

TOWN OF LEMINGTON, VERMONT

ZONING BYLAW

Adopted September 15, 1976  
Revised Bylaw adopted March 6, 1984  
New Flood Hazard Area Regulations (Sec 311)  
Adopted December 17, 1987  
Amendments adopted November 6, 1990

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ZONING BYLAW  
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**ZONING BYLAW**

**TOWN OF LEMINGTON, VERMONT**

**ARTICLE I: ENACTMENT AND INTENT**

Section 101: Enactment

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

Section 102: Intent

It is the intent of these zoning bylaws to provide for orderly community growth and to further the purposes established in Section 4302 of the Act.

**ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND DISTRICT REGULATIONS**

Section 201: Zoning Map and Districts

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

Agricultural District	Rural Lands District
Rural Residential District	Resource District

Section 202: Copies of Zoning Maps

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

Section 203: District Boundaries

District boundaries shown within the lines of roads, streams, and transportation right-of-way shall be deemed to follow the center lines. The abandonment of roads shall not affect the location of the district boundaries. When the Administrative Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions located on the zoning map, or by the fact that it clearly coincides with a property line, he

shall refuse action, and the Planning Commission shall interpret the location of the district boundary with respect to the scale of the zoning map and the purposes set forth in all relevant provisions of this bylaw.

Section 204: District Objectives and Land Use Control

The following tables establish the objectives of each of the districts hereby established and the provisions of this bylaw that apply respectively in each district. Any use designated as a permitted use may be commenced pursuant to Section 205 of this bylaw. Any use designated as a site plan use may be commenced pursuant to Section 401 of this bylaw. Any use designated as a conditional use may be commenced pursuant to Section 206 of this bylaw. Any use not specifically listed in the following tables shall be deemed to be prohibited.

Except as hereinafter provided, no division of a parcel into two or more parcels, nor any construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation, or landfill, nor any change in the use of any building or other structure, or land, or extension of land use shall commence unless in conformity with the regulations herein specified for the district in which it is located.

=====

Table 204.1: Agricultural District

Purpose

The purpose of the Agricultural District is to protect lands which are best suited for agricultural use, and are now essentially undeveloped except for the uses associated with agriculture.

Permitted Uses

- |                     |                 |
|---------------------|-----------------|
| 1. Agricultural use | 2. Forestry use |
|---------------------|-----------------|

Conditional Uses

- |                           |                                   |
|---------------------------|-----------------------------------|
| 1. Single family dwelling | 3. Extraction of Soil/Sand/Gravel |
| 2. Two family dwelling    |                                   |

Minimum Lot Area and Dimensional Requirements

Lot Size in acres:	5.0
Lot Width in feet:	200.0
Front Yard in feet:	60.0
Side Yard in feet:	25.0
Rear Yard in feet:	25.0

=====

Table 204.2: Resource District

Purpose

The purpose of this district is to protect the natural resource value of lands which are essentially undeveloped, lack direct access to public roads, have high potential for forestry use or have one or more physical limitations to development.

Permitted Uses

- |                     |                           |
|---------------------|---------------------------|
| 1. Agricultural use | 3. Camp/seasonal dwelling |
| 2. Forestry use     | 4. Outdoor recreation use |

Conditional Uses

1. Extraction of Soil/Sand/Gravel

Minimum Area and Dimensional Requirements

Lot Size in acres:	10.0
Lot Width in feet:	300.0
Front Yard in feet:	50.0
Side Yard in feet:	50.0
Rear Yard in feet:	50.0

Table 204.3: Rural Lands District

Purpose

The purpose of the Rural Lands District is to provide for low density residential development in areas adjacent to existing roads while maintaining the general rural character of these areas.

Permitted Uses

- |                           |                            |
|---------------------------|----------------------------|
| 1. Agricultural use       | 4. Accessory use/structure |
| 2. Forestry use           | 5. Outdoor recreation      |
| 3. Single family dwelling |                            |

Conditional Uses

1. Extraction of soil/sand/gravel

Minimum Area and Dimensional Requirements

Lot Size in acres:	5.0
Lot Width in feet:	200.0
Front Yard in feet:	50.0
Side Yard in feet:	50.0
Rear Yard in feet:	50.0

=====

Table 204.4: Rural Residential District

Purpose

The purpose of the Rural Residential District is to provide a suitable area for the majority of the future growth in Lemington. Provision is made for medium density residential development and limited commercial facilities.

