAS; pursuant to 24 V.S.A. § 4442(a) on Jan 15, 2018 the Selectmen held a public hearing on the proposed Zoning Bylaw,

NOW, THEREFORE, the Selectmen hereby resolve as follows:

THAT, the proposed revised Zoning Bylaw for the Town of Canaan is hereby presented for Australian ballot vote at Town Meeting, March, 6, 2018.

Dated this 6th day of March 2018

Gregory D. Noyes
Frank Sawicki
Haven Haynes
Board of Selectmen
Town of Canaan, Vermont



ZONING BYLAW
TOWN OF CANAAN, VERMONT

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ZONING BYLAW
TOWN OF CANAAN, VERMONT

ARTICLE 1: ENACTMENT AND INTENT

Section 101 Enactment

In accordance with the Vermont Planning and Development Act (Title 24 V.S.A. Chapter 117), there is hereby established a zoning bylaw for the Town of Canaan which is set forth in the text and map that constitutes this law. This bylaw shall be known and cited as the “Town of Canaan Zoning Bylaw.”

Section 102 Intent

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

ARTICLE II: ESTABLISHMENT OF DISTRICTS AND DISTRICT REGULATIONS

Section 201 Zoning Map and Districts

The zoning map, officially entitled "Town of Canaan Zoning Map", is hereby adopted as part of this bylaw. The Town of Canaan Zoning Map shows a division of the town into the following districts:

"IND"	Industrial
"RC"	Residential-Commercial
"R-1/2"	Residential One-Half
"R-1"	Residential One
"R-2"	Residential Two
"AGR"	Agricultural
"RL"	Rural Lands
"WP"	Wallace Pond
"CF"	Community Forest

Section 202 Copies of Zoning Maps

Regardless of the existence of other printed copies of the zoning map, which from time to time may be published, the official zoning map, which shall be located in the office of the Town clerk, shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the Town.

Section 203 District Boundaries

District boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the center lines of such roads, streams and transportation rights-of-way. The abandonment of roads shall not affect the location of district boundaries. When the Administrative Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Planning Commission shall interpret the locations of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this bylaw.

Section 204 District Objectives and Land Use Control

In accordance with the Canaan Town Plan, the following tables establish the objectives of each of the districts hereby established and the provisions that apply respectively in each district. Any use designated as a "Permitted Use" may be commenced in such district pursuant to Section 206 of these regulations. Any use designated as a "Conditional Use" requires Site Plan Approval pursuant to Section 207 of these regulations and conditional use review pursuant to Section 208 of these regulations.

Section 205 Application of Regulations

No land development may commence without a zoning permit issued by the Administrative Officer. Unless such land development conforms with the regulations herein specified, no zoning permit may be issued by the Administrative Officer.

TABLE 205.1 - "IND" Industrial

Objectives and Characteristics

This district provides a location for the establishment of a variety of types of manufacturing and commercial activities to provide employment opportunities and broaden the tax base of Canaan without conflicting with other uses. The district has good access to transportation facilities. Please see Canaan Town Zoning Map for locations.

Conditional Uses

All uses within this district are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Area and Dimensions

Minimum Lot Size		Minimum Yard Dimension (Ft)		
Area (Acres)	Width (ft)	Front	Each-side	Rear
1	100	20	20	20

TABLE 205.2 - "R-C" RESIDENTIAL-COMMERCIAL

Objectives and Characteristics

This district provides for a high density of residential use and commercial uses to serve the area. Please see Canaan Town Zoning Map for locations.

Permitted Uses

1. Agriculture
2. Bank
3. Child Care
4. Dwelling, single family
5. Dwelling, two family
- *6. Dwelling, multi-family
7. Dwelling, accessory
8. Essential service
9. Forestry
10. Home Occupation
11. Office
12. Personal service
13. Public assembly use
14. Public facility
15. Retail store
16. Accessory

All other uses within this district are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Area and Dimensions

Minimum Lot Size		Minimum Yard Dimension (ft)		
Area (Acres)	Width (ft)	Front	Each-side	Rear
1/2	100	30	15	20

*The minimum lot area for multi-family dwellings shall be one-half acre with an additional 10,000 sq. ft. for each unit in excess of two.

Any lot bordering Wallace Pond shall have a minimum dimension measured along the shoreline of at least 75 feet.

TABLE 205.3 - "R-1/2" RESIDENTIAL ONE-HALF

Objectives and Characteristics

This district is intended to be primarily for single and two family dwellings at a higher density of development than in Residential one. Various other uses that complement the district may be allowed. Please see Canaan Town Zoning Map for locations.

Permitted Uses

1. Child Care
2. Dwelling, single family
3. Dwelling, two family
4. Dwelling, accessory
5. Home Occupation
6. Accessory

All other uses within this district are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Area and Dimensions

Minimum Lot Size		Minimum Yard Dimension (ft)		
Area (Acres)	Width (ft)	Front	Each-side	Rear
½	100	30	15	20

TABLE 205.4 - "R-1" RESIDENTIAL ONE

Objectives and Characteristics

The purpose of this district is to provide an area for residential use in a rural setting at a higher density than in the Residential Two district. Since public water and sewer services are generally not available, this district includes areas where limitations for on-site sewage disposal are slight or moderate. This district includes areas which are not remote from more densely developed areas and which are served by an adequate year-round road system. Please see Canaan Town Zoning Map for locations.

Permitted Uses

1. Agriculture
2. Child Care
3. Dwelling, single family
4. Dwelling, two family
5. Dwelling, accessory
6. Forestry
7. Home Occupation
8. Accessory

All other uses within this district are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Area and Dimensions

Minimum Lot Size		Minimum Yard Dimension (ft)		
Area (Acres)	Width (ft)	Front	Each side	Rear
1	150	30	15	20

TABLE 205.5 - "R-2" RESIDENTIAL TWO

Objectives and Characteristics

The purpose of this district is to provide an area for residential use in a rural setting at a higher density than in the Rural Lands District. Since public water and sewer services are generally not available, this district includes areas where limitations for on-site sewage disposal are slight or moderate. This district includes areas which are not remote from more densely developed areas and which are served by an adequate year-round road system. Please see Canaan Town Zoning Map for locations.

Permitted Uses

1. Agriculture
2. Child Care
3. Dwelling, single family
4. Dwelling, two family
5. Dwelling, accessory
6. Forestry
7. Home Occupation
8. Accessory

All other uses within this district are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Area and Dimensions

Minimum Lot Size		Minimum Yard Dimension (ft)		
Area (Acres)	Width (ft)	Front	Each side	Rear
2	200	30	20	20

TABLE 205.6 - "AGR" AGRICULTURAL

Objectives and Characteristics

The purpose of this district is to protect major areas of prime agricultural land while allowing other uses that are secondary to agricultural use. The characteristics of this district are good agricultural soils, adequate accessibility, and slopes generally less than 8 percent, thus allowing the efficient use of farm equipment. Please see Canaan Town Zoning Map for locations.

Permitted Uses

1. Agriculture
2. Child Care
3. Dwelling, single family
4. Dwelling, accessory
5. Forestry
6. Home Occupation
7. Accessory

All other uses within this district are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Area and Dimensions

Minimum Lot Size		Minimum Yard Dimension (ft)		
Area (Acres)	Width (ft)	Front	Each side	Rear
10	400	30	35	50

One Time Exception

In this district, any lot legally in existence and on record as of June 12, 1979 that exceeds the minimum lot acreage requirement by at least two acres may be divided into two separate lots with one of the resulting lots having a minimum lot acreage of two acres. Any lot legally in existence and legally recorded in the Town Land Records as of June 12, 1979 that exceeds the minimum lot acreage requirement by four acres may be divided into three lots with two of the resulting lots each having a minimum lot acreage of two acres. In both instances, one of the two lots being created must have an area of ten acres.

TABLE 205.7 - "RL" RURAL LANDS

Objectives and Characteristic

This district includes areas of the community that should have a low density of development as they are generally mountainous, remote from more densely developed areas, are not served by an adequate year-round road system, and have, in many cases, shallow soils. Please see Canaan Town Zoning Map for locations.

