

**TOWN OF WESTMORE, VERMONT
ZONING BYLAW**

**Adopted July 21, 2008
Amended October 21, 2020
Effective November 10, 2020**

TABLE OF CONTENTS

ART 1: ENACTMENT AND INTENT.....	4
Sec. 101: Enactment.....	4
Sec. 102: Intent	4
ART 2: ESTABLISHMENT OF REGULATIONS	4
Sec. 201: Application of Regulations	4
Sec. 202: Permitted Uses	4
Sec. 203: Conditional Uses	5
Sec. 204: Minimum Area, Distance & Dimensional Requirements	5
Table 201: Use, Area, Distance & Dimensional Requirements	5
ART 3: GENERAL PROVISIONS	6
Sec. 301: Affordable Housing.....	6
Sec. 302: Existing Small Lots	6
Sec. 303: Frontage on, or Access to Public Roads or Waters	7
Sec. 304: Protection of Home Occupations	7
Sec. 305: Height Regulations.....	7
Sec. 306: Minimum Lot Size Requirements Per Use.....	7
Sec. 307: Reduction of Lot Size.....	8
Sec. 308: Required Setbacks.....	8
Sec. 309: Projections Into Required Setbacks.....	8
Sec. 310: Excavations	8
Sec. 311: Demolished, Burned or Collapsed Structures	8
Sec. 312: Travel Trailers/Recreational Vehicles (R.V.)	8
Sec. 313: Mobile Home, Modular or Prefabricated Housing.....	8
Sec. 314: Flood Hazard Regulations.....	8
Sec. 315: Yard Sales	14
Sec. 316: Docks and Boathouses	14
Sec. 317: Water Quality Protection.....	15
Sec. 318: Residential Care Home or Group Home	17
Sec. 319: Family Child Care Home or Facility.....	17
Sec. 320: Accessory Dwelling Unit	17
Sec. 321 Public Facilities.....	18
Sec. 322: Agriculture and Forestry	18
Sec. 323: Outdoor Wood Furnaces	18
Sec. 324: Inoperable or Unregistered Vehicles, Storage Containers, and Other Items.....	18
Sec. 325: Fences.....	19
Sec. 326: Screening and Siting Standards for Ground-Mounted Solar Electricity Generation Plants....	19
Section 327: Ridgelines	21
ART 4: DEFINITIONS.....	21

Sec. 401: Word Definitions.....	21
Sec. 402: Term Definitions.....	21
ART 5: NONCONFORMITIES	29
Sec. 501: Permits Issued Prior to Adoption or Amendment	29
Sec. 502: Nonconforming Uses	29
Sec. 503: Nonconforming Structures	30
ART 6: ADMINISTRATION AND ENFORCEMENT.....	30
Sec. 601: Administrative Officer	30
Sec. 602: Zoning Permits.....	30
Sec. 603: Penalties	31
Sec. 604: Board of Adjustment.....	31
Sec. 605: Planning Commission	32
Sec. 606: Referral to State Agency	32
Sec. 607: Public Notice.....	33
Sec. 608: Hearings	33
Sec. 609 Decisions.....	34
Sec. 610: Appeals.....	34
ART 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE	35
Sec. 701: Amendments	35
Sec. 702: Interpretation.....	35
Sec. 703: Effective Date	35
Sec. 704: Separability	35
Sec. 705: Repeal of Former Zoning Bylaw.....	35

ART 1: ENACTMENT AND INTENT

Sec. 101: Enactment

In accordance with the Vermont Planning and Development Act, Title 24 V.S.A., Chapter 117, Section 4401, there is hereby established a zoning bylaw for the Town of Westmore which is set forth in the text that constitutes this bylaw. This bylaw shall be known and cited as the "Town of Westmore Zoning Bylaw".

Sec. 102: Intent

It is the intent of this zoning bylaw to further the purposes established in 24 V.S.A., Chapter 117, Section 4302. To carry out the desires of the community, it is the intent of this bylaw to adopt minimum regulations, in accordance with enabling legislation provided in 24 V.S.A., Chapter 117, to:

- A. Implement the goals, policies, and recommendations of the current municipal plan;
- B. Protect the safety and welfare of the inhabitants of Westmore;
- C. Avoid and minimize 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;
- D. Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor,
- E. Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Westmore, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

ART 2: ESTABLISHMENT OF REGULATIONS

Sec. 201: Application of Regulations

- 201.1 No subdivision or development of land may commence without a zoning permit issued by the Administrative Officer. A subdivision or development of land shall conform to the regulations herein specified as well as 24 V.S.A., Section 4449.
- 201.2 Other State and Federal Government Regulations may regulate certain aspects of land use and compliance with this Zoning By-law in no way implies compliance with any such state or federal regulations. Such regulations include, but are not limited to: Onsite wastewater and potable water systems; Outdoor furnaces,(i.e. Outdoor Wood Boilers); Placement of underground storage tanks; Alteration of a perennial stream; Activities in a wetland; Development, redevelopment or clearing of shorelands along bodies of water greater than 10 acres in size regulated by the Watershed Management Division of Vermont Agency of Natural Resources. This list is by no means inclusive. Additional information may be obtained by contacting a State Permit Specialist.
- 201.3 This Zoning By-law does not imply that land outside of the areas covered by the Special Flood Hazard Area described in Sec. 314 will be free from flood damages. This Zoning By-law shall not create liability on the part of the Town of Westmore, or any municipal official or employee thereof, for any flood damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.
- 201.4 In case of conflict between this Zoning By-law and any state or federal regulation, the more stringent regulation shall apply.

Sec. 202: Permitted Uses

Permitted uses (as listed in Table 201) are those uses which are allowed upon issuance of a zoning permit by the Administrative Officer provided the standards established by this bylaw are met and no other special action by the Planning Commission or Zoning Board of Adjustment is required. Zoning permits

shall become effective 15 days after the date of issuance in accordance with 24 V.S.A., Section 4449(a).

Sec. 203: Conditional Uses

- 203.1 Conditional uses (as listed in Table 201) are those uses for which a permit may be issued by the Administrative Officer only after the Zoning Board of Adjustment, as provided for in 24 V.S.A., Section 4414 (3) determines after public notice and public hearing that the proposed use shall not result in an undue adverse effect on any of the following:
- A. The capacity of existing or planned community facilities;
 - B. The character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan;
 - C. Traffic on roads and highways in the vicinity;
 - D. Bylaws and ordinances then in effect, and;
 - E. The utilization of renewable energy resources.
- 203.2 In approving a conditional use, the Board of Adjustment may impose such conditions and safeguards, as it may deem necessary to implement the purposes of this bylaw. The conditions may include the following:
- A. Increasing the required lot size or setback 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 off-street parking or loading spaces.
 - F. Limiting the number, location, size and type of on-site signs.
 - 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 adverse effects on adjoining property.
 - J. Specifying standards for operation of the conditional use so that it will be no more objectionable to the neighborhood by reasons of noise, odors, vibrations, flashing lights, or hours of operation than would be the operation of a permitted use at that site.
 - K. Requiring such additional, reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this bylaw and to protect the best interests of the surrounding property and the neighborhood.
 - L. All buildings, new or alterations, open to the public must comply with the Americans with Disabilities Act Accessibility's Guidelines (ADAAG) as printed July 26, 1991, in the Federal Register, Volume 56, Number 144, Vermont Public Law 187 (S117), with amendments per the current release of "The Vermont Access Board and the Department of Labor and Industry".

Sec. 204: Minimum Area, Distance & Dimensional Requirements

Minimum area, distance, and dimensional requirements are as set forth in Table 201.

Table 201: Use, Area, Distance & Dimensional Requirements

Purpose: The purpose of this bylaw and its requirements is to encourage the orderly development of the Town in a fashion that will become an asset, not a liability, to the Town. Under Vermont law, unless a use is specifically listed as a permitted use or conditional use, it is prohibited.