Permitted Uses

- |                           |                            |
|---------------------------|----------------------------|
| 1. Agricultural use       | 4. Two family dwelling     |
| 2. Forestry use           | 5. Accessory use/structure |
| 3. Single family dwelling | 6. Home occupation         |

Site Plan Uses

- |                              |                                    |
|------------------------------|------------------------------------|
| 1. Public facility           | 5. Business or professional office |
| 2. Public assembly use       |                                    |
| 3. Outdoor recreation        | 6. Neighborhood commercial         |
| 4. Personal service facility |                                    |

Conditional Uses

- |                         |                             |
|-------------------------|-----------------------------|
| 1. Travel trailer camp  | 3. Extraction of soil/sand/ |
| 2. Manufacturing gravel |                             |

Minimum Area and Dimensional Requirements

Permitted Uses

Lot Size in acres:	2.0
Lot Width in feet:	200.0
Front Yard in feet:	75.0
Side Yard in feet:	25.0
Rear Yard in feet:	25.0

Conditional Uses

Lot Size in acres:	5.0
Lot Width in feet:	200.0
Front Yard in feet:	75.0
Side Yard in feet:	50.0
Rear Yard in feet:	50.0

=====

Section 205: Permitted Uses

These are the uses that are allowed provided the standards established by this bylaw are met. Unless a variance or other special action by the Board of Adjustment or Planning Commission is required the necessary permit may be issued by the Administrative Officer.

Section 206: Conditional Uses

206.01 These are the uses that maybe allowed by the Board of Adjustment as provided for in Section 4407(2) of the Act after public notice and public hearing. In order for the permit to be granted the Board must find that the proposed use shall not adversely effect:

- A. The capacity of existing or planned community facilities;
- B. The character of the area affected;
- C. Traffic on roads and highways in the vicinity;
- D. Bylaws then in effect;
- E. Utilization of renewable energy resources.

206.02 In addition, the proposed use must be found to be in conformance with the specific standards for the district in which it is located.

206.03 As a condition of approval, the Board of Adjustment may attach such additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act and these zoning regulations.

**ARTICLE III: GENERAL PROVISIONS**

The following provisions shall apply to all districts except where listed.

Section 301: Existing Small Lots

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these regulations may be developed for 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 and a minimum width or depth dimension of forty feet.

Section 302: Required Frontage on, or Access to, Public Roads or Public Waters

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 permanent easement or right-of-way at least fifty feet in width.

Section 303: Protection of Home Occupations

No regulation herein is intended to 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 which does not change the character thereof.

Section 304: Lots in Two Zoning Districts

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of the lot shall extend no more than fifty feet into the restricted part, provided the lot has frontage on or access to a public road in the less restricted district.

Section 305: Temporary Structures

Permits may be issued by the Administrative Officer subject to approval by the Board of Adjustment, for structures not conforming to the requirements of these regulations provided such permits are conditioned upon agreement of the owner to remove the structure upon expiration of the permit. Such permits shall expire two years after issuance and may be renewed upon application for an additional period not exceeding one year.

Section 306: Collapsed or Burned Buildings and Structures

No owner or occupant of land in any district shall permit a collapsed or burned building to remain as such, but within one year shall remove the building or structure and clear the site to ground level, or shall repair, rebuild, or replace the building or structure. The Administrative Officer may grant an extension of one year to meet this requirement.

Section 307: Location of Driveways

All driveways are to be located at least thirty feet from a road line intersection for all uses.

Section 308: Signs

In any district the following signs shall be permitted when located on the immediate property:

- 308.01 A sign not exceeding twelve square feet is permitted which announces the name, address, or the professional or home occupation of the occupant of the premises on which said sign is located.
- 308.02 A bulletin board not exceeding twenty four square feet is permitted in connection with any church, school, or similar public structure.
- 308.03 A temporary real estate or construction sign, not exceeding twenty four square feet is permitted on the property being sold, leased, or developed. Such sign shall be removed promptly when it has fulfilled its function.

308.04 A business sign shall be permitted in connection with any legal business or industry located on the same premises and meeting the following requirements:

- A. Two signs are permitted for any legally established business, one free standing, the other attached to the building. The height of a free standing sign shall not exceed twenty five feet.
- B. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or vehicular traffic. Illumination shall be properly focused upon or within the sign itself.
- C. Maximum square footage for any sign shall be 100 square feet or a total of 150 square feet for the two signs.