Permitted Uses

1. Agriculture
2. Child Care
3. Dwelling, single family
4. Dwelling, accessory
5. Forestry
6. Home Occupation
7. Accessory

All other uses within this district are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Area and Dimensions

Minimum Lot Size		Minimum Yard Dimension (ft)		
Area (Acres)	Width (ft)	Front	Each side	Rear
10	400	30	50	50

TABLE 205.8 - "WP" WALLACE POND DISTRICT

Objectives and Characteristics

The purpose of this district is to allow for a combination of residential and commercial use of shorefront in traditionally developed shore areas along lakes where the natural vegetation has been removed and the shoreline has been artificially stabilized. Also to establish and maintain the appropriate physical and social settings for the recreational experiences desired on and around the lake. Please see Canaan Town Zoning Map for locations.

Permitted Uses

1. Child Care
2. Dwelling, single family
3. Dwelling, accessory
4. Accessory Use
5. Home Occupation

Prohibited Uses

The following uses are prohibited within any shoreline district: landfills, junkyards, and any hazardous materials storage facility or processing facility, with the exception of properly installed fuel storage tanks, as defined by current Vermont regulations.

All other uses within this district are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Area and Dimensions

Minimum Lot Size		Minimum Yard Dimension (ft)		
Area (acres)	Width (ft)	Road front	Each side	Rear
2	200	20	10	20

Any lot bordering Wallace Pond shall have a minimum dimension measured along the shore of 75 feet.

TABLE 205.9 - "CF" COMMUNITY FOREST OVERLAY DISTRICT

Objectives and Characteristics

The purpose of this district is to enable uses that have been identified by the Canaan Community Forest Management Plan: education, preservation, recreation, town forest and economic possibilities. The Zoning Administrator will refer applications to both the Canaan Community Forest Committee and the Zoning Board of Adjustment. The Canaan Community Forest Committee must approve uses of the land within the area where conservation easements are in effect. Certain uses will also require a Conditional Use permit through these Bylaws. Please see Canaan Town Zoning Map for locations.

Permitted Uses

1. See the Canaan Community Forest Management Plan

All other uses are Conditional Uses and require Conditional Use and Site Plan Review. Please refer to Sections 204, 207, 208 and 304.

Section 206 Permitted Uses

Permitted uses are those uses that are allowed upon issuance of a permit by the Administrative Officer provided the standards established by these regulations are met and no other special action by the Planning Commission or Zoning Board of Adjustment is required.

Section 207 Site Plan Approval

No zoning permit shall be issued by the Administrative Officer for any use requiring site plan approval until the Zoning Board of Adjustment grants site plan approval in accordance with the following procedures:

- 207.1 Submission of Site Development Plan Map and Supporting Data. The owner shall submit the following information presented in drawn form:
- A. A sketch of the property showing existing features including large trees, streets, utility easements, rights-of-way, land use, and deed restrictions. Such sketch shall also include all features within a minimum of 100 feet beyond the property lines;
 - B. Site plan should also show proposed structure locations and dimensions (length, width and height), proposed land use, streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks, site grading, landscape design and screening, and name and address of person preparing the map, scale of map, north point and date.
- 207.2 Site Plan Review Procedure. The Zoning Board of Adjustment shall act to approve or disapprove any such site plan within 45 days after the date of the adjourned public hearing and failure to so act within such period shall be deemed approval. The Zoning Board of Adjustment shall review the site plan and supporting data on the basis of the following standards, before approval, approval with stated conditions, or disapproval is given:
- A. All access driveways shall be located at least 75 feet from a street line intersection. Also see Section 304.
 - B. On a corner lot, within the triangular area formed by the intersection of two property lines and a third line joining them at points 25 feet away from their intersection, there shall be no obstruction to vision between the height of 2 feet and 12 feet above the grade of each street.
 - C. All areas designated, used or intended to be used for the exterior storage of materials and/or equipment shall be screened from view with either a wall, a solid fence or a fence and evergreens at a height of at least 5 feet above grade level, on all sides where the adjacent land is in residential use.
 - D. A strip of land at least 15 feet in width shall be maintained as a landscaped area on all sides where the adjacent land is in residential use. Landscaping shall take the form of well-kept grassed areas. All such landscaping shall be maintained in a healthy growing condition.
- 207.3 Zoning Board of Adjustment Action. In considering its action, the Zoning Board of Adjustment may waive or modify any of the standards set forth above. The Zoning Board of Adjustment may impose such additional conditions and safeguards with respect to adequacy of traffic access, circulation and parking, landscaping and screening, and protecting the utilization of renewable energy resources and other matters specified in the bylaws.

Section 208 Conditional Uses

208.1 Conditional uses are those uses that may be allowed by the Zoning Board of Adjustment, as provided for in 24 V.S.A. § 4414(3), if the Board, after public notice and public hearing, determines that the proposed use:

- A. Conforms to the area and dimensional requirements for the district in which the proposed use is located, as well as the character of the area within which the project is located. Multi-family dwellings require a minimum of 10,000 sq. ft. of land per family.
- B. Conforms to the standards set forth in Section 207.2.
- C. Will not result in undue air or water pollution. No emission, shall be permitted which can cause any damage to health, animals, vegetation, or other forms of property which can cause any excessive soiling at any point on the property of others.
- D. Will not cause an unreasonable burden on a public water supply if one is to be utilized and does have sufficient water available for the reasonable foreseeable needs of the proposed use.
- E. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water.
- F. Will not cause unreasonable congestion or unsafe conditions with respect to the use of existing or proposed means of transportation.
- G. Will not place an unreasonable burden upon the ability of the municipality to provide governmental and educational services.
- H. Will not destroy or significantly imperil necessary wildlife habitat.
- I. Will not create noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the proposed use. The sound pressure level should not exceed the following decibel levels at the property line:

LAND USE CATEGORY	DECIBEL LEVEL
Tracts of land in which serenity and quiet are of extraordinary significance and serve an important public need, and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose. Such areas could include amphitheaters, particular parks or portions of parks, or open spaces which are dedicated or recognized for activities requiring special qualities of serenity and quiet.	60 dB (A)
Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, picnic areas, recreation areas, playgrounds, active sports areas, parks.	70 dB(A)
Developed lands, properties or activities not included above.	75 dB(A)

- J. Will not result in the emission of objectionable odors beyond the property line of the proposed use.
- K. Will not result in any noticeable, clearly apparent vibration of or on the property of another landowner.
- L. Will not create glare or reflection which would create a nuisance to other property owners or tenants or which could impair the vision of a driver of any motor vehicle or which are detrimental to public health, safety and welfare.
- M. No fire, explosive or safety hazard shall be permitted which significantly endangers other property

owners or which results in a significantly increased burden on municipal facilities.

- N. The storage of any highly flammable liquid in tanks above ground with unit capacity greater than 550 gallons shall be prohibited unless such tanks, up to and including 10,000 gallon capacity, are placed not less than 80 feet from all property lines, and unless all such tanks of more than 10,000 gallon capacity are placed more than 200 feet from all property lines.

CAPACITY: All tanks having a capacity greater than 550 gallons shall be properly retained with dikes having a capacity not less than one and one-half times the capacity of the tanks surrounded.

- O. Extraction of soil, sand or gravel: All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the Zoning Board of Adjustment.
- a. No power-activated sorting machinery or equipment shall be located within 300 feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
 - b. The Zoning Board of Adjustment may attach any additional conditions as it may find necessary for the safety and general welfare of the public.
- P. Shall not have an undue adverse effect on the utilization of renewable energy resources.

208.2 In granting such conditional use, the Zoning Board of Adjustment may waive or modify any of the standards above and/or impose such conditions and safeguards as it may deem necessary to implement the purposes of these regulations. These conditions may include the following:

- A. Increasing the required lot size or yard dimensions in order to protect the adjacent properties.
- B. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
- C. Controlling the location and number of vehicular access points to the property.
- D. Increasing the street width adjacent to the property.
- E. Increasing the number of on-site parking or loading spaces required.
- F. Limiting the number, location and size of signs on-site.
- G. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
- H. Specifying a time limit for construction, alteration, or enlargement.
- I. Providing for special layout of facilities on the property such as location of the building, parking areas, access to the building so as to minimize effect on adjoining property.
- J. Specifying standards for operation of the conditional use so that it will be no more objectionable to the neighborhood by reason of noise, odors, vibrations, flashing lights or hours of operation than would be the operation of a permitted use at that site.
- K. Specifying that in case of the remodeling of existing structures into two-family or lodging house use that

the remodeling of the structure would be done in such a manner that it will not substantially change the exterior appearance of the structure.

- L. Requiring such additional, reasonable conditions and safeguards as the Board may deem necessary to implement the purposes of this ordinance and to protect the best interests of the surrounding property and the neighborhood.