Permitted uses:

Accessory use	4412(5)} See Sec 318
Agriculture and Forestry	See Sec 321
Dwelling unit, accessory	See Sec. 320
Dwelling, single family	Home occupation See Sec. 303
Dwelling, two family	Residential Care Home {24 V.S.A. 4412(G)}
Family Child Care Home or Facility {24 V.S.A.	See Sec 317
	Subdivision

Conditional uses:

Agritourism	Personal service
Commercial lodging establishment	Private club/lodge
Cottage/Camp seasonal rental	Public assembly use*
Dwelling, multi-family	Public facility*
Eating establishment	Retail store
Essential services*	School*
Outdoor recreation	

* See Sec. 320: Public Facilities

Minimum Area, Distance, and Dimensional Requirements:

For shoreline lots of Lake Willoughby, Bald Hill Pond, Long Pond, Job's Pond and all other ponds, lakes, rivers, and year-round streams:

Lot frontage in feet.....	100
Front yard setback in feet.....	25
Side yard setback in feet	25
Rear yard setback in feet.....	25
Setback from the normal mean water mark in feet	50 or 100 as set forth in Sec. 316.1A
Vegetative Buffer Zone in feet.....	15 or top of bank, whichever is greater
Maximum building height in feet.....	35
Setback from legal right of way in feet.....	25

For all other areas:

Lot frontage in feet:	150
Front yard setback in feet:.....	25
Side yard setback in feet:	25
Rear yard setback in feet:.....	25
Maximum building height in feet:	35
Setback from legal right of way in feet:.....	25
Lot area in square feet (for shoreline lots of Lake Willoughby, Bald Hill Pond, Long Pond, and Job's Pond):.....	20,000
Lot area in square feet (for all other areas):	40,000

ART 3: GENERAL PROVISIONS

Sec. 301: Affordable Housing

This bylaw shall not have the effect of excluding low- and moderate-income housing.

Sec. 302: Existing Small Lots

302.1 Any lot that is legally subdivided, is in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this zoning bylaw, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area, and with a

minimum width and a minimum depth dimension of forty feet in accordance with 24 V.S.A., Section 4412 (2).

- 302.2 If a lot not conforming to the minimum lot size requirements in the district in which it is located subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:
- A. The lots are conveyed in the preexisting, nonconforming configuration; and
 - B. On the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal system; and
 - C. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
 - D. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails which means the system functions in a manner:
 1. That allows wastewater to be exposed to the open air, pool on the surface of the ground, discharge directly to surface water, or back up into a building or structure unless the approved design of the system specifically requires the system to function in such a manner;
 2. So that a potable water supply is contaminated or rendered not potable;
 3. That presents a threat to human health; or
 4. That presents a serious threat to the environment.
- 302.3 If subsequent to separate conveyance, as authorized under Sec. 301.2, a wastewater system fails, the owner shall be required to obtain from the Secretary of Natural Resources a waste water permit as required under the State of Vermont subdivision regulations or a certification that the waste water system has been modified or replaced, with the result that it no longer constitutes a failed system.

Sec. 303: Frontage on, or Access to Public Roads or Waters

- 303.1 No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way of record at least 20 feet in width.
- 303.2 All access driveways connecting to public roads are to be located at least 100 feet from the center point of the nearest intersection. Applications for driveways (i.e. curb cuts) must be approved by the Selectboard. The Selectboard may, at their discretion, deviate from the provisions of this paragraph if they deem it necessary for road safety or if a drive located closer to an intersection does not present a safety hazard.

Sec. 304: Protection of Home Occupations

No regulation may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation, which is customary in residential areas and does not change the character thereof.

Sec. 305: Height Regulations

Except for agricultural purposes, all structures shall not exceed a height of 35 feet above existing grade. If the proposed structure is within 3 feet of the maximum height, an elevation survey of the site is required. The site first must be surveyed prior to grading of the building area in order to establish existing grade. Elevations must be surveyed again after completion of rough framing, and a licensed surveyor must submit a height Survey Verification form certifying that the structure is below the maximum allowed height.

Sec. 306: Minimum Lot Size Requirements Per Use

If more than one use is proposed for a parcel of land, such parcel of land shall be of sufficient size so that each use individually conforms with the minimum lot size, width, and setback requirements set forth in Table 201.

Sec. 307: Reduction of Lot Size

No lot shall be so reduced in area such that the area, setbacks, lot width, frontage or other requirements of this bylaw shall be less than herein prescribed. The provisions of this section shall not apply when part of a lot is taken for a public purpose.

Sec. 308: Required Setbacks

Space required under this bylaw to satisfy setback requirements in relation to one building shall not be counted as part of a required setback for any other building.

Sec. 309: Projections Into Required Setbacks

All structures, 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 required setback. Setbacks shall not apply to fences.

Sec. 310: Excavations

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

Sec. 311: Demolished, Burned or Collapsed Structures

Within 12 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 any excavation remaining, to normal grade.

Sec. 312: Travel Trailers/Recreational Vehicles (R.V.)

It shall be unlawful for any person to park a camping trailer, travel trailer, R.V., pickup coach, and/or motor home on any public or private property, except in accordance with this bylaw as follows:

- A. In an approved travel trailer/RV camp.
- B. A person may park or store his own travel trailer, or park that of a bonafide visitor, on the property on which such person's legal or summer residence is situated, provided it is parked no closer than 15 feet to any property line.
- C. The owner of an undeveloped lot may park his own travel trailer/RV on such lot for a period of time not to exceed 21 days in any calendar year unless a permitted sewage disposal system is installed. Such individual shall obtain from the Administrative Officer a travel trailer/RV permit on an annual basis prior to the placement of travel trailer/RV on such lot. All such permits shall become effective 15 days after the issuance in conformance with 24 V.S.A. Section 4449(a). The annual permit requirement shall not apply if a permitted sewage disposal system is installed.
- D. No more than two travel trailers shall be situated on any lot, developed or undeveloped, unless such lot is an approved travel trailer/RV campground.

Sec. 313: Mobile Home, Modular or Prefabricated Housing

Pursuant to 24 V.S.A., Section 4412(1)(B), a mobile home, modular housing or prefabricated housing must be considered a single-family dwelling and must meet the same zoning requirements applicable to single-family dwellings. This does not include recreational vehicles or travel trailers.

Sec. 314: Flood Hazard Regulations

314.1 These regulations shall apply to the Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A, Chapter 32, Sec. 753, which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Administrative Officer. If the applicant disagrees with the determination made by the Administrative Officer, a Letter of Map Amendment from FEMA

shall constitute proof.

314.2 Definitions used in this section are as applicable to the National Flood Insurance Program and as contained in 44 CFR 59.1.

314.3 Summary Table: Development Review in Hazard Areas.

The hazard areas below are not appropriate for development that increases the elevation of the base flood.

#	Activity	Hazard Zone	
		Special Flood Hazard Area	Floodway
	P Permitted C Conditional Use Review X Prohibited A Exempted		
1	New Structures	C	X
2	Storage	X	X
3	Improvements to Existing Structures	P, C	C
4	Small Accessory Structures	P	X
5	At Grade Parking	P	C
6	Replacement water supply or septic systems	C	C
8	Fill as needed to elevate existing structures	C	C
9	Fill	X	X
12	Grading	C	C
13	Road maintenance	A	A
14	Road improvements	C	C
15	Bridges and culverts	C	C
16	Channel management	C	C
17	Recreational vehicles	P	P
18	Open space, recreation	A	A
19	Forestry	A	A
20	Agriculture	A	A

314.4 Permitting Procedures

- A. A permit is required from the Administrative Officer for all development in all areas defined in Sec. 314.3. Development that requires conditional use approval, non-conforming use approval, or a variance from the Board of Adjustment under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the Administrative Officer.
- A. Prior to issuing a permit a copy of the application shall be submitted by the Administrative Officer to the Floodplain Management Section of the Vermont Department of Environmental Conservation in accordance with 24 V.S.A., Section 4424(D). A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.
- B. Adjacent communities and the Vermont Department of Environmental Conservation shall be notified at least 15 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 Federal Insurance Administration.
- C. Any permit issued will require that all necessary permits from state or federal agencies have been received before work may begin..