308.05 Additional temporary on site signs may be permitted by the Board of Adjustment for a business, church, or service organization.

Section 309: Set-Back from Streams

No zoning permit will be issued for any structure having a set-back of less than fifty feet from any river or stream.

Section 310: Forestry Requirements

No trees of less than four-inch diameter, at four feet above ground level, shall be cut within fifty feet of a public road during commercial forestry operations.

Section 311: Flood Hazard Area Regulations

311.01 Lands to Which These Regulations Apply. These regulations shall apply for development in all areas in the Town of Lemington identified as areas of special flood hazard on the (current National Flood Insurance Program maps) which are hereby adopted by reference and declared to be part of these regulations.

311.02 Conditional Use Permit Required

- A. All development including fill, excavation, grading, erection or placement of structures, substantial improvement of existing structures and storage of equipment and material prescribed by the Town of Lemington zoning ordinance are permitted within an area of special flood hazard only upon the granting of a conditional use permit by the Board of Adjustment.
- B. Prior to issuing a permit for the construction of new buildings, the substantial improvement of existing buildings, or for development in the floodway, a copy of the application shall be submitted to the Vermont

Department of Water Resources and Environmental Engineering in accordance with 24VSA 4409. A permit may be issued only following receipt of comments from the Department of or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.

- C. Adjacent communities and the Vermont Department of Water Resources and Environmental Engineering 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.
- D. Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.

### 311.03 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 the provisions of these regulations.
- B. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance program, i.e.; zone A, base flood elevation and floodway information available from State or Federal agencies or other sources, shall be obtained and reasonably utilized to administer the provisions of these regulations.

### 311.04 Conditional Use Review Procedures

- A. 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 applicant;
    - 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, buildings, 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.

2. Obtain from the Vermont Department of Water Resources or other state or federal agencies any available base flood elevation data.

B. In reviewing each application, the Board of Adjustment shall consider:

1. The evaluation of the Vermont Department of Water Resources.
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 that materials may be swept onto other lands and cause damage to others.
7. Such other factors as are relevant to the purposes of this ordinance.

C. 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 approval is required by Federal or State law.
2. The development standards of Section 311.05 are met or exceeded.

### 311.05 Development Standards Within Areas of Special Flood Hazard

A. All development and structures shall be:

1. Designed to minimize flood damage to the proposed development and to public facilities and utilities, and;
2. Designed to provide adequate drainage to reduce exposure to flood hazards.
3. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;

4. Constructed with materials resistant to flood damage;
5. Constructed by methods and practices that minimize flood damage, and;
6. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

C. 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 flood waters.

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

E. New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.

F. Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

G. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.

H. Existing buildings to be substantially improved for:

1. Residential purposes shall be modified or elevated to meet the requirements of subsection 311.5(G).

2. Non-residential purposes shall either:

- a. Meet the requirements of subsection 311.5(G) or;
- b. Be designed to be watertight below the base flood elevation 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.

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

floodway. These facilities may be permitted outside of the floodway provided the area is filled to at least one foot above the base flood elevation.

311.06 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 flood proofed.
- D. All floodproofing certifications required under this regulation.
- E. All variance actions, including justification for their issuance.

311.07 Variances. Variances shall be granted by the Board of Adjustment only:

- A. In accordance with the provisions of 24 VSA section 4468;
- B. Upon a determination that during the base flood discharge the variance will not result in increased flood levels.
- C. Upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

311.08 Warning of Disclaimer of Liability. These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Lemington or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 312: Travel Trailers and Travel Trailer Camps

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

312.01 In an approved travel trailer camp,

312.02 Any property owner may park his travel trailer or that of a visitor on his own property providing that the trailer is parked no closer than ten feet to any lot line or closer than fifty feet to any stream or river. A trailer so parked

shall not be used as living quarters for more than six weeks in any calendar year.

312.03 All travel trailer camps will comply with the following:

A. Evidence of compliance or intent to comply with all applicable state regulations shall be provided.

B. All access driveways to the trailer camp must be at least thirty feet in width and have a compacted gravel surface at least twenty feet in width.

C. A strip of land at least twenty five feet in width shall be maintained as a landscaped area abutting all property lines except when the camp boundary is adjacent to residential uses when the landscaped area shall be at least fifty feet in width.

Section 313: Extraction of Soil, Sand, or Gravel

313.01 Cut slopes, spoil banks, and deep pits shall be graded to a 2 on 1 slope and smoothed upon the completion of operations.