208.3 Community Forest District: In addition to Sections 208.1 and 208.2, the Zoning Board of Adjustment may review the following conditions for any permit requested within the Community Forest District (Table 205.9 - CF). The Community Forest District is an overlay district and shall be superimposed on the underlying districts established by this Zoning Bylaw. All regulations of the Canaan Zoning Bylaw applicable to such underlying districts shall remain in effect, except where the Community Forest District imposes additional regulations, such regulations shall prevail.

- A. An undisturbed, naturally vegetated buffer strip shall be maintained for a distance of 150 feet from any stream that appears on the USGS 7.5 series topographic maps, and 75 feet from any unmapped intermittent (seasonally flowing) stream. Minimal clearing may be permitted to allow the development and maintenance of driveway and utility crossings within the designated buffer.
- B. The Zoning Board of Adjustment may limit or restrict the size and/or location of structures, and establish minimum setbacks based upon site conditions to ensure that proposed development:
 - 1. Is minimally visible from off site and does not stand in contrast to surrounding landscape patterns and features or serve as a visual focal point; and
 - 2. Will not adversely affect natural and scenic resources and fragile areas identified in the Community Forest Management Plan or through site investigation, including but not limited to wetlands, streams, critical habitat, steep slopes, areas of unstable soils and/or soil types that are generally unsuitable for development and on-site septic disposal.

Section 209 Prohibited Uses

Junkyards are a prohibited use in all districts.

Section 210 Waivers

210.1 In all districts, waivers from the provisions of these bylaws may be granted by the Zoning Administrator without a hearing for:

- A. Reductions in front or side setbacks as necessary to allow for disability access;
- B. Reductions in side setbacks to allow for necessary life safety improvements;

210.2 In all districts, waivers for setback and lot size may be granted after a hearing by the Zoning Board of Adjustment, if the waiver will not result in a greater than 50% decrease in any dimensional requirement and at least one of the following criteria is met:

- A. The proposed development conforms to the existing or desired development patterns of the district;
- B. The proposed development will cluster development and more effectively preserve open land, forest land, or scenic vistas; or will result in permanently affordable housing units.

ARTICLE III GENERAL PROVISIONS

Section 301 Fences

Below ground swimming pools and liquid manure pits shall be enclosed on all sides by a fence at least 4 feet in height. A fence, as defined in Article VII Definitions, does not require a zoning permit.

Section 302 Signs

A zoning permit shall be required prior to the erection, construction, or modification of an outdoor sign except for temporary event, lawn sale, or real estate for sale signs. Temporary signs shall be promptly removed when they have fulfilled their functions.

Free-standing signs may be placed closer to the property line than the district setback requirements as long as they do not infringe on the highway right of way.

Section 303 Porches

Porches, not including steps and landings less than 25 square feet, whether enclosed or not, shall be considered as part of the main building and shall not project onto a required yard.

Section 304 Off-Street Parking

Each off-street parking space may be estimated to be 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces (or a site plan showing each space, together with properly related access to a public street and maneuvering room including room for opening doors on both sides) meeting the requirements are provided and maintained in a manner appropriate to the circumstances of the case, and in accordance with all bylaws and regulations of the Town.

304.1. Off-Street Parking shall be provided in accordance with the following specifications:

<u>Use</u>	<u>Parking Spaces Required</u>
Dwelling, single, two and multi-family	1 per dwelling unit
Public assembly use	1 per 4 seats
Home occupation	1 per 1.5 employees
Bank	1 per 250 sq. ft.
Public facility	1 per 250 sq. ft.
Office	1 per 250 sq. ft.
Personal service	1 per 250 sq. ft.
Retail store	1 per 250 sq. ft.

304.2. Off-street loading, which is spaced logically, conveniently located, scaled to the delivery vehicles expected to be used, and accessible to such vehicles when off-street parking spaces are filled, shall be provided for all uses involving the shipping or delivery of goods and products. Required off-street loading space is not to be included as off-street parking space. Each off-street loading space, used for the temporary location of one licensed motor vehicle, shall be at least 12 feet wide and 75 feet long and 14 feet high, not including access driveway, and having direct access to street or alley.

Section 305 Required Frontage on, or Access to, Public Roads

No land development is permitted on lots that do not either have frontage on a public road or a permanent easement or right-of-way at least 50 feet in width of record approved by the Zoning Board of Adjustment in accordance with Section 207 of this bylaw. Minimum frontage is established in Section 205 of the bylaw. Frontage applies to all property lines bordering public or private roadways but not driveway easements. Permits may be granted for land that does not have frontage on a public road provided access is available by a permanent easement or right-of-way at least 50 feet in width.

Section 306 Lots in Two Zoning Districts

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend for 100 feet into the more restricted part.

Section 307 Minimum Lot Size Requirements Per Use

If more than one use is proposed for a parcel of land, such parcel shall be of sufficient size so that each use individually meets the minimum lot size and yard dimension requirements for the district in which the parcel is located.

Section 308 Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage, or other requirements of these regulations shall be smaller than herein prescribed for each district. The provisions of this Section shall not apply when part of a lot is taken for a public purpose.

Section 309 Existing Small Lots

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

Section 310 Yard on Corner Lots

Any yard adjoining a road may be considered a front yard for the purposes of these regulations.

Section 311 Projections Into Required Yards

All structures, except steps, landings less than 25 square feet and handicapped access ramps, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side or rear yard.

Section 312 Accessory Dwelling Units

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

- 312.1 The property has sufficient wastewater capacity.
- 312.2 When the primary single family dwelling unit has a total habitable floor area of less than 1,000 square feet, the habitable floor area of the accessory dwelling shall not exceed 50 percent of the floor area of the primary dwelling.
- 312.3 When the primary single family dwelling unit has a total habitable floor area of 1,000 square feet or more, the habitable floor area of the accessory dwelling shall not exceed 30 percent of the floor area of the primary dwelling.
- 312.4 Applicable setback, coverage and parking requirements specified in the bylaw are met.

Section 313 Travel Trailers

It shall be unlawful for any person to park a camping trailer, travel trailer, pick-up-coach, and/or motor home on any public or private property, except in accordance with these regulations as follows:

- 313.1 In an approved travel trailer camp.
- 313.2 In an approved motor vehicle sales, service and repair facility.
- 313.3 A property owner may park or store his own travel trailer, or park that of a bona fide visitor, on his own property without special approval.
- 313.4 A travel trailer being used for occupancy requires a permit and constitutes a separate use of the property.

Section 314 Mobile Home Parks

Application for a mobile home park site approval shall be made to the Zoning Board of Adjustment. The application shall be accompanied by a site plan and drawings showing property lines, area, contours, showing any proposed grading, roads, walkways, lots, parking, water lines, sanitary sewer and storm water drainage facilities, garbage collection stations and electrical distribution.

The following regulations shall apply to all mobile homes in mobile home parks:

- 314.1 Mobile home lots shall be at least eight thousand square feet in area, with a minimum width of at least sixty feet.
- 314.2 Access driveways shall have a right-of-way at least fifty feet wide.
- 314.3 Each lot shall have at least two parking spaces.

314.4 Setbacks from the park boundary will meet district setbacks.

314.5 Not more than two accessory buildings will be permitted per mobile home.

314.6 A mobile home park shall also meet all applicable municipal and state regulations pertaining to mobile home parks including, but not limited to, state environmental protection rules pertaining to mobile home parks (10 V.S.A. § 6201, et seq.)

Section 315 Family Child Care Home

A family child care home serving six or fewer children is a permitted use. A family child care home serving more than six children requires site plan approval.

Section 316 Residential Care and Group Homes

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered a permitted single family residential use of property, except that no such home shall be so considered if it locates within one thousand feet of another existing or permitted home.

Section 317 Temporary Nonconforming Structures and Nonconforming Uses

Permits may be issued by the Administrative Officer for a period not exceeding one year for temporary nonconforming structures or nonconforming uses incidental to any land development for which a zoning permit has been issued. Such permits shall require the owner to remove the structure or discontinue the use upon expiration of the permit. Such permits may be renewed upon application for an additional period not to exceed one year.

Section 318 Excavations

If an excavation for a building has not been structurally covered over within 18 months after work on the excavation began, it shall be filled or covered to normal grade.

Section 319 Burned, Collapsed, or Demolished Structures

Within 18 months after any structure has been demolished, damaged by fire, or has collapsed, the owner shall repair, rebuild or replace the structure or shall remove all structural materials and fill or cover any excavation remaining to normal grade.