314.5 Permitted Development: For the purposes of review under these regulations, the following development activities in the Special Flood Hazard Area where outside of the Floodway, and meeting the Development Standards in Sec. 314, require only an administrative permit from the Administrative Officer:

- A. Non-substantial improvements;

- B. Accessory structures;
 - C. Development related to on-site septic or water supply systems;
 - D. Building utilities;
 - E. At-grade parking for existing buildings; and,
 - F. Recreational vehicles
- 314.6 Prohibited Development in Special Flood Hazard Area
- A. Storage or junk yards;
 - B. New fill except as necessary to elevate structures above the base flood elevation;
 - C. Accessory structures in the floodway;
 - D. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
 - E. All development not exempted, permitted, or conditionally permitted
- 314.7 Conditional Use Review: Conditional use review and approval by the Board of Adjustment is required prior to the issuance of a permit for the following proposed development:
- A. New structures
 - B. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
 - C. New or replacement storage tanks for existing structures;
 - D. Improvements to existing structures in the floodway;
 - E. Grading, excavation; or the creation of a pond;
 - F. Improvements to existing roads;
 - G. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
 - H. Public utilities;
- 314.8 Exempted Activities: The following are exempt from regulation under this bylaw:
- A. The removal of a building or other structure in whole or in part;
 - B. Maintenance of existing roads and storm water drainage;
 - C. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
 - D. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices (RAP). Prior to the construction of farm structures the farmer must notify the Administrative Officer in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.
- 314.9 Application Submission Requirements
- A. In addition to the Sec. 602, all applications for development in the Special Flood Hazard Area shall include:
 1. A site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
 2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Administrative Officer and attached to the permit before work can begin; and
 3. Copies of the application sufficient for the file, the State National Flood Insurance Program Coordinator, and additional parties, such as the Board of Adjustment, the VT DEC Stream Alteration Engineer and adjacent communities, if affected.
 - B. Upon receiving an application for a conditional use permit under these regulations, the Board

of Adjustment shall, prior to rendering a decision thereon:

1. Obtain from the Vermont Department of Environmental Conservation – State NFIP Coordinator or other state or federal agencies any available base flood elevation data.
 2. Obtain from the applicant who must submit to the Board of Adjustment:
 - a. The elevation (in relation to mean sea level) of the lowest floor, including basement, of new buildings or buildings to be substantially improved;
 - b. Where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be floodproofed;
 - c. Plans drawn to scale showing the existing and proposed land contours, building, structures, streams, roads and other pertinent physical features;
 - d. Base flood elevation data for subdivisions and other proposed development, which contain at least 50 lots or 5 acres (whichever is the smaller).
 - e. Such other information deemed necessary by the Board of Adjustment for determining the suitability of the site for the proposed development.
- C. In reviewing each application, the Board of Adjustment shall consider:
1. The evaluation of the Vermont National Flood Insurance Coordinator.
 2. The availability of alternative locations not subject to flooding for the proposed use.
 3. The susceptibility of the proposed improvement to flood damages.
 4. The safety of access to the property in times of flood of ordinary and emergency vehicles.
 5. The potential for damage to the property caused by erosion.
 6. The danger those materials may be swept onto other lands and cause damage to others.
 7. Such other factors as are relevant to the purposes of this bylaw.
- D. The Board of Adjustment may grant a conditional use permit for development provided:
1. All necessary permits are obtained from those governmental agencies from which federal or state law requires approval.
 2. The development standards of 314.11 are met or exceeded.

314.10 Base Flood Elevations and Floodway Limits

- A. Where available (i.e., Zones A1-A30, AE, and AH) the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.
- B. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

314.11 Development Standards Within Areas of Special Flood Hazard

- A. Encroachments or development above grade and less than one foot above the base flood elevation are prohibited within the floodway unless a hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will not:
 1. result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 2. increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- B. Public utilities in the floodway may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
- C. All development and structures – anywhere in the Special Flood Hazard Area -- shall be:
 1. Reasonably safe from flooding;
 2. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 3. Constructed with materials resistant to flood damage;

4. Constructed by methods and practices that minimize flood damage;
 5. 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;
 6. Adequately drained to reduce exposure to flood hazards;
 7. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 8. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
- D. In Zones AE, AH, and A1 – A30 *where base flood elevations and/or 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.
- E. The flood carrying and sediment transport capacity within any altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.
- F. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters.
- G. On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- H. New and replacement manufactured homes shall be elevated or placed on a permanent foundation so that the lowest floor is at or above the base flood elevation.
- I. New and existing residential structures to be substantially improved shall be located such that the lowest floor is at least at or above the base flood elevation, and this must be documented, in as-built condition, with a FEMA elevation certificate.
- J. New or existing non-residential structures to be substantially improved shall either
1. meet the requirements of subsection I or
 2. Have the lowest floor, including base, together with attendant utility and sanitary facilities be designed so that at or above the base flood elevation the structure is watertight with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed 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.
- K. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- L. Fully enclosed areas that are above grade, below the lowest floor, below the base flood elevation, that are subject to flooding shall:
1. be solely used for parking of vehicles, storage, or building access, and such condition shall be clearly stated on any permits; and
 2. be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must

either be certified by a 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 cover coverings or devices provided that they permit the automatic entry and exit of floodwaters.

M. Recreational vehicles shall either

1. be on the site for fewer than 180 consecutive days;
2. be fully licensed and ready for highway use; or
3. meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of Section 60.3(c)(6).

N. Small accessory structures of 500 square feet or less that represent a minimal investment need not be elevated to the base flood elevation, provided the structures are placed on the building site so as to offer the minimum resistance to the flow of flood waters and meet the requirements of Subsection L.)

314.12 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, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- C. the elevation, in relation to mean sea level, to which buildings have been floodproofed;
- D. all floodproofing certifications required under this regulation;
- E. all variance actions, including justification for their issuance.

314.13 Substantial Improvement and Substantial Damage Determinations, Post-Flood Procedures

- A. When a proposal for the renovation, rehabilitation, restoration, or repair of a structure located within any flood hazard overlay district is reviewed, the Administrative Officer shall make a substantial improvement determination.
- B. In the event of damage to a structure located within any flood hazard overlay district from flooding, or other causes (such as, but not limited to fire, wind, or snow), the Administrative Officer shall make a substantial damage determination based on the damage sustained by the structure regardless of intended repair at that time.
- C. Substantial improvement or substantial damage determinations shall be made in accordance with current FEMA guidelines¹ or a procedure established by the Zoning Board of Adjustment in accordance with 24 V.S.A. §1972 and 24 V.S.A. §4461 and shall be used to determine the appropriate development standards for repair and rebuilding.
- D. A substantial improvement or substantial damage determination can be appealed by an applicant or property owner to the Zoning Board of Adjustment in accordance with Section 610 of this bylaw. In the consideration of an appeal of the Administrative Officer’s determination, the Zoning Board of Adjustment shall consider additional documentation provided by the applicant which may include:
 1. A recent building appraisal (within the past calendar year, or as determined to still be applicable) completed by a licensed and qualified real estate appraiser that documents the structure’s market value (excluding land value) prior to the damage or improvement; or
 2. A project/repair cost estimate provided by a qualified contractor, professional engineer or licensed architect. The material and labor cost estimate shall include a detailed accounting of the proposed improvements, additions, reconstruction or rehabilitation work, repairs or associated construction and development; or

¹ FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference: <https://www.fema.gov/media-library/assets/documents/18562>

3. In the case of substantial damage, an estimate of structure damage provided or reviewed by a local official from FEMA's Substantial Damage Estimator software.

314.14 Variances to the Development Standards

Variances to development in any flood hazard overlay areas shall be granted in writing by the Westmore Zoning Board of Adjustment only after a public hearing noticed in accordance with subsection 607.1 of this bylaw and in accordance with 24 V.S.A. Section 4469 and 44 C.F.R. §60.6.

Any variance issued in the Flood Hazard Area shall not increase flood heights and shall inform the applicant in writing over the signature of the Chair of the Zoning Board of Adjustment 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.

314.15 Certificate of Occupancy

- A. It shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within the Special Flood Hazard Area, until a certificate of occupancy is issued by the Administrative Officer stating that the proposed use the structure or land conforms to the requirements of this bylaw.
- B. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.
- C. Upon receipt of the application for a certificate of occupancy, the Administrative Officer shall review the permit conditions and inspect the premises to ensure that:
 1. any required state and federal permits have been received;
 2. all work has been completed in conformance with the zoning permit and associated approvals, and
 3. all required as-built documentation has been submitted to the Administrative Officer (e.g. updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as-built floodway encroachment analysis).
- D. If the Administrative Officer fails to grant or deny the certificate of occupancy within 29 days of the submission of the application, the certificate shall be deemed issued on the 30th day. If a certificate of occupancy cannot be issued, notice will be sent to the applicant and copied to the lender.

314.16 Violations: Violations of these Flood Hazard Regulations will be addressed in accordance with Sec. 603 of this bylaw. Additionally,

- A. A copy of the notice of violation will be mailed to the Vermont National Flood Insurance Coordinator; and
- B. If any appeals have been resolved, but the violation remains, the Administrator Officer shall submit a declaration to the Administrator of the National Flood Insurance Program requesting of denial of flood insurance to the violator.
- C. Violations of Required Agricultural Practices shall be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Sec. 4812.

Sec. 315: Yard Sales

Yard Sales, which term shall include garage sales and flea markets, are those sales to the general public of new and used items of personal property conducted upon a lot as an accessory use for not more than 14 days in any one calendar year. Sales carried on for more than 14 days in any calendar year shall be considered a retail store or neighborhood commercial facility.