313.02 No power activated sorting machinery or blasting shall be located within 200 feet of any public road or neighboring property line.

313.03 Slopes in excess of 2 on 1 created by excavating shall be fenced or suitable warnings posted.

Section 314: Manufacturing

314.01 Exterior storage of material shall be screened from view.

314.02 Excessive noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the property shall not be generated.

314.03 Parking shall be provided on the site and a minimum of one parking place per employee shall be provided.

Section 315: Accessory Uses and Structures

Accessory uses and/or structures shall not exceed, in floor area, 50 percent of the principle use and structure.

**ARTICLE IV: SPECIAL PROVISIONS**

Section 401: Site Plan Approval

No zoning permit shall be issued by the Administrative Officer for any use requiring site plan approval until the Planning Commission grants such approval in accordance with the following procedures:

401.01 The applicant shall submit a site plan map and supporting data to the Planning Commission which shall include the following information:

A. Proposed structure locations, roads, driveways, traffic circulation, parking and/or loading spaces, landscaping, and site improvements.

401.02 The Planning Commission shall conform to the requirements of Section 4407(5) of the Act before acting upon any application.

In considering its action the Planning Commission shall consider and may impose appropriate conditions and safeguards only with respect to traffic access, circulation and parking, landscaping and screening, and the protection of the utilization of renewable energy resources.

The Planning Commission shall review the site plan map and supporting data before approval, approval with stated conditions, or disapproval, is given, and taking into consideration the following objectives:

- A. Maximum safety of vehicular circulation between the site and public roads.
- B. Adequacy of circulation, parking, and loading facilities with particular attention to safety.
- C. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent property and roadside scenic areas.
- D. The protection of the utilization of renewable energy resources.

**ARTICLE V: NON-CONFORMING USES AND NON-COMPLYING STRUCTURES**

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

Nothing contained in this bylaw shall require any change in plans for the construction of a non-complying structure or the establishment of a non-conforming use for which a zoning permit has been issued prior to the effective date of these regulations, unless such permit was issued two or more years prior to the adoption of this bylaw.

**Section 502: Non-Conforming Uses**

In accordance with Title 24 V.S.A. 4408(b) the following provisions shall apply to all non-conforming uses existing on the effective date of these regulations.

Any non-conforming use may be continued indefinitely but:



502.01 Shall not be expanded, enlarged, or extended (except as specifically provided), nor shall any external evidence of such use be increased by any means whatsoever.

502.02 Shall not be changed to another non-conforming use.

502.03 Shall not be re-established if such use has been discontinued for a period of six months, or has been changed to, or replaced by a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.

502.04 Shall not be restored for other than a conforming use after damage from any cause, unless the non-conforming use is reinstated within one year of such damage. If the restoration of such building is not completed within one year, the non-conforming use of such building shall be deemed to have been discontinued, unless carried on without interruption in the undamaged part of the building.

Section 503: Expansion of a Non-Conforming Use

The Board of Adjustment may, after public notice and hearing, allow expansion of any non-conforming use up to 20% greater than its existing size at the time of the adoption of these regulations provided it conforms to any other applicable requirements of these regulations.

Section 504: Non-Complying Structures

In accordance with Title 24 V.S.A. 4408(c) the following provisions shall apply to all non-complying structures:

504.01 A non-complying structure may be continued indefinitely and may be expanded, subject to the issuance of a permit by the Administrative Officer, provided the expansion is in accordance with any applicable requirements of these regulations, does not increase the degree of non-compliance, and meets the requirements of Section 503 regarding expansion of a non-conforming use.

504.02 Nothing in this section shall be deemed to prevent the normal maintenance and repair of a non-complying structure provided that such action does not increase the degree of non-compliance.

**ARTICLE VI: DEFINITIONS**

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

Section 601 Word Definitions

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

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

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

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

The word lot includes the words plot or parcel.

Section 602: Term Definitions

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principle use or structure. Such use or structure shall not exceed, in area, fifty percent of the principle use or structure.

Agricultural Use: Land which is used for raising livestock and crops, including structures located thereon used for the storage or sale of agricultural products raised wholly or substantially on the property.

Area of Shallow Flooding: Means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into Zones A, AO, AH, AI-A30, AE, or A99.

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

Basement: Means any area of the building having its floor subgrade (below ground level on all sides. "Building" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

Building: Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

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

Building Rear Line: Line parallel to the rear lot line transecting that point in the building face which is closest to the rear lot line. This face includes porches, whether enclosed or unenclosed, but does not include steps.