Section 320 Planned Unit Development

In accordance with the provisions set forth in 24 V.S.A. § 4417, the modification of district regulations by the Zoning Board of Adjustment is permitted simultaneously with site plan approval subject to the following conditions:

- 320.1 The purpose of the planned unit development provision is to encourage innovation in design and layout, and more efficient use of land; to preserve the natural and scenic qualities of open land; to provide for a mixture of compatible uses at different densities; and to provide for the development of existing lots which because of physical, topographical or geological conditions could not otherwise be developed.
- 320.2 Proposals for planned unit development shall be submitted to the Zoning Board of Adjustment and shall include a site development plan and supporting data as required by Sections 207 and 208 of this bylaw.
- 320.3 Uses shall be limited to those permitted and conditional uses within the district in which the planned unit development is proposed.
- 320.4 Density may vary within the development but the total number of dwelling units shall not exceed 25 percent more than the number which could be permitted if the land were subdivided into lots in conformance with the zoning regulations for the district in which it is located.
- 320.5 Lot size, width and front, rear and side yard requirement may be waived; however, these will be evaluated by the Zoning Board of Adjustment on their individual merit.
- 320.6 A planned unit development shall comply with the following standards:
- A. It shall be at least 4 contiguous acres.
 - B. Off-lot water and sewer may be required if for over 5 residential units.
 - C. At least 25 percent of the development shall be open space for public and/or common usage. Regulations for control and maintenance of this open space may be required by the Zoning Board of Adjustment.

Section 321 Wireless Telecommunications

321.01 Authority

- A. Under the authority granted by 24 V.S.A. Chapter 117, the Town of Canaan adopts this wireless telecommunication facility Zoning bylaw.
- B. Pursuant to 24 V.S.A. § 4414(12), the Zoning Board shall have the authority to regulate construction, alteration, development, decommissioning and dismantling of wireless telecommunication facilities in the Town of Canaan.

321.02 The purpose of this bylaw is to promote the public health, safety, welfare and convenience of the residents of the Town of Canaan, while accommodating the telecommunication needs of the Town's residents.

321.03 This bylaw is intended to be consistent with the Telecommunications Act of 1996 and 24 V.S.A. Chapter 117. If any section of this bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this bylaw.

321.04 Permit Required; Exemptions

- A. Wireless telecommunication facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in any of this bylaw's zoning districts. No installation or construction of, or significant addition or modification to, any wireless telecommunication facility shall commence until a permit has been issued by the Zoning Board.

- B. No permit shall be required for a wireless telecommunication facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed 50 feet in elevation.
- C. This bylaw shall not apply to amateur radio, citizens band radio, AM or FM radio or broadcast television service.

321.05 Permit Application Requirements

- A. In addition to information otherwise required in the Town of Canaan's Zoning Bylaw, applicants shall include the following supplemental information:
 - 1. The applicant's legal name, address and telephone number. If the applicant is not a natural person, the applicant shall provide the state in which it is incorporated and the name and address of its resident agent.
 - 2. The name, title, address and telephone number of the person to whom correspondence concerning the application should be sent.
 - 3. The name, address and telephone number of the owner or lessee of the property on which the wireless telecommunication facility will be located.
 - 4. The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public right-of-way.
 - 5. A vicinity map showing the entire vicinity with a 1,000 foot radius of the facility, including the location of any tower, topography, public and private roads and access drives, buildings and structures, utilities water bodies, wetlands landscape features, historic sites and necessary wildlife habitats. It shall indicate the property lines of the proposed facility site parcel and all easements or rights-of-way needed for access from a public way to the facility.
 - 6. The location of the facility on a USGS topographic map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two mile radius of the proposed tower site.
 - 7. Elevations and proposed site plans of the facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet.)
 - 8. In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
 - 9. Construction sequence and time schedule for completion of each phase of the entire project.
 - 10. A report from a qualified engineer that:
 - a. Describes any tower's design and elevation;
 - b. Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between antennas;
 - c. Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.

- d. In the case of new facilities, demonstrates that existing towers and structures within 5 miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
 - e. Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
 - f. Describes the output frequency, number of channels and the power output per channel for each antenna. As an alternative, a coverage map may be provided.
 - g. Demonstrates the facility's compliance with the standards set forth in this bylaw or other applicable standards.
 - h. Provides proof that at the proposed facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
 - i. Includes such other information as determined by the Zoning Board to evaluate the application.
11. A letter of intent committing the facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.
 12. In the case of application for additional antennas or other equipment to be installed on an existing facility, a copy of the executed contract with the owner of the existing structure.
 13. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the facility, or a written statement by the applicant that an EA is not required for the facility.

321.06 Upon submission of an application for a wireless telecommunication facility permit, the Zoning Board may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunication engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the Zoning Board. The consultant(s) shall work at the Zoning Board's direction and shall provide the Zoning Board such reports and assistance as the Zoning Board deems necessary to review an application.

321.07 Balloon Test

- A. The Zoning Board may require the applicant to fly a four foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time and location of this balloon test at least 7 days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Zoning Board, in writing, of the date, time and location of the test at least 15 days in advance of the test.
- B. The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Zoning Board.

321.08 Criteria For Approval and Conditions

- A. An application for a wireless telecommunication facility permit shall be approved after a hearing when the Zoning Board finds all the following criteria have been met:
1. The facility will not be built on speculation. If the applicant is not a wireless telecommunication service provider, the Zoning Board may require the applicant to provide a copy of a contract or letter of intent showing that a wireless telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.
 2. The facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the wireless telecommunication facility, unless the proposed elevation is reasonably necessary to provide adequate wireless telecommunication service capacity or coverage or to facilitate collocation of facilities.
 3. The minimum distance from the base of any tower to any properly line is not less than 100 % of the total elevation of the tower, including antenna or equipment.
 4. The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by the Federal Aviation Administration, federal or state law, or this bylaw.
 5. The applicant will remove the facility should the facility be abandoned or cease to operate. The Zoning Board may require the applicant to provide a bond or other form of financial guarantee acceptable to the Zoning Board to cover the cost of removal of the facility should the facility be abandoned or cease to operate.
 6. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.
 7. The applicant will maintain adequate insurance on the facility.
 8. The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Zoning Board may condition a permit on the provision of appropriate fencing.
 9. The proposed equipment cannot be reasonably collocated at an existing wireless telecommunication facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Zoning Board shall consider the following factors:
 - a. The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
 - b. The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.
 - c. The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.
 - d. Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.

- e. Collocation of the equipment upon an existing tower would cause an undue aesthetic impact.
10. The facility provides reasonable opportunity for collocation of other equipment.
 11. The facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
 12. The facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Zoning Board shall consider the following factors:
 - a. The results of the balloon test, if conducted;
 - b. The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design and/or imitation of natural features;
 - c. The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields;
 - d. The duration and frequency with which the facility will be viewed on a public highway or from public property;
 - e. The degree to which the facility will be screened by existing vegetation, topography or existing structures;
 - f. Background features in the line of sight to the facility that obscure or make the facility more conspicuous;
 - g. The distance of the facility from the point of view and the proportion of the facility that is above the skyline;
 - h. The sensitivity or unique value of a particular view affected by the facility;
 - i. Any significant disruption of a view shed that provides context to an important historic or scenic resource.
 13. The facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.
 14. The facility will not generate undue noise.

321.09 The owner of a wireless telecommunication facility shall, at such times as requested by the Zoning Board, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation and that adequate insurance has been obtained for the facility. Failure to file a certificate within the time frame requested by the Zoning Board shall mean that the facility has been abandoned.

321.10 Removal of Abandoned or Unused Facilities

- A. Unless otherwise approved by the Zoning Board, an abandoned or unused wireless telecommunication facility shall be removed within 90 days of abandonment or cessation of use. If the facility is not removed within 90 days of abandonment or cessation of use, the Zoning Board may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.

- B. Unused portions of a wireless telecommunication facility shall be removed within 1880 days of the time such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit pursuant to Section 321.04.

Section 322 Wind Energy Conversion Systems

This section provides basic design criteria intended to encourage the responsible use of wind energy conversion systems (WECS or wind energy systems) consistent with the public safety. Any and all wind driven power generating facilities that are not to be connected to the power grid shall require a permit. Wind power generating facilities that are to be connected to the power grid shall not require a permit under this bylaw and shall not be regulated under this bylaw.

