

TOWN OF WATERFORD, VERMONT

ZONING BYLAW

Adopted March 4, 1986
Amended March 3, 1987
Amended March 7, 1