Sec. 316: Docks and Boathouses

- 316.1 The required shoreline setback established in Table 201 shall not apply to docks and boathouses. Such structures, however, must comply with applicable state regulations.
- 316.2 EXEMPTIONS: The Vermont Legislature has determined that the size and type of some encroachments are such that – although the encroachment may be used for exclusively private purposes – construction of the project would neither violate the state's fiduciary duties under the Public Trust Doctrine nor adversely impact the public good under most conditions. As stated by the Legislature, these particular encroachments do not require a Public Trust review unless the Department of Environmental Conservation determines that navigation or boating would be unreasonably impeded. These conditionally exempt encroachments are:
- A. Wooden or metal docks for non-commercial use mounted on piles or floats provided that:
 - 1. the combined horizontal distance of the proposed encroachment and any existing encroachment within 100 feet owned or controlled by the applicant does not exceed 50 feet, and their aggregate surface area does not exceed 500 square feet; and
 - 2. concrete, masonry, earth or rock fill, sheet piling, bulkheading, cribwork or similar construction does not form part of the encroachment;
 - B. A water intake pipe not exceeding two inches in diameter;
 - C. Temporary extensions of existing structures added for a period not to exceed six months, if required by low water;
 - D. Ordinary repairs and maintenance to existing commercial and non-commercial structures;
 - E. Duck blinds, ice shacks, floats, rafts, and buoys;
 - F. Filtering devices not exceeding nine square feet of disturbed area on the end of water intake pipes less than two inches in diameter for the purpose of zebra mussel control.
- 316.3 PUBLIC TRUST DETERMINATION: To determine whether a proposed non-exempt encroachment should be permitted, the Department of Environmental Conservation must first determine whether the project meets the requirements of the Public Trust Doctrine. Under this doctrine, the state cannot approve construction of a nonexempt encroachment exclusively for private purposes.

Sec. 317: Water Quality Protection

- 317.1 The quality of life and the continued success of the Town of Westmore's seasonal/recreational activities are both intimately tied to the quality of water in the town's lakes, ponds, rivers, and streams. It is the purpose of this section to protect water quality from pollution and sedimentation resulting from land-based development or activities.
- 317.2 Shoreline Protection: A shoreline protection area shall be established, as a buffer, along the shoreline of lakes, ponds, rivers, and year-round streams.
- A. Depth of the Shoreline Protection Area: The depth of the Shoreline Protection Area (i.e. the horizontal distance from the mean water line to the outer edge of the Shoreline Protection Area) shall be based on slope and soil characteristics.
 - 1. If the slope is greater than 15 (fifteen) percent, and/or if the depth to ledge or bedrock is less than 2 (two) feet, and/or if the depth to seasonal high ground water table is less than 2 (two) feet, the depth of the Shoreline Protection Area shall be 100 feet.
 - 2. Otherwise, the depth of the Shoreline Protection Area shall be 50 feet.
 - B. Uses within the Shoreline Protection Area: With the exception of retail facilities, eating establishments and commercial lodging establishments, all uses listed in Table 201 are allowed within Shoreline Protection Area, subject to the requirements of this bylaw.
 - C. Construction within the Shoreline Protection Area: All existing structures, lawns, yards, paths, and landings are exempt from this subsection until they are altered or changed. Major earth moving within the Shoreline Protection Area to create a level (or more level) site is prohibited. The following construction activities are allowed in the Shoreline Protection Area:
 - 1. Renovation of existing structures with no change in footprint;

2. Additions to existing year-round or seasonal residential dwellings, provided that the addition is as far away from the edge of the water as possible, with no additional construction closer than the existing structure;
 3. Clearing for lawns and yards, shall be allowed outside the Vegetative Buffer Zone;
 4. Paths to the water's edge (no more than one path per lot) may be created, provided that they are no more than 6 (six) feet wide. Long paths shall have water bars to direct runoff onto vegetated areas every 75 feet if the slope is less than fifteen percent, and every 50 (fifty) feet if the slope is fifteen percent or greater. Small structures (boardwalks, railings or small wooden bridges, etc...), that are incidental to the path are allowed.
 5. Parking areas shall not be paved and shall not be located closer to the water than the principal structure.
 6. Landings (no more than one per lot) may be constructed adjacent to access paths, but may not extend closer than fifteen (15) feet from the mean water line.
 7. Docks which extend into the water may be installed in accordance with Section 315 of these Regulations, provided that there are no permanent foundation, mounting, or attachment structures.
 8. Fences with opacity of less than 50% consisting of natural materials and no greater than 6 feet in height shall be allowed outside the vegetative buffer zone.
- D. The Vegetative Buffer Zone: The purpose of this zone is to stabilize the banks against erosion and increase filtration of sediments from run-off. All land within the Vegetative Buffer Zone shall be kept in a permanently vegetated state, preferably with native species.
1. Natural sand beaches may remain but shall not be enhanced with imported sand.
 2. Existing banks which are currently stabilized with vegetation shall not be disturbed except for paths in accordance with sub-paragraph 316.1(C)(4). If disturbance is desired for any reason, including removal of dead or damaged vegetation, or trimming and/or pruning of existing vegetation, a Vegetative Buffer Disturbance Permit must be obtained before any disturbance takes place. Compliance with any other permits required or issued shall be the property owner's responsibility.
 - a. Application for Vegetative Buffer Disturbance Permits shall be made to the Administrative Officer.
 - b. A permit for routine trimming and removal of blowdowns or dead trees may be granted by the Administrative Officer. However, this permit does not allow for any soil disturbance or excavation or the removal of any root systems.
 - c. Any other disturbance or appeal of Administrative Officer decisions requires a waiver after a hearing before the Zoning Board of Adjustment.
 3. Unstable banks or banks where existing sea walls are to be removed shall be stabilized as follows:
 - a. At the water line, angular stone rip-rap shall extend to approximately six (6) inches above the mean water level;
 - b. Grade shall not exceed fifty (50) percent;
 - c. Plants shall include a mixture of groundcover, shrubs and trees, and should be allowed to naturalize. Native species are encouraged.
- E. Wetlands: As required by 10 V.S.A. Section 6086, no zoning permit may be issued for development in a designated wetland, or for development in a designated flood hazard area, without at least thirty (30) days prior notification to the Water Quality Division of the Department of Environmental Conservation.
- F. Erosion Control: All construction within the Shoreline Protection Area that involves excavating, grading, filling, or otherwise disturbing the soil, shall be done in accordance with Section 316.2 of these Regulations.
- G. Zoning Board of Adjustment Waivers: The Zoning Board of Adjustment may waive, with or without conditions, any or all of the provisions of Section 316.1 if it reviews evidence and concludes that the purposes of the Shoreline Protection Area or Vegetative Buffer Zone will still be met after the waivers are granted, (under conditional use situations).

- 317.2 Surface Water Protection: These provisions are intended to minimize the pollution of surface waters from erosion, sedimentation and/ or agricultural runoff.
- A. Erosion Control – Construction: All construction which involves excavating, grading, filling, or otherwise disturbing the soil, shall be done in accordance with the guidelines in Chapter 4 of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites, Special Publication No. 3.
 - 1. Only the smallest area necessary for the construction shall be disturbed at any one time, and completed areas shall be permanently stabilized when another area is opened.
 - B. Erosion Control – Logging Operations: All logging operations (including planting, harvesting, and removal of trees) shall follow the Acceptable Management Practices (AMPs) set forth in the publication "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont", published by the Vermont Department of Forests, Parks, and Recreation, effective date August 15, 1987. All definitions associated with the AMPs shall be applicable in this Section.
 - C. Erosion and Pollution Control – Agricultural Operations: All agricultural activities shall follow the Acceptable Agricultural Activities (AAPs) set forth in the publication "Vermont Agriculture Nonpoint Source Pollution Reduction Program Law and Regulations", published by the Vermont Department of Agriculture, Food, and Markets, effective date June 29, 1995. All definitions associated with the AAPs shall be applicable in this Section.

Sec. 318: Residential Care Home or Group Home

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. Section 4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home.

Sec. 319: Family Child Care Home or Facility

A family child care home or facility, to be operated under state licensing or registration, serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property.

Sec. 320: Accessory Dwelling Unit

- 320.1 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 efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:
- A. The property has sufficient wastewater capacity.
 - B. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
 - C. Applicable setback, coverage, and parking requirements specified in the bylaws are met.
 - D. The structure is located outside of a flood hazard area.
- 320.2 Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when one or more of the following is involved:
- A. A new accessory structure, constructed after the enactment of these bylaws,
 - B. An increase in the height or floor area of the existing dwelling, or
 - C. An increase in the dimensions of the parking areas.
 - D. Conversion of an existing structure which does not meet the setback requirements of these bylaws.