322.01 Applications shall contain the following information:

- A. The applicant's and property owner's name, address and phone number;
- B. Plot plan showing property lines, easements, setback lines and layout of all structures on the lot;
- C. Standard drawings of the structural components of the wind energy system including structures, pole or tower, base, footings, guy lines where required, and guy line anchor bases. The drawing shall include the distance of these components from all property lines.;
- D. Height of any structures or trees over 35 feet within a 500 foot radius on-site or off-site of the proposed wind energy system;
- E. Evidence from a qualified individual that the site is feasible for a wind energy system;
- F. Certification from a registered engineer or qualified person that the rotor and over speed control have been designed for the proposed use on the proposed site.

322.02 The Town of Canaan promotes the effective and efficient use of wind energy system in a manner that the public health, safety and welfare of the neighboring property owners or occupants will not be jeopardized. To ensure that the use of the property will not result in material damage or prejudice to other properties in the area, the following requirements apply:

- A. The safety of the design of all wind energy systems towers shall be certified by a professional engineer or by an authorized factory representative;
- B. All wind energy systems shall be equipped with manual and automatic over speed controls to limit rotation of blades to speed below the designed limits of the conversion system. The professional engineer or authorized factory representative shall certify that the rotor and over speed control design and fabrication conforms with good engineering practices;
- C. The wind energy system shall be designed and installed to withstand natural lightning strikes;
- D. Appropriate warning signs shall be posted. The type and placement of the signs shall be determined on an individual basis as safety needs dictate;
- E. It is the responsibility of the property owner or applicant to contact the FCC and FAA regarding additional permits;

322.03 Setbacks:

- A. No part of the wind energy system shall be located within or above any required front, side or rear

setback area of the district in which it is located.

- B. The wind energy system shall be located at a distance of at least 1.25 times the height of the facility (measured from the base to the highest reach of the blade) from any structure occupied by humans and from all property lines.
- C. Setbacks from the property lines may be waived if the abutters of the affected properties so grant their permission in writing.

322.04 Design Requirements:

- A. The wind energy system shall be designed and placed in such a manner to minimize, to the greatest extent feasible, all adverse visual impacts on neighboring areas. The colors and surface treatment of the wind energy system and supporting structures shall, to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
- B. The minimum height of the lowest portion of the wind energy system blade shall be at least 30 feet above the ground and 40 feet above the highest structure or tree within a 250 foot radius.
- C. All towers or poles must be unclimbable by design or protected by anti-climbing devices such as:
 - 1. Fences at least 6 feet high with locking gates;
 - 2. Anti-climbing devices 12 feet from the base of the pole;
 - 3. Anchor points for guy lines supporting the tower shall be enclosed by a 6 foot high fence or shall be located within the confines of the yard which is completely fenced.
- D. Operational noise, as measured by the latest standards of the American Standards Institute, shall not exceed 60 decibels measured at the property line of the property on which the wind energy system has been installed except for temporary construction or maintenance.
- E. Lighting of the exterior of the facility shall be prohibited unless required by the FAA.
- F. The site and any access roadways shall be developed and maintained in a manner that will minimize soil erosion, contamination of surface and ground water sources, and damage to important wildlife habitats or natural areas.
- G. Systems that are by nature ornamental, rather than functional, shall be exempt from attaining a permit if the total height is less than 35 feet.

322.05 The wind energy system shall be operated such that no disrupting electromagnetic interference is caused. If it is determined that a wind energy system is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference, including relocation or removal of the facilities.

322.06 If any wind energy system remains non-functional or inoperative for a continuous period of one year, the permittee shall remove said system at their expense within 2 years of cessation of operations or use, or when the tower structure becomes structurally unsound. Removal of the system includes the entire structure including foundations, transmission equipment and fencing from the property. In the event that the system is not removed or dismantled within 2 years of the cessation of operations at the site, the municipality shall notify the owner and may remove the facility. Cost of removal shall be assessed against the property or wind energy system owner.

322.07 The wind energy system operator shall maintain a current insurance policy which will cover installation and operation of the wind energy system.

Section 323 Solar Energy Systems

323.1 This section is adopted by the Town of Canaan under the authority of 24 V.S.A. § 4414(15) to adopt screening standards for ground mounted solar installations or plants. The screening requirements in this bylaw are not intended to be more restrictive than screening requirements applied within Section 207 Site Plan Approval and Section 208 Conditional Uses of the Canaan Zoning Bylaws. The Canaan Select Board is hereby designated as the municipal body to make recommendations to the Public Service Board applying this Bylaw to ground-mounted solar electricity generation plants.

323.2 The purpose of this section is to

A. Implement the 2017 Canaan Town Plan, specifically the following goals and policy:

Goal: To preserve Canaan’s rural setting, scenic views and to support an agriculturally based economy.

Goal: To conserve energy and encourage the use of renewable resources.

Policy: To encourage and enable public and private installation and application of appropriately sited, small scale renewable energy production systems, such as wind energy conversion and photo voltaic system.

B. Ensure that the development of ground mounted solar plants are harmonized with their surrounding landscape through the implementation of appropriate screening.

323.3 This section shall apply to all land in the Town of Canaan, regardless of zoning district.

323.4 Application Materials and Review Process

A. Public Hearing. A duly warned public hearing before the Zoning Board of Adjustment (ZBA)] in accordance with 24 V.S.A. § 4464(a)(2) is required. Upon receipt of a petitioner’s notice of filing for a Certificate of Public Good or for smaller net-metered projects receipt of a copy of a petition for a Certificate of Public Good, the Zoning Administrator shall provide the petitioner with a copy of this bylaw and written notification that a public hearing is required to be scheduled within 30 days. Prior to filing a petition for a Certificate of Public Good or giving notice of filing, an applicant may contact the Canaan Zoning Administrator to be scheduled for a public hearing before the ZBA at any time.

B. Application Materials. A complete application shall include:

1. Two (2) copies of a site plan (containing all information required in Section 207.1 A and B of the Canaan Zoning Bylaws), which shall be prepared in a clear and legible manner, drawn to scale; and
2. A schedule for the installation of proposed screening, as applicable, including a date when the screening shall be estimated to fulfill its minimum function;
3. Site plans prepared as part of the petition to the Vermont Public Service Board may be used for application under this bylaw provided that they provide all the information required by this section;
4. The applicable fee.

- C. Recommendation to Selectboard. Following the public hearing as required above, the ZBA shall provide a written recommendation to the Selectboard on the applications' conformance to the provisions of this bylaw, including any recommended performance conditions for the Certificate of Public Good.

323.5 Screening Standards

- A. Screening shall obscure ground mounted solar plants from abutting residential properties.
- B. Screening shall obscure ground mounted solar plants from residential properties and public roads in the immediate neighborhood.
- C. The amount and type of screening shall be sufficient to obscure ground mounted solar plants based on the following standards in order of priority:
 - 1. Natural terrain and topography shall serve as screening wherever feasible;
 - 2. Existing trees, shrubs, evergreens and other vegetation shall be preserved and used as a method for screening wherever feasible;
 - 3. New plantings and other landscaping material installed for the purpose of screening shall be selected to meet seasonal conditions, soil conditions, erosion control, and light on the site. Plant selections shall be non-invasive and rated for an appropriate plant hardiness zone. Vermont native species are preferred.
- D. Screening shall be installed as quickly as possible following the installation of the ground mounted solar plant.

323.6 Severability. If any part of this section for Solar Energy Systems of the Zoning Bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part.

Section 324 Flood Hazard Areas

324.1 Statutory Authorization. To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. § 4424, there is hereby established a section of the zoning bylaw for areas of special flood hazard in the Town of Canaan, Vermont. Within Section 324, references to Zones A1-30 or AA-AZ refer to NFIP/FEMA zones and not to Canaan Zoning Districts.

324.2 Statement of Purpose. It is the purpose of this section of the zoning bylaw to:

- A. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; and
- B. Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
- C. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
- D. Make the state, municipalities and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

324.3 Lands to Which This Section Apply. These regulations shall apply to all areas in the Town of Canaan, 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, Federal Emergency Agency, National Flood Insurance Program, 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.

324.4 Development Permit Required. A permit is required for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. Conditional use approval is required for:

- A. New buildings
- B. Substantial improvements of existing buildings, and
- C. Development in a floodway prior to being permitted by the Administrative Officer.