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

Development: Means 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.

Dwelling, Single Family: A detached residential dwelling unit or a mobile home, designed for and occupied by one family only.

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

Dwelling, Camp or Seasonal: A dwelling unit used as a seasonal, second, or recreational home and not used, or intended to be used as a principle place of abode.

Dwelling Unit: One or more rooms constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. It shall include prefabricated and modular units but shall not include motels, hotels, or similar structures.

Family: One or more persons occupying a single dwelling unit, provided that unless all members are legally related, no such family shall contain over six persons, but further provided that domestic servants and farm workers employed on the premises may be housed on the premises without being counted as a family or families.

Flood Hazard Boundary Map (FHBM): Means 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 (FIRM): Means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium applicable to the community.

Flood Insurance study: Means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Proofing: Means 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.

Floodway: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Forestry Use: The growing and harvesting of timber and the erection of temporary structures and the construction of logging roads for the purpose of harvesting timber.

Home Occupation: Accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary in nature to the use of the dwelling for living purposes and does not change the character thereof.

Lot: A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incident to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as herein provided. Such lot shall have frontage on an improved public street, or other means of access approved by the Planning Commission and may consist of:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of complete lots of record, or complete portions of lots of record;
- D. A parcel of land described by metes and bounds;

provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this bylaw.

Lot Line, Front: Any lot line separating a public or private right-of-way from the property abutting the right-of-way. The front line for parcels not having frontage on a public or private right-of-way shall be considered to be that lot line most nearly parallel to the nearest right-of-way.

Lot Line, Rear: That lot line most distant from the front lot line. There is no rear lot line for a corner lot.

Lot Line, Side: A lot line which is neither a front lot line nor a rear lot line.

Lot Width: Shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot measured across the front 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.

Lowest Floor: Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 311.05.

Manufactured home: Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Mean Sea Level: Means, for purposes of the National Flood Insurance program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

Neighborhood Commercial Facility: Any commercial facility such as a grocery, general, newspaper or drug store or retail service establishment intended principally to serve the area in which it is located.

Non-Conforming Use: Use of land or structure which does not comply with the zoning regulations for the district in which it is located, where such use conformed to all applicable laws and regulations prior to the enactment of these regulations.

Non-Complying Structure: Structure not complying with the zoning regulations for the district in which it is located, where such structure complied with all applicable laws and regulations before the enactment of these regulations.

Outdoor Recreation: Includes parks, playgrounds, swimming pools, tennis courts, skating rinks, riding stables, hunting or fishing

preserves, and similar places of public or private outdoor recreation.

Personal Service: Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

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

Public Assembly Use: Includes auditorium, theatre, public hall, school hall, meeting hall, church or temple.

Road Line: Right-of-way of a public road as dedicated by a deed of record. Where the width of the public road is not established, the road line shall be considered to be twenty five feet from the center of a public road.

Road, Public: Publicly owned and maintained right-of-way for vehicular traffic which affords the principle means of access to abutting properties.

Sign: Any device designed to attract the attention of persons not on the premises on which the sign is located, provided however, that the following shall not be included in the regulation herein:

- A. Flags and insignia of any government except when displayed in connection with commercial promotion;
- B. Legal notices, identification, informational or directional signs erected as required by governing bodies;
- C. Integral decorative or architectural features of buildings, except letters, trademarks, or moving parts or moving lights;
- D. Signs directing and guiding traffic and parking on, private property, but bearing no advertising matter.

Signs, Numbers, and Surface Area: For the purpose of determining the number of signs a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner, without organized relationship of elements, or where there is reasonable doubt about the relationship of the elements, each element shall be considered to be a single sign.

The surface of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be considered in computation of surface area.

Structure: Means an assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.

Substantial Improvement: Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however include 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 Camp: A plot of ground on which two or more travel trailers, occupied for sleeping purposes, are located subject to the payment of a fee.

Travel Trailer or Trailer: Trailer shall mean any vehicle so constructed as to permit its being used as a conveyance on the public streets and highways and whether licensed or not, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons, with or without a toilet and bathtub or shower and cannot be readily connected to a community sewer or water service. A trailer under this local law shall also mean tent trailers, motor homes, truck campers, vehicles converted to sleeping facilities other than a mobile home and/or what normally constitutes a permanent dwelling unit. This definition includes uses to which trailers might be put.