Sec. 321 Public Facilities

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

- A. State- or community-owned and operated institutions and facilities.
- B. Public and private schools and other educational institutions certified by the State Department of Education.
- C. Churches and other places of worship, convents, and parish houses.
- D. Public and private hospitals.
- E. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
- F. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. Section 6606(a).

Sec. 322: Agriculture and Forestry

- 322.1 Nothing contained herein shall restrict Required Agricultural Practices or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under 10V.S.A., Sections 1021(f) and 1259(f) and 6 V.S.A., Section 4810.
- 322.2 Zoning permits need not be obtained for farm structures. However, any landowner proposing to erect a farm structure shall notify the Administrative Officer of such intent prior to the erection of such structure. The notification shall be in writing and shall contain a sketch of the proposed structure including the setbacks from adjoining property lines and road rights-of-way. Hobby farmers need a permit but are exempt from permit fees.
- 322.3 Farm structures shall comply with setbacks approved by the Secretary of Agriculture, Food and Markets.

Sec. 323: Outdoor Wood Furnaces

Outdoor wood furnaces are permitted in Westmore as follows:

- 323.1 No outdoor wood furnace shall be permitted within 200 feet of a seasonal or year-round residence, other than the building being heated. Outdoor wood furnaces located more than 200 feet but less than 500 feet of a seasonal or year-round residence, shall have a chimney greater in height than the roof line of the residence, and shall be anchored sufficiently to assure stability.
- 323.2 In accordance with state air pollution control regulation, outdoor wood furnaces shall not be used to burn any material other than untreated wood.
- 323.3 All outdoor wood furnaces shall be equipped with a catalytic converter that meets EPA standards, as well as Vermont state standards.

Sec. 324: Inoperable or Unregistered Vehicles, Storage Containers, and Other Items

- 324.1 Inoperable vehicles, storage containers, household appliances, scrap metal, vehicle parts, tires, scrap lumber and similar items shall not be stored on any property unless shielded from view of any public highways. In emergency situations, a storage container may be placed within view of a public roadway as long as it is not in the road right-of-way and no other suitable location is available. A storage container may remain in said location for up to 6 months provided a waiver is obtained from the Administrative Officer.
- 324.2 The Administrative Officer shall grant a waiver if the following guidelines are met:
 - A. An emergency situation exists such as a fire, flood or other natural disaster;
 - B. No other suitable location is available.
- 324.3 No more than two unregistered yet operable vehicles shall be parked in any yard of any property for more than 30 days in any calendar year.

Sec. 325: Fences

No fence shall exceed 6 feet in height and shall be installed with the finished side facing outward.

Sec. 326: Screening and Siting Standards for Ground-Mounted Solar Electricity Generation Plants

326.1 Authority

- A. This bylaw is adopted by the Town of Westmore under the authority of Title 24, chapter 117, Subsection 4414(15) to adopt screening standards for Ground Mounted Solar Electricity Generation Plants (GMSP).
- B. The screening requirements in this bylaw are not intended to be more restrictive than screening requirements applied to commercial development in the Westmore Zoning Bylaw under Conditional Use Application.
- C. The Westmore Planning Commission is hereby designated as the municipal body to obtain public input concerning any proposed Ground Mounted Solar Generation Plant, (GMSP), and to direct it to the Selectboard.
- D. The Westmore Selectboard is hereby designated as the municipal body to make recommendations to the Public Utility Commission applying this Bylaw to ground-mounted solar electricity generation plants (GMSP).

326.2 Purpose: The purpose of this bylaw is to:

- A. Implement the Westmore Town Plan, specifically the following:
 - 1. Energy – The Town of Westmore actively encourages the use of local, residential scale renewable energy provided that it does not adversely impact the town’s natural resources.
 - 2. Recreation – The importance of the ridgelines must be considered in evaluating the appropriateness of any commercial or large residential development.
 - 3. Forests – Any development on or near ridgelines should employ landscaping screening techniques to prevent undue adverse impact to Westmore’s scenic ridgelines, as viewed from any public right of way, body of water, known hiking trails, or any vantage point in the National Natural Landmark Area.
- B. Ensure that the development of GMSPs are harmonized with their surrounding landscape through the implementation of appropriate screening.

326.3 Applicability

- A. The requirements of this bylaw shall apply to all land in the Town of Westmore.
- B. This bylaw shall apply to GMSP’s that are greater than 20kW. GMSP’s 20kW and less are exempt from the provisions of this section.

326.4 Review Process

- A. A duly warned public hearing before the Planning Commission in accordance with Title 24, Chapter 117, Subsection 4464(a)(2) is required. Upon receipt of a petitioner’s 45 day 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 Administrative Officer 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 45 days’ notice of filing, an applicant may contact the Westmore Administrative Officer to be scheduled for a public hearing before the Planning Commission at any time.
- B. Information pertaining to the proposed GMSP subject to this bylaw shall be submitted at least seven business days prior to the date of the public hearing and shall include two copies of a site plan and survey showing any structures on property and setbacks from all property lines, prepared in a clear and legible manner, drawn to scale on an 18 inch by 24 inch sheet of paper. Site plans prepared as part of the petition to the Vermont Public Utility Commission may be used for application under this bylaw, provided that they provide all the required information.
- C. Following the public hearing as required above, the Planning Commission shall provide a

written recommendation to the Selectboard on the proposed GMSP's conformance to the provisions of this bylaw, including any recommended performance conditions for the Certificate of Public Good.

326.5 Screening Standards

- A. Screening shall harmonize GMSPs with all properties, public roads and rights of way, hiking trails, and public bodies of water within (1) mile of the proposed GMSPs. Screening shall obscure GMSPs from any vantage point in the National Natural Landmark Area within (1) mile of the proposed GMSPs.
- B. The Planning Commission shall recommend the amount and type of screening 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 materials 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.
 - 4. A combination of plantings and landscaping materials shall be used to create a naturalized screen rather than a large expanse of uninterrupted, uniform material.
- C. The Planning Commission shall recommend a schedule for the installation of screening, including a date when the screening shall be estimated to fulfill its minimum function.
- D. All screening shall be maintained and replaced or supplemented, if necessary, to fulfill its function during the existence of the GMSPs. Plantings that die or become diseased shall be replaced within six months.
- E. For areas within one miles of the National Natural Landmark, the Planning Commission reserves the right to request a landscape impact analysis completed by a certified landscape professional in order to determine the adequacy of screening.

326.6 Siting:

- A. A project's location in the landscape constitutes a critical element in the aesthetic siting of a project and the ability to adequately screen it to mitigate impact on the surrounding landscape. Poor siting cannot be adequately mitigated. Accordingly, the first element any solar developer must consider is the proposed site's aesthetic impact on the surrounding landscape.
- B. Good solar project sites generally have several of the following characteristics:
 - 1. Roof-mounted systems;
 - 2. Systems located in close proximity to, or screened by agricultural buildings;
 - 3. Proximity to existing hedgerows, evergreen vegetation, berms, hills, or other topographical features that naturally screen some aspects of the proposed solar project;
 - 4. Reuse of former brownfields or otherwise impacted property, which otherwise complies with the set-back requirements of this By-law.
- C. Poor solar project sites generally have several of the following characteristics:
 - 1. Known or possible constraints, as identified in the Westmore Town Plan
 - 2. No natural screening;
 - 3. Topography that causes the solar project to be visible against the skyline, or from hiking trails, public, historic or scenic places and common vantage points like roads, neighborhoods or beaches;
 - 4. A location that requires clear-cutting or fragmentation of the working landscape, including forestland.
 - 5. Rare, threatened, or endangered species habitat, or communities as mapped or identified through site investigation, and core habitat areas, migratory routes, and travel corridors;
 - 6. A location in proximity to and interfering with a viewshed as identified in the Panels and

Map included as part of the Westmore Town Plan adopted July 9, 2018, and any updates thereto;

7. A location that requires public investment in transmission and distribution infrastructure in order to function properly.

Section 327: Ridgelines

- 327.1 The importance of ridgelines, as depicted on the Panels and Map included as part of the Westmore Town Plan adopted July 9, 2018, and any updates thereto, to the scenic beauty, a key factor in the economic development of Westmore, must be considered in evaluating the appropriateness of any commercial or large residential development.
- 327.2 Any development on or near ridgelines, depicted on the Panels and Map included as part of the Westmore Town Plan adopted July 9, 2018, and any updates thereto, must employ landscaping screening techniques to prevent adverse impact to Westmore's ridgelines, as viewed from any public right of way, body of water, known hiking trails, or any vantage point in the National Natural Landmark Area.