All development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

324.5 Procedures

- A. Prior to issuing a permit, a copy of the application and supporting information shall be submitted by the Administrative Officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
- B. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources,

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

- C. Proposed development shall be reviewed by the Zoning Board of Adjustment to assure that all necessary permits have been received from those government agencies from which approval is required by Federal, State or Municipal law.

324.6 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 Study and accompanying maps shall be used to administer and enforce 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, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations.

324.7 Development Standards in Floodway Areas

- A. Development within the regulatory floodway is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.
- B. In Zones A1 – A30 and AE where floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
- C. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

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

1. All development shall be reasonably safe from flooding and be:
 - a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
 - b) constructed with materials resistant to flood damage,
 - c) constructed by methods and practices to be reasonably safe from flooding and that minimize flood damage, and
 - d) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. Residential Development:

- a) New construction and existing buildings to be substantially improved that are located in Zones A1-30, A, 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 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 shall be reasonably safe from flooding and 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 adequately anchored to resist flotation, collapse, and lateral movement during the occurrence of the base flood.
- c) New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
- d) Residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes to guide flood water around and away from the proposed structures.

3. Commercial Development:

- a) New construction located in Zones A1-30, A, 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 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, A, 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 basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM or at least two feet if no depth number is specified 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.
- c) A permit for a building proposed to be flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- d) Commercial construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes to guide flood water around and away from the proposed structures.

4. Enclosed Areas Below the Lowest Floor:

- a) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.
 - b) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
5. 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) be permitted in accordance with the elevation and anchoring requirements for manufactured homes in section B.2.(b).
6. Accessory Structures. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:
- a) shall not be used for human habitation,
 - b) shall be designed to have low flood damage potential,
 - c) shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters,
 - d) shall be firmly anchored to prevent floatation, and
 - e) shall have service facilities such as electrical and heating equipment elevated or flood proofed.
7. Water Supply Systems. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
8. 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.
9. 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 one foot above the base flood elevation.
10. Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

324.9 Duties and Responsibilities of the Administrative Officer. The Administrative Officer shall maintain a record of:

- A. All permits issued for development in areas of special flood hazard;
- B. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) of the

lowest floor, including basement, of all new or substantially improved buildings;

- C. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) to which buildings have been flood proofed;
- D. All flood proofing certifications required under this regulation; and
- E. All variance actions, including justification for their issuance.

324.10 Variances to the Development Standards. Variances shall be granted by the Zoning Board of Adjustment only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 C.F.R. § 60.6 of the National Flood Insurance Program regulations. Pursuant to 44 C.F.R. § 60.6, any variance issued in the Special Flood Hazard Area will not increase the flood heights, and will inform the applicant in writing over the signature of a community official (usually the Zoning Administrator) that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

324.11 Warning of Disclaimer of Liability. This bylaw does not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. This bylaw shall not create liability on the part of the Town of Canaan or any town official or employee thereof for any flood damages that result from reliance on this bylaw or any administrative decision lawfully made there under

324.12 Precedence of Bylaw. The provisions of this section shall not in any way impair or remove the necessity of compliance with any other section of this bylaw. Where this section imposes a greater restriction, the provisions of this section shall take precedence. The provisions of this section shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations.

324.13 Enforcement and Penalties. It shall be the duty of the Administrative Officer to enforce the provisions of this section. Upon determination that a violation exists, the Administrative Officer shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance. The declaration shall consist of:

- A. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location,
- B. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or bylaw,
- C. A clear statement that the public body making the declaration has authority to do so and a citation to that authority,
- D. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance,
- E. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE IV: NONCONFORMITIES

Section 401 Nonconformities

In accordance with 24 V.S.A. § 4412(7) the following provisions shall apply to all nonconformities existing on the effective date of these regulations and, subject to conditional use approval by the Zoning Board of Adjustment, the following may be permitted:

401.1 Any nonconforming use of a structure or land may be altered or expanded not exceeding 20% of its size as it existed upon the effective date of this bylaw. However a nonconforming use shall not be re-established after being abandoned or discontinued for a period of 18 months or after being changed to a conforming use, regardless of evidence of intent to re-establish such use.

401.2 Any nonconforming structures may be altered or expanded, providing such action does not increase the degree of nonconformance.

401.3 Any alteration or expansion of a nonconforming use or nonconforming structure for the sole purpose of compliance with environmental safety, health or energy codes, laws or regulations.

Nothing contained in these regulations shall require any change in plans for the construction of a nonconforming structure or the establishment of a nonconforming use for which a zoning permit has been issued prior to the effective date of these regulations or which is completed or suitable for occupancy or use within 2 years from the effective date of these regulations.

Section ARTICLE V ADMINISTRATION AND ENFORCEMENT

Section 501 Administrative Officer

The Board of Selectmen shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of three years in accordance with 24 V.S.A. § 4448. The Administrative Officer shall literally administer and strictly enforce the provisions of this bylaw and in so doing shall inspect developments, maintain records and perform other related tasks as is necessary and appropriate. The Administrative Officer should also inform any person applying for municipal permits or authorizations that they should contact the VT Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits. An acting Administrative Officer may be appointed pursuant to 24 V.S.A. § 4448.

Section 502 Zoning Board of Adjustment

502.1 There is hereby established a Zoning Board of Adjustment whose members shall consist of the Planning Commission, until such time that the Board of Selectmen approve a separate zoning Board of Adjustment as provided in 24 V.S.A. § 4460.

502.2 Rules of procedure applicable to the Zoning Board of Adjustment, the nature of appeals to the Board from actions of the Administrative Officer, notice requirements, public notice, conditions for variance relief, and all other matters governing the action of said Board shall be as provided in 24 V.S.A. § 4461.

502.3 The Board shall have all powers and duties as set forth in 24 V.S.A. §§ 4460-4476 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- A. Appeals from any decision, act or failure to act by the Administrative Officer and any associated variance requests;
- B. Applications for conditional use approval;
- C. Applications for planned unit development;
- D. Requests for waivers from one or more dimensional standards.

Section 503 Zoning Permits

503.1 Applicability: No land development, as defined in 24 V.S.A. § 4303(10), may be commenced without a permit therefore issued by the Administrative Officer. No zoning permit may be issued by the Administrative Officer except in accordance with these regulations.

503.2 Exemptions - No zoning permits shall be required for the following activities:

- A. Required agricultural and silvicultural (forestry) practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, in accordance with 24 V.S.A. § 4413(d), (g), and (h). Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for accepted agricultural practices. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

- B. Power generation and transmission facilities, which are regulated under 30 V.S.A. § 248 by the VT Public Service Board. Such facilities, however, should conform to policies and objectives for such development in the Municipal Plan.
- C. Hunting, fishing and trapping, as specified under 24 V.S.A. § 2295, on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of this bylaw are defined as outdoor recreation facilities.
- D. Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change in use, unless located in the Special Flood Hazard Area.
- E. Interior alterations or repairs to a structure, which do not result in exterior alterations or expansion or a change in use, unless located in the Special Flood Hazard Area.

503.3 Applications: The Administrative Officer shall provide an applicant with forms required to obtain a zoning permit. Required application fees, as set by the Board of Selectmen, also shall be submitted with the application. Applications shall include:

- A. The dimensions of the lot, including existing property boundaries;
- B. The location and footprint of existing and proposed structures or additions;
- C. The location of existing and proposed accesses (curb cuts), driveways and parking areas;
- D. The location of existing and proposed easements and rights-of-way;
- E. Existing and required setbacks in accordance with this bylaw;

503.4 Issuance: Prior to the issuance of any zoning permit, the Administrative Officer shall first satisfy himself that the subject of the application is in conformance with these regulations. He may request from an applicant any information he deems necessary for this purpose. No such permit shall be issued unless an application, fee, plot plan and any other approvals of the Planning Commission or the Zoning Board of Adjustment required by these regulations have been properly obtained and are submitted in connection with the application. A copy of any application for development within the Flood Hazard Area shall be forwarded by the Administrative Officer to the Agency of Natural Resources in accordance with 24 V.S.A. § 4424 (d). Within 30 days of accepting a complete application, including all application materials and fees, the Administrative Officer shall either refer the application to the Zoning Board of Adjustment for consideration or issue a decision. If denied, the Administrative Officer shall so notify the applicant in writing, stating his reasons therefor. If the zoning permit is approved, all activities authorized by its issuance shall be completed within two years of its date of issuance, or the zoning permit shall become null and void and re-application to complete any activities shall be required.