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

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 center line of the road 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 the principle building or accessory building and a side lot line, and extending through from the front yard to the rear yard.

**ARTICLE VII: ADMINISTRATION AND ENFORCEMENT**

**Section 701: Administrative Officer**

The Administrative Officer shall be appointed to administer the zoning regulations pursuant to Section 4442 of the Act. Said officer shall literally enforce the provisions of these regulations and in so doing shall inspect developments, maintain records and perform all other necessary acts to carry out the provisions of these regulations. Appeals to any decision or act taken by the Administrative Officer shall be made as provided for in Subchapter 8 of the Act. An acting Administrative Officer may be appointed pursuant to Section 4442(b) of the Act.

**Section 702: Zoning Permits**

702.01 No land development as defined in Section 4303 of the Act, may be commenced without a permit therefor issued by the Administrative Officer. No zoning permit may be issued by the Administrative Officer except in conformance with these regulations.

702.02 Applications for zoning permits shall be made to the Administrative Officer on forms provided by him for that purpose.

702.03 Prior to the issuance of any zoning permit the Administrative Officer shall first satisfy himself that the subject of the application is in conformance with these regulations. He may request from an applicant any information he deems necessary for this purpose. No such permit shall be issued unless an application, fee, plot plan and other approvals of the Planning Commission or the Board of Adjustment required by this regulation have been properly obtained and are submitted in connection with the application. The Administrative Officer, shall, within thirty days of submission of the application, data and approvals, either issue or deny a zoning permit. If denied, the Administrative Officer shall also notify the applicant in writing, stating his reasons therefor. If the zoning permit is approved, all activities authorized by its issuance shall be completed within two years of the date of issue, or the zoning permit shall become null and void, and reapplication to complete any activities will be required.

702.04 In the issuance of zoning permits the Administrative officer will comply with all the provisions of Section 4443 of the Act.

702.05 The fee for a zoning permit shall be established by the Legislative Body. It may be a sliding scale depending on the cost of the land development. Said fee shall accompany each application for a permit.

702.06 No zoning permit issued pursuant to Section 4443 of the Act shall take effect until the time for appeal in Section



4464(a) of the Act has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

Section 703: Penalties

703.01 Any violation of this bylaw after the effective date thereof shall be punished as provided in Sections 4444 and 4445 of the Act.

703.02 No action will be initiated by the Town relative to construction, alteration, improvement or repairs to any single family dwelling, its appurtenant structures, or land in the immediate vicinity, provided such construction, alterations, improvements or repairs were completed prior to December 31, 1989.

Section 704: Board of Adjustment

704.01 There is hereby established a Board of Adjustment whose members shall consist of the Planning Commission, until such time that the Selectmen appoint a separate zoning Board of Adjustment as provided in the Act.

704.02 Rules of procedure applicable to the Zoning Board of Adjustment, the nature of appeals to the Board from actions of the Administrative officer, notice requirements, public notice, conditions for variance relief, and all other matters regarding the action of said Board shall be as provided in Subchapter 8 of the Act.

Section 705: Referral to State Agency

In accordance with Section 4409(c) of the Act, no zoning permit for the development of land in certain locations specified in said section shall be issued by the Administrative Officer without first submitting a report to the appropriate state agency, and compliance with the terms of Section 4409(c).

Section 706: Public Notice

Any requirement of public notice required by these regulations, whether or not required by any provision in the Act, and whether applicable to the Board of Adjustment or planning Commission, shall be given by the publication of the date, place, and purpose of Such hearing in a newspaper of general circulation in Lemington and the posting of such notice in one or more public places within the municipality not less than fifteen days prior to the date of the public hearing. In every case in which public notice is required, such public notice shall include a brief summary of the purpose of the hearing.

**ARTICLE VIII: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE**

**Section 801: Amendments**

This bylaw may be amended according to the requirements and procedures established in Sections 4403 and 4404 of the Act.

**Section 802: Interpretation**

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

Except for Section 4409(b) of the act, 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 aye required by any other statute, ordinance, rule, regulation permit, easement, or agreement, the provisions of this bylaw shall control.

**Section 803: Effective Date**

This bylaw shall take effect in accordance with the voting and other procedures contained in Section 4404 of the Act.

**Section 804: Separability**

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

**Section 805: Repeal**

The existing ordinance relating to zoning regulations together with all changes and amendments thereto is repealed as of the effective date of this bylaw.