ART 4: DEFINITIONS

For the purpose of this bylaw, certain terms or words used herein shall be interpreted as follows:

Sec. 401: Word Definitions

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

The word DISTANCE shall refer to horizontal measurements. The word LOT includes the words PLOT or PARCEL.

The word PERSON includes a FIRM, ASSOCIATION, ORGANIZATION, PARTNERSHIP, TRUST, COMPANY, or CORPORATION as well as an INDIVIDUAL.

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.

Sec. 402: Term Definitions

ACCESSORY STRUCTURE: A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

ACCESSORY USE: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ACRE: A measure of land area containing 43,560 sq. ft.

AFFORDABLE HOUSING: means either of the following:

Housing that is owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income, or

Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. [24 V.S.A. § 4303(1)(A)].

AGRICULTURE: Land or structures primarily used for cultivating soils, producing crops, or raising livestock; orchards and maple sugar production; the storage, processing or sale of products raised on the

premises; or as otherwise defined by the Commissioner of Agriculture, Food and Markets. Structures which are customarily accessory to agricultural uses and are located on the same parcel as an agricultural use, with the exception of residential dwellings, shall be included in this definition. (See also: FARM STRUCTURE, REQUIRED AGRICULTURAL PRACTICES.)

AGRITOURISM: The business of establishing farms for education, recreation, or the purchase of farm products. Includes uses such as farm tours, tastings, dinners in the field, farm stays, and the direct sale of products.

AREA OF SPECIAL FLOOD HAZARD: Synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE): The elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is 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 the average depth of the base flood, usually in feet, above the ground surface.

BASEMENT: A space having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor to ceiling height of not less than six and one-half feet.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animals, process, equipment, goods or materials of any kind, including a gas or liquid storage tank.

BUILDING FRONT LINE: Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed exceeding 25 square feet in area, but does not include steps. (See LOT FRONTAGE)

CAMPGROUND: A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

COMMERCIAL LODGING ESTABLISHMENTS: Building containing rooms which are rented as a series of sleeping units for transients, each sleeping unit consisting of at least a bedroom which may include one bathroom. This shall include hotels, motels, inns, and beds and breakfast.

COTTAGE/CAMP SEASONAL RENTAL: An establishment consisting of one or more camps or cottages that are rented on a temporary or seasonal basis with no primary residence permitted.

CRITICAL FACILITY: Include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster.

DECK: A platform area open to the outside air having no walls that are attached to the building.

DEVELOPMENT: 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 purposes of the flood hazard regulation, “development” includes any human-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

DOCK: A narrow platform built on the shore or out from the shore for the purpose of receiving boats.

DWELLING, MULTI-FAMILY: A building designed for occupancy by three or more families living independently of each other in individual dwelling units.

DWELLING, SINGLE FAMILY: A building containing one dwelling unit.

DWELLING, TWO FAMILY: A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING UNIT: One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

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

EASEMENT: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

EATING ESTABLISHMENT: Retail establishments selling food and drink for consumption on premises, including lunch counters and refreshment stands selling prepared foods and drinks for on- or off-site consumption.

ESSENTIAL SERVICE: 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 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, safety or general welfare.

EXISTING GRADE: For sites which have never been disturbed, existing grade is the same as the natural grade, which is the ground level before any human disturbances. For sites that have existing structures or other disturbances to the land, existing grade would be the ground level established when the original structure or disturbance was created.

FAMILY: One or more individuals occupying a dwelling unit and living as a single household unit.

FAMILY CHILD CARE HOME OR FACILITY: A family day care home is a day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of this bylaw, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and

during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. [33 V.S.A. §4902(3)].

FARM STRUCTURE: In accordance with the Act [§4495], a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, as "farming" is defined in 10. V.S.A. §6001(22). This definition includes such farm structures as barns, silos, fences and manure pits, but specifically excludes a dwelling for human habitation. (See also: AGRICULTURE, REQUIRED AGRICULTURAL PRACTICES.)

FENCES: An artificially constructed barrier of any material or combination of materials, including shrubbery, erected to enclose, to screen, or to separate areas.

FILL: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

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 HAZARD BOUNDARY MAP (FHBM): An official map of a community issued by the Administrator, where the boundaries of the flood, mudslide (i.e.) mudflow, related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP: An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood 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.

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

FLOODPLAIN (or FLOOD PRONE AREA): Any land area susceptible to being inundated by water from any source. (See also FLOOD.)

FLOODWAY/ FLOODWAY, REGULATORY IN THE TOWN OF WESTMORE: 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.

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

FUNCTIONALLY DEPENDENT USE: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

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

HEIGHT: The vertical distance of a structure measured from the lowest point of the existing grade, as measured from a reference point to the highest point of the proposed structure. .

HISTORIC STRUCTURE: Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic

preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION: The use of less than 25% of the total floor area of the dwelling unit for an occupation which is customary in residential areas and which does not change the character thereof.

KENNEL: If five or more adult dogs are housed on a property, it shall be considered a kennel.

LAND DEVELOPMENT: See Development.

LANDING: A structure built for the purpose of anchoring or providing a pause in a stairway or path, not to exceed 25 square feet in area.

LETTER OF MAP AMENDMENT (LOMA): A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

LIVESTOCK: Domestic animals, such as cattle, horses, sheep, llamas, hogs, goats or fowl.

LOT: A parcel of land occupied or to be occupied by only one main building and the accessory buildings or 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 herein required. Such lot shall have frontage on an improved public street, or other means of access approved by the Planning Commission and shall consist of:

A single lot of record; or

A portion of a lot of record; or

A combination of complete lots of record, or complete lots of record and portions of lots of record; or

A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel to be created which does not meet the requirements of this bylaw.

LOT AREA: The total area within the lot lines of a lot excluding any street rights-of-way. **LOT, CORNER:** A lot or parcel of land abutting two or more streets at their intersection or two parts of the same street forming an interior angle of less than 135 degrees.

LOT FRONTAGE: The length of the front lot line measured at the street right-of-way line. On corner lots, each side abutting the street is considered the frontage.

LOT LINE: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT: The lot line separating a lot from a street right-of-way.

LOT LINE, REAR: The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE: Any lot line other than a front or rear lot line.

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 distance between the midpoints of straight lines connecting the front and rear lot lines at each side of the lot.

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

located.

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 nonelevation design requirement of Sec. 314.11.I.

MANUFACTURED HOME: See MOBILE HOME.

MANUFACTURING: Establishments engaged in the mechanical or chemical transformation of materials and/or substances into new products, including the assembling of components parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

MEAN SEA LEVEL: Mean, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (VGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

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

MOBILE HOME PARK: A site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured houses that may include services and facilities for the residences.

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

MODULAR (OR PREFABRICATED) HOUSING: A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

NEW CONSTRUCTION: Structures commenced on or after the effective date of this bylaw. For purposes of flood hazard regulation, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community 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 bylaws, including a lot or parcel improperly authorized as a result of error by the Administrative Officer. [24 V.S.A. §4303(13)].

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. [24 V.S.A. §4303(14)].

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. [24 V.S.A. §4303(15)].

NON-RESIDENTIAL: Includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

NORMAL MEAN WATER MARK: The extent of evidence of plant growth on land during the summer season.

OFFICE: A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

OUTDOOR RECREATION: Includes a playground, park, golf course, swimming area, skating rink, tennis court or similar place of outdoor recreation.

OUTDOOR WOOD FURNACE: Any equipment, device or apparatus, or any part thereof, which is installed, affixed, or situated outside a principal or accessory building, except an accessory building for the furnace, for the purpose of burning untreated wood to produce heat or energy used as a component of a heating system providing heat for any principal or accessory building or water source.

PERSONAL SERVICE: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. This shall include barber or beauty parlors, shoe repair, laundry, laundromats, photographic studio, pet grooming and businesses providing similar services of a personal nature.

PRIVATE CLUB: Building or use catering exclusively to club members and their guests for social and recreational purposes. This shall include lodges.

PROPERTY: A lot, parcel, or tract of land together with the building and structures located thereon.

PUBLIC ASSEMBLY USE: Includes auditorium, theatre, and public hall, school hall, meeting hall, church or temple.

PUBLIC FACILITY: Usage by agencies and departments of local, county, state, and federal government.

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

REQUIRED AGRICULTURAL PRACTICES (RAPs): Required practices for agriculture, including farm structures other than dwellings, as currently defined by the Commissioner of Vermont Department of Agriculture, Food and Markets in accordance with the Act [§4413(d)]. Also see AGRICULTURE, FARM STRUCTURE.

RESIDENTIAL CARE HOME: A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator. [33 V.S.A. §7102(1)].