503.5 In the issuance of zoning permits, the Administrative Officer shall comply with all of the provisions of 24 V.S.A. § 4449.

503.6 Fees for zoning permits shall be established by the Board of Selectmen. They may be on a sliding scale depending on the cost of the land development. Said fee shall accompany each application for a permit.

503.7 No zoning permit issued pursuant to 24 V.S.A. § 4449(a)(3) shall take effect until the time for Appeal in 24 V.S.A. § 4465 (a) has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

Section 504 Appeals

- 504.1 Any interested person, as defined under 24 V.S.A. § 4465, may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision of act by filing a notice of appeal with the Secretary of the Zoning Board of Adjustment, or the Town Clerk, and by filing a copy of the notice with the Administrative Officer.
- 504.2 The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under 24 V.S.A. § 4468. The Board shall give public notice of the hearing and mail a copy of the hearing Notice to the appellant not less than 15 days prior to the hearing date.
- 504.3 The Board may reject an appeal or request for reconsideration without hearing and render a decision which shall include findings of fact within 10 days of the filing of notice of appeal if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant.
- 504.4 In accordance with 24 V.S.A. § 4468, all appeals shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. § 810]. Any interested person may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place of the adjourned hearing shall be announced at the hearing.
- 504.5 A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under 24 V.S.A. § 4464 (b)(1). The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person appearing and having been heard at the hearing and filed with the Administrative Officer and the Town Clerk as part of the public records of the Town. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

Section 505 Appeal to Environmental Court

Within thirty days following the date of decision rendered by the Zoning Board of Adjustment, notice of the appeal shall be filed by certified mail with fees to the environmental court and mailing a copy to the municipal clerk 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 provide a copy of the notice of appeal by certified mail to every interested person and, if any one or more of those persons are not then parties to the appeal, they shall be granted leave by the court to intervene.

Section 506 Penalties

Any violation of these regulations after the effective date thereof shall be punished as provided in 24 V.S.A. §§ 4451 and 4452.

Section 507 Public Notice

When the Zoning Board of Adjustment is required to hold a public hearing by either this bylaw or the 24 V.S.A. Chapter 117, public notice shall be prepared and given as required by 24 V.S.A. § 4464.

ARTICLE VI AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

Section 601 Amendments

These regulations may be amended according to the requirements and procedures established in 24 V.S.A. § 4441 and 4442.

Section 602 Interpretation

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

Except for 24 V.S.A. § 4413(c) and where, in these regulations, specifically provided to the contrary, it is not intended by these regulations to repeal, annul or in any way to impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provision of these regulations shall control.

Section 603 Effective Date

This regulation shall take effect in accordance with the voting and other procedures contained in 24 V.S.A. § 4442.

Section 604 Severability

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

Section 605 Repeal of Former Zoning Bylaw

Upon the date of adoption of this bylaw, the former Town of Canaan Zoning Bylaw, adopted March 5, 2013, is hereby declared repealed and shall have no further force or effect.

ARTICLE VII DEFINITIONS

Unless defined in this bylaw, all words shall carry their customary meaning; any interpretation of words or terms in these regulations by the Zoning Administrator may be appealed to the Zoning Board of Appeals. For the purpose of these bylaws, certain terms or words used herein shall be interpreted as follows:

Section 701 Word Definitions

The word person includes a firm, association, organization, relationship, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

The word shall is mandatory, the word may is permissive.

The words used or occupied include the words intended, designed or arranged to be used or occupied.

The word lot includes the words plot or parcel.

Section 702 Term Definitions

Accessory use/structure - A use on the same lot with, and of a nature customarily incidental and subordinate to the permitted or conditional use.

Acre - An area of land containing 43,560 square feet.

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.

Adequate Coverage - Coverage for wireless telephony is “adequate” within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that most of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain strength.

Agriculture - Any area of land, including structures thereon, which is used for raising livestock or agricultural products and the storage and sale of agricultural products raised wholly or substantially on the property.

Alternative Design Tower Structure - Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also Stealth Facility).

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

Antenna Height - The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna Support Structure - Any pole, telescoping mast, tower tripod or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

Applicant - A person who applies for a telecommunication facility siting. An applicant can be the owner of the property or, with the owner's written permission, the telecommunication service provider (or other legally designated representative).

Area of Special Flood Hazard - The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making 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, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard".

Available Space - The space on a tower or structure to which antennas of a telecommunication provider are both structurally able and electromagnetically able to be attached.

Bank - Any area of land, including structures thereon, that is used for financial transactions as licensed by the State of Vermont.

Base Flood - The flood having a 1 percent chance of being equaled or exceeded in any given year.

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

Basement - Any area of a building having its floor elevation below ground level on all sides.

Base Station - The primary sending and receiving site in a telecommunication facility network. More than one base station and/or more than one variety of telecommunication provider can be located on a single tower or structure.

Building - Any structure used or intended for supporting or sheltering any use or occupancy. For flood plain management purposes, this definition also includes a gas or liquid storage tank that is principally above ground.

Building Height - Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

Bulletin 65 - Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.

Cell Site - A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), parking and may include other uses associated with an ancillary to cellular communications transmission.

Cellular Service - A telecommunication service that permits customers to use wireless mobile telephones to connect via low-power radio transmission sites (called cell sites) either to the public switched network or to other mobile cellular phones.

Cellular Telecommunication - A commercial low power mobile radio service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

Cellular Telecommunication Facility - The equipment and structure at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

CFR - Code of Federal Regulations

Channel - The segment of the radiation spectrum to or from an antenna which carries one signal. An antenna may radiate on multiple channels simultaneously.

Family Child Care - A home or facility in which care and supervision of children is provided by a state licensed or registered owner or operator.

Collocation - Locating wireless communications equipment from more than one provider on a single site.

Common Carrier - An entity licensed by the FCC or a state agency to supply to supply local and/or long distance telecommunication services to the general public at established and stated rates.

Communication Equipment Shelter - A structure located at a base station designed principally to enclose equipment used in connection with telecommunication transmissions.

Communication Tower - A guyed, monopole or self-supporting tower constructed as a free standing structure or in association with a building, other permanent structure or equipment containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

Communication Facility - A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communication facilities may include structures, towers or accessory buildings.

Conditional Use - A use that is not listed as a permitted use in a district. See Article II, section 208.

dBm - A unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

Development - See Land Development.

Directional Antenna - An antenna or array of antennas designed to concentrate a radio signal in a particular area.

Dish Antenna - A dish-shaped antenna used to link communications sites together by wireless transmission of voice or data; also called microwave antenna or microwave dish antenna.

Dwelling, Accessory - An efficiency or one-bedroom apartment located within or appurtenant to an owner-occupied single family dwelling that is clearly subordinate and has facilities and provisions for independent living including sleeping, food preparation and sanitation.

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

Dwelling, Multi-family - A residential building designed for or occupied by three or more families, living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single family - A structure that contains a single dwelling unit, is designed for and occupied by only one family, and is not physically attached to any other structure.

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

Enlargement - An increase in the size of a structure which affects the yard dimensions.

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

Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain regulations adopted by the Town (June 12,1979) .

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

Facility Site - A property, or portion thereof, which is owned or leased by one or more telecommunication facilities including required landscaping.

Family - One or more persons occupying a single dwelling unit. Domestic servants and farm workers employed on the premises may be housed on the premises without being counted as family members.

Fence – Any residential fence which does not extend into or obstruct public rights-of-way, or interfere with corner visibility or sight distances to vehicular traffic.

FCC - Federal Communications Commission; the federal agency responsible for regulating telecommunication.

Flood -

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters

from any source, and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current;

- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM) - An official map of the Town, 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 plain - Any land area susceptible to being inundated by water from any source (see also "flood").

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

Floodway - see Regulatory Floodway.

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

Frequency - The number of cycles per second of an electromagnetic wave measured in hertz (Hz).

Frontage - The length of lot boundary adjacent and parallel to a state highway, town road, town right-of-way, or public waters. In the case of corner lots, it shall be that portion that has or is proposed to have access to a state highway, town road, town right-of-way, or public waters. See also Yard Dimension, Front.

GHz - Gigahertz; one billion hertz.

Ground Mounted Solar Electricity Installation or Generation Plant: an independent technical facility that generates electricity from the sun. A group of newly constructed facilities shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, or connections to the electric grid.

Group Home - A residence operating under a state license or registration serving a number of persons having special needs as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unity. In addition to room, board and supervision, residents may receive other services at the home meeting their health, developmental or educational needs.