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.

RIDGELINE: A geological feature consisting of a chain of hills or mountains that form a continuous elevated crest for some distance, as depicted on the Panels and Map included as part of the Westmore Town Plan, adopted July 9, 2018 and any updates thereto.

ROAD, PUBLIC: Publicly owned and maintained right-of-way for vehicular traffic, which affords the principal means of access to abutting properties.

SCHOOL: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

SCREENING: Reasonable aesthetic mitigation measures to harmonize a facility with its surroundings and includes landscaping, vegetation and topographic features.

SETBACK: The minimum required distance from a property line to a building or other structure. Setbacks shall not apply to fences.

SETBACK LINE: That line that is the required minimum distance from any lot line that establishes the area within which any structure must be erected.

SHORE FRONTAGE: That side of lot abutting a lake, pond, or stream bank.

SHORELANDS: Shorelands are the lands being between the normal mean water mark of a lake, pond, or impoundment exceeding twenty acres and a line not less than five hundred feet nor more than one thousand feet from such mean water mark. [10 V.S.A., §1422].

SHORELINE PROTECTION AREA: A strip of land along the designated waterbodies, as described in Sec. 317.2.

SLOPE: The slope of the land is defined as the ratio of the vertical rise divided by the horizontal distance. If the land rises fifteen feet over a horizontal distance of 100 feet, the slope is 15 percent. If the land rises fifteen feet over a horizontal distance of 80 feet, the slope is 18.75 percent.

SPECIAL FLOOD HAZARD AREA: The floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

START OF CONSTRUCTION: For purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building. For purposes of all other portions of this bylaw, start of construction includes any site disturbance related to development, including grading, clearing, and excavation.

STORAGE CONTAINER: A structure larger than 32 square feet used for holding objects or debris.

STRUCTURE: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water, with the exception of structures located outside of flood hazard areas less than 32 square feet in size which do not encroach upon setbacks or the shoreline protection area. In addition, swings, slides and other children’s play equipment located outside of flood hazard areas shall not be considered a structure unless they include an enclosed area of the equipment 32 square feet or greater. For the purpose of flood hazard regulation, a structure shall mean any walled and roof building, as well as manufactured home, and shall include gas or liquid storage tanks.

SUBDIVISION: The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development, or lease.

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

SUBSTANTIAL IMPROVEMENT: An extension, repair, reconstruction, or other improvement of a property, the cost of which equals or exceeds 50 percent of the fair market value of a property either before the improvement is started, or if the property has been damaged and is being restored, before the

damage occurred. The term does not, however include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

TRAVEL TRAILER OR TRAILER: See RECREATIONAL VEHICLE.

UNATTACHED DECK: A platform area open to the outside air, having no walls, which is not attached to any principal structure on the site (but which may be connected to a pathway or stairway).

VEGETATIVE BUFFER ZONE: Within the Shoreline Protection Area, a strip of land extending from the mean water line inland as defined in Table 201, shall be designated as the Vegetative Buffer Zone.

VIOLATION: The failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 C.F.R. §60.3 is presumed to be in violation until such time as that documentation is provided.

YEAR-ROUND VACATION PROPERTY: A property which is suitable for year-round occupancy but which is not to be occupied on a permanent or full-time basis and which is not to be used as a primary residence.

USE, PERMITTED: Use specifically allowed, excluding illegal uses and non-conforming uses.

YARD: Space on a lot not occupied with a building or structure.

YARD, FRONT: Yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the edge of the street right-of-way to the front line of the building.

YARD, REAR: Yard between the rear lot line and rear line of a building extended to the side lot Lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

YARD, SIDE: Yard between any structure and a side lot line, extending through from the front yard to the rear yard.

ART 5: NONCONFORMITIES

Sec. 501: Permits Issued Prior to Adoption or Amendment

- 501.1 Permits issued under the July 21, 2008 Westmore Zoning Bylaw that are valid on the effective date of this Bylaw may be utilized even if such permits result in structures and/or uses considered nonconforming under the requirements of this Bylaw. Nothing contained herein shall require any changes to the plans or construction of such previously permitted structures and/or uses.
- 501.2 However, such structures and/or uses shall be completed or suitable for occupancy or uses within the permit's effective period of two years. Applications to renew expired permits issued under the July 21, 2008 Westmore Zoning Bylaw will not be approved unless the structure and/or use for which the original permit was issued complies with the requirements of this Bylaw.

Sec. 502: Nonconforming Uses

Any nonconforming use existing on the effective date of this bylaw may be continued indefinitely, but:

- A. Shall not be changed to another nonconforming use without approval by the Board of Adjustment, and then only to a use which, in the judgment of the board, is of the same or of a more restricted nature.
- B. Shall not be re-established if such use has been discontinued for period of two years or more for any reason, or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
- C. May be expanded up to 20 percent greater than its existing size on the effective date of this bylaw, subject to approval by the Board of Adjustment after public notice and public hearing,

provided the expansion conforms to any other applicable requirements of this bylaw.

Sec. 503: Nonconforming Structures

- 503.1 The following provisions shall apply to all nonconforming structures existing on the effective date of this bylaw.
- 503.2 Any nonconforming structure:
- A. May be continued indefinitely and may be expanded up to 50% of the square footage of the original non-conforming structure, subject to approval by the Board of Adjustment after public notice and public hearing, provided the structure is outside of any flood hazard areas, and the expansion is in accordance with any applicable requirements of this bylaw.
 - B. Shall not be re-established if such structure has ceased to exist for a period of 24 months or more for any reason, or has been replaced by a conforming structure. Intent to resume a nonconforming structure shall not confer the right to do so.
 - C. Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformance.

ART 6: ADMINISTRATION AND ENFORCEMENT

Sec. 601: Administrative Officer

- 601.1 The Administrative Officer shall be appointed by the Selectboard from nominations submitted by the Planning Commission for a term of three (3) years in accordance with 24 V.S.A., Section 4448. Said officer shall literally enforce the provisions of this bylaw and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of this bylaw. Appeals of any decision or act taken by the Administrative Officer shall be made as provided for in 24 V.S.A., Section 4465. The Selectboard may remove an Administrative Officer for cause at any time after consultation with the Planning Commission.
- 601.2 An acting Administrative Officer may be appointed by the Selectboard pursuant to 24 V.S.A., Section 4448., from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Administrative Officer in the Administrative Officer's absence. In the event an acting Administrative Officer is appointed, the Selectboard shall establish clear policies regarding the authority of the Administrative Officer relative to the authority of the acting Administrative Officer.

Sec. 602: Zoning Permits

- 602.1 No land development as defined herein and in 24 V.S.A., Section 4303 (3), may be commenced without a permit therefore issued by the Administrative Officer. No zoning permit may be issued by the Administrative Officer except in conformance with this bylaw.
- 602.2 Applications for zoning permits shall be made to the Administrative Officer on forms provided by the Administrative Officer for that purpose.
- 602.3 The fee for zoning permits shall be established by the Selectboard. They may be on a sliding scale depending on the cost of the land development. Said fee shall accompany each application for a permit.
- 602.4 Prior to the issuance of any zoning permit the Administrative Officer shall first be satisfied that the subject of the application is in conformance with this bylaw. The Administrative Officer may request from an applicant any information deemed necessary for this purpose. No such permit shall be issued unless an application, fee, plot plan or survey, if required, and any other approvals of the Planning Commission or the Board of Adjustment required by this bylaw have been properly obtained and are submitted in connection with the application. On applications for replacement of any existing structure, applicant shall include on the plot plan a reference from some existing permanent structure, (i.e. telephone pole, tree, etc.) to at least two corners of the structure to be removed..
- 602.5 The Administrative Officer shall consider comments from the Agency of Natural Resources when

making a decision on an application for development in a flood hazard area.

- 602.6 The Administrative Officer, shall, within 30 days of submission of a complete application, data and approvals required by the Planning Commission or Board of Adjustment, either issue or deny a zoning permit. If denied, the Administrative Officer shall so notify the applicant in writing, stating the reasons therefore.
- A. If the zoning permit is approved, the Administrative Officer must be notified when the foundation is poured and when the roof is framed. On replacements of non-conforming structures and on new structures that are within 50 feet of any property line, the Administrative Officer must approve footings before the foundation is poured.
 - B. For development in the Special Flood Hazard Area, the Administrative Officer must make a site visit to view the structure after the foundation has been poured to confirm from a surveyed elevation that the lowest flood elevation will be in compliance with the permit.
- C. All activities authorized by the issuance of the zoning permit shall be completed within two years of its date of issue, or the zoning permit shall become null and void and reapplication to complete any activities shall be required.
- 602.7 In the issuance of zoning permits, the Administrative Officer shall comply with all of the provisions of 24 V.S.A., Section 4449.
- 602.8 No zoning permit issued pursuant to 24 V.S.A., Section 4443 shall take effect until the time for appeal, which is 15 days, in 24 V.S.A., Sec 4464(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.
- 602.9 For non-conforming structures, where approval has been given by the Zoning Board of Adjustment and zoning permit issued by the Administrative Officer, if applicant decides to build a smaller structure, the Administrative Officer may issue a revised zoning permit without a hearing, provided the smaller structure is within the same footprint as the previously approved structure.