Hertz - The frequency of an electric or magnetic field which reverses polarity, measured in cycles per second (Hz).

Historic Structure - any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical

significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

Home Occupation - In accordance with 24 V.S.A. § 4412 (4), the use of a minor portion of a dwelling, including accessory structures, for an occupation which is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

Industrial - Activities including but not limited to the assembly, manufacture, compounding, processing, packing, treatment, research or testing of materials, goods and products.

Junk - Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.

Junkyard - Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials.

Land Development - In accordance with 24 V.S.A. § 4303(10), the division of a parcel into two or more parcels; 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 Section 324 herein, development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Loading Space - An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

Lodging House - A building in which the rooms are rented with or without meals to 3 or more persons. A boarding house or a rooming house shall be deemed a lodging house.

Lot - A parcel of land occupied or to be occupied by only one use and the accessory uses customarily incidental to it. A lot shall be of sufficient size to meet minimum zoning requirements for use and area, and to provide such yards and other open spaces as are herein required.

Lot of Record - A lot which is part of a subdivision recorded in the office of the Town Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Width - The length of a line, perpendicular to the long axis of a lot, that intersects the long axis at a point one half the distance from the road sideline to the back of the lot.

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.

Manufactured Home - see Mobile Home

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

Membership Club - Building or use catering exclusively to Club members and their guests for social and recreational purposes, and not operated primarily for profit.

MHz - Megahertz or one million hertz.

Micro-cell - A low power mobile radio service telecommunication facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

Microwave Antenna - A dish-shaped antenna manufactured in various sizes and shapes used to link communication sites by wireless transmission of voice or data.

Mobile Home (or Manufactured Home) - A structure, transportable in one or more sections, which is built on a permanent chassis or foundation and is designed for continuous residential occupancy with or without a permanent foundation when attached to the required utilities. The term "mobile home" does not include a "recreational vehicle."

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

Monitoring - The measurement by the use of instruments in the field of radio frequency exposure from telecommunication facilities, towers, antennas or repeaters.

Monopole - A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or wooden pole with below grade foundation.

Motel - Building containing rooms which are rented as a series of sleeping units for automobile transients, each sleeping unit consisting of at least a bedroom and bathroom. This shall include hotel.

Motor Vehicle Sales, Service and Repair Facility - Any area of land, including structures thereon, that is used or designed to be used for the sale of motor vehicles and/or the supply of gasoline, oil or other fuel for the propulsion of motor vehicles including facilities for repairing and servicing such motor vehicles.

New Construction - Means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date on an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the flood plain management regulation adopted by the Town (June 12, 1979) and includes any subsequent improvements to such structures.

Nonconforming lots or parcels - Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaw, including a lot or parcel improperly authorized as a result of error by the Administrative Officer.

Nonconforming Structure - A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Administrative Officer.

Nonconforming Use - Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Administrative Officer.

Office - Place where the business of a commercial, industrial, service or professional organization is transacted.

Omnidirectional Antenna - An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.

Personal Communication Services (PCS) - Digital wireless telephone technology using higher frequency spectrum than cellular.

Personal Service - Includes but is not limited to barber, hairdresser, beauty parlor, shoe repair, laundry, laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

Personal Wireless Service - A commercial mobile service or unlicensed wireless exchange access service including cellular service, personal communications service, specialized mobile radio service and paging service.

Planned Unit Development - An area of a minimum contiguous size, as specified in this bylaw, to be planned and developed as a single entity and containing one or more residential clusters; appropriate commercial, public or quasi-public uses may be included if such uses are primarily for the benefit of the development.

Pre-existing Tower and Antenna - Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

Public Assembly - Includes but is not limited to auditorium, theater, public hall, school hall, meeting hall, church or temple.

Public Facility - Usage by agencies and departments of local, county, state and federal government.

Radiated-Signal Propagation Studies or Coverage Plots - Computer generated estimates of the signal emanating and prediction of coverage from antennas or repeaters sited on a specific tower or structure taking into account the height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings; the primary tools for determining a need and whether the telecommunication equipment will provide adequate coverage for that site.

Recreational Vehicle - Any vehicle designated for travel over highways which is intended for occasional and short-term occupancy, overnight lodging, office, or camping purposes, capable of being towed or self-propelled. For purposes of Section 324 Flood Hazard Areas of this bylaw, Recreational Vehicle means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use (*see* 44 C.F.R. 59.1).

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

Renewable Energy Resources - Available sources of energy, including direct sunlight, wind, water, organically derived fuels (including wood), agricultural material, waste material, waste heat and geothermal sources.

Repeater - A 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.

Residential - Includes a farm dwelling, single family dwelling, two family dwelling, multi-family dwelling, and lodging house.

Residential Care Home - A place, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator.

Restaurant - A place or premises used for the sale, dispensing or serving of food, refreshments or beverages.

Retail Store - Any area of land, including structures thereon, that is used or designed to be used for the display and sale of goods and merchandise.

Right-of-way - A strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer or other similar uses.

Roof and/or Building Mount Facility - A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.

Scenic View - A wide angle or panoramic field of sight which may include natural and/or manmade structures and activities; may be from a stationary viewpoint or be seen as one travels along a roadway, waterway or path; may be to a far away object (such as a mountain) or a nearby object.

Screening: means reasonable aesthetic mitigation measures to harmonize a facility with its surroundings and includes landscaping, vegetation, fencing and topographic features. See also 24 V.S.A. § 4414(15)(B).

Self-supporting Tower - A communications tower constructed without guy wires.

Sign - Any display or representation, used or placed as an announcement, direction, or advertisement. The word "placed", for the purpose of this definition shall include erected, constructed, or otherwise fastened, affixed, or made visible in any manner whatsoever.

Special Flood Hazard Area - see Area of Special Flood Hazard.

Spectrum - Relating to any transmission or reception of electromagnetic waves.

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 state 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.

Stealth Facility - A communication facility designed to blend into the surrounding environment; may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to resemble light poles and structures designed to resemble natural features such as trees or rock outcroppings (see also Alternative Design Tower Structure).

Stream - Any body of flowing water identified as a perennial stream on a USGS topographic map.

Structurally Able - A tower or structure determined capable of carrying the load imposed by the proposed antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

Structure - Anything constructed or erected for occupancy or use. For purposes of Section 324 Flood Hazard Areas of this bylaw, Structure means a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

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

Substantial Improvement - Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- B. Any alteration of a historic structure, provide that the alteration will not preclude the structure's continued designation as a historic structure.

System - The communication transmission system operated by a telecommunication service provider in the municipality or region.

Telecommunication Facility - All equipment (including repeaters) and locations of equipment with which a telecommunication provider transmits and receives the waves which carry their services. It may be sited on one or more towers or structures owned and permitted by the provider or another owner or entity.

Telecommunication Provider - An entity licensed by the FCC to provide telecommunication services to individuals or institutions.

Temporary Wireless Communication Facility - Any tower, pole, antenna, etc. designed for use while a permanent wireless facility is under construction or for a special event.

Tower - A vertical structure for antennas that provide telecommunication services.

Travel Trailer - Includes any vehicle used as sleeping or camping or living quarters mounted on wheels or a camper body usually mounted on a truck (see Recreational Vehicle). Any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, or boats.

View Corridor - A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view which may range from a single object (such as a mountain) to a group of objects (such as a downtown skyline). Panoramic views have very wide corridors and may include a 360 degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

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

Warehouse - Any facility for the storage and/or shipment of materials, goods and products (includes trucking terminals).

Whip Antenna - A vertical antenna (typically cylindrical in shape, less than 6 inch in diameter) and often more than 18 inches in length) that normally transmits signals in a 360 degree direction.

Wireless Telecommunication Facility - Any tower or other support structure (including antennas) that will extend more than 20 feet vertically and any accompanying structure, building, access road, service utility or equipment that broadcasts or receives radio frequency waves carrying wireless telecommunication services.

Wireless Telecommunication Service - Any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

Wireless Telecommunication Service Provider - Any person or entity providing wireless telecommunication services.

Yard - Space on a lot not occupied with a building or structure.

Yard Dimension, Front - The distance from the center of the public or private right-of-way to the nearest point of any building minus 25 feet. For lots without frontage on a public road, the right-of-way to the lot shall be considered a road.

Yard Dimension, Rear - The shortest distance between the rear lot line, or shore line, and the nearest building.

Yard Dimension, Side - The shortest distance between either of the side lot lines and the nearest building.