Sec. 603: Penalties

- 603.1 The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with 24 V.S.A., Sections 4451 and 4452. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Westmore, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.
- 603.2 No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail or personal service by the Administrative Officer that a violation exists, as required under 24 V.S.A., Section 4451. The notice of violation also shall be recorded in the land records of the municipality. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

Sec. 604: Board of Adjustment

- 604.1 There is hereby established a Board of Adjustment whose members shall consist of the Planning Commission, until such time that the Selectboard appoints a separate Zoning Board of Adjustment as provided in 24 V.S.A., Section 4460(b) and (c). The Board of Adjustment shall be appointed by the Selectboard for specified terms. The Selectboard also may appoint alternates, for specified terms, to serve on the Board of Adjustment in situations when one or more members are disqualified or are otherwise unable to serve. Any member of the Board of Adjustment may be removed for cause by the Selectboard upon written changes and after a public hearing.
- 604.2 Rules of procedure and rules of ethics applicable to the 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 so as to meet the requirements of 24 V.S.A., Section 4461(a) and Vermont's Open Meeting Laws.

- 604.3 The Board of Adjustment shall have all powers and duties as set forth in 24 V.S.A., Chapter 117 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.

Sec. 605: Planning Commission

- 605.1 The Planning Commission shall be appointed by the Selectboard in accordance with 24 V.S.A., Sections 4321– 4323. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Selectboard.
- 605.2 The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under 24 V.S.A., Section 4323(b) and Vermont's Open Meeting Laws. In accordance with 24 V.S.A., Chapter 117, the Commission shall have the following duties in association with these regulations:
- A. to prepare a town plan and amendments thereof for consideration by the Selectboard and to review any amendments thereof initiated by others as set forth in 24 V.S.A., Chapter 117, Subchapter 5;
 - B. to prepare and approve written reports on any proposed amendments to the town plan as required by 24 V.S.A., Section 4384(c);
 - C. to hold one or more warned public hearings on proposed amendments to the town plan, prior to the submission of a proposed amendment and written report to the Selectboard in accordance with 24 V.S.A., Section 4384(d);
 - D. revise permit application forms as needed;
 - E. to prepare proposed amendments to these bylaws, and consider proposed amendments submitted by others, including amendments submitted by petition;
 - F. to prepare and approve written reports on any proposed amendment to these bylaws as required by 24 V.S.A., Section 4441(c);
 - G. to hold one or more warned public hearings on proposed amendments to these bylaws, prior to submission of a proposed amendment and written report to the Selectboard in accordance with 24 V.S.A., Section 4441(d); and
 - H. to perform any other necessary administrative duties.
- 605.3 The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A., 4461(a) and Vermont's Open Meeting Laws. The Commission shall have all powers and duties as set forth in 24 V.S.A., Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
- A. applications for rights-of-way or easements for development lacking frontage (Section 302).

Sec. 606: Referral to State Agency

Upon receipt of a complete application for new construction or substantial improvement, the Administrative Officer shall submit a copy of the application and supporting information to the Vermont National Flood Insurance Program Coordinator (at the Agency of Natural Resources), 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. The Administrative Office and the Zoning Board of Adjustment shall consider all comments from the Agency of Natural Resources.

Sec. 607: Public Notice

- 607.1 In accordance with 24 V.S.A., Section 4464, a warned public hearing shall be required for conditional use review, appeals of decisions of the Administrative Officer and variances. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:
- A. publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
 - B. posting of the same information in three (3) or more public places within the municipality, including the posting of a permit notice – by the Administrative Officer - within view from the public right-of-way nearest to the property for which the application is being made; and
 - C. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
- 607.2 Public notice of all other types of development review hearings shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
- A. posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
 - B. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.
- 607.3 The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.
- 607.3 No defect in the form or substance of any required public notice under this section shall invalidate the action of the Planning Commission or Zoning Board of Adjustment where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Board of Adjustment or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

Sec. 608: Hearings

- 608.1 In accordance with 24 V.S.A., Section 4461, all meetings and hearings of the Planning Commission and Board of Adjustment, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members.
- 608.2 In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 608.1 are met. The Planning Commission and Board of Adjustment shall keep a record of the name, address, and participation of each of these persons.
- 608.3 The definition of an interested person under 24 V.S.A., Section 4465(b) includes the following:
- A. a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
 - B. the Town of Westmore or any adjoining municipality;

- C. a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
- D. any ten (10) voters or property owners within the municipality who, by signed petition to the Zoning Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
- E. any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Sec. 609 Decisions

- 609.1 In accordance with 24 V.S.A., Section 4464(b), all decisions of the Planning Commission or Board of Adjustment shall be issued in writing within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:
- 609.2 All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken.
- 609.3 In rendering a decision in favor of the applicant, the Planning Commission or Board of Adjustment may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of 24 V.S.A., Chapter 117, these regulations, and the municipal plan currently in effect.
- 609.4 All decisions shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and Town Clerk as part of the public record of the municipality.

Sec. 610: Appeals

- 610.1 Any interested person as defined under 24 V.S.A., Section 4465 and Sec. 608.1 of this bylaw may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Clerk of the Board of Adjustment, or the Municipal Clerk if no Clerk of the Board of Adjustment has been elected, and by filing a copy of the notice with the Administrative Officer.
- 610.2 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., Section 4468. The Board shall give public notice of the hearing under Sec. 607, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- 610.3 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 a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [24 V.S.A., Section 4470].
- 610.4 In accordance with 24 V.S.A., Section 4468, all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. Section 810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place adjourned hearing shall be announced

at the hearing.

- 610.5 A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under 24 V.S.A., Section 4464(b). The decision shall be sent by certified mail to the appellant within the 45-day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with Sec. 609. 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.
- 610.6 A notice of appeal filed under this section shall be in writing and include the following information, in accordance with 24 V.S.A., Section 4466:
- A. the name and address of the appellant,
 - B. a brief description of the property with respect to which the appeal is taken,
 - C. a reference to applicable provisions of these regulations,
 - D. the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
 - E. the alleged grounds why such relief is believed proper under the circumstances.
- 610.7 In accordance with 24 V.S.A., Section 4471, an interested person as defined under 24 V.S.A., Section 4465 and Sec. 608.1 of this bylaw who has participated in a regulatory proceeding of the Board of Adjustment may appeal a decision rendered by the Board under Sec. 609, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall be filed in accordance with rules governing appeals of state agency decisions, as provided for in 3 V.S.A., Sections 801-816.

ART 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

Sec. 701: Amendments

This bylaw may be amended according to the requirements and procedures established in 24 V.S.A., Section 4441 Preparation of bylaws and regulatory tools; amendment or repeal; 24 V.S.A., Section 4442 Adoption of bylaws and related regulatory tools; amendment or repeal; and 24 V.S.A., Section 4444 Public hearing notice for adoption, amendment, or repeal of bylaw and other regulatory tools.

Sec. 702: Interpretation

- 702.1 In their interpretation and application, the provisions of this bylaw shall be held to be minimum requirements adopted for the promotion of the public health, safety, convenience, comfort and general welfare. This bylaw intends to create “conformance with the plan” which makes progress toward attaining, or at least not interfering with the goals and policies contained in the municipal plan; provides for proposed future land uses, densities, and intensities of development contained in the municipal plan; and carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan.
- 702.2 Except for 24 V.S.A., Section 4413, and where, in this bylaw specifically provided to the contrary, it is not intended by this bylaw to appeal, annul, or in any way impair any regulations or permits previously adopted or issued, provided however, that where this bylaw imposes a greater restriction upon use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of this bylaw shall control.

Sec. 703: Effective Date

This bylaw shall take effect in accordance with the voting and other procedures contained in 24 V.S.A., Section 4442.

Sec. 704: Separability

The invalidity of any section or article of this bylaw shall not invalidate any other section or article thereof.

Sec. 705: Repeal of Former Zoning Bylaw

The former Town of Westmore Zoning Bylaw is hereby repealed upon the date this Bylaw becomes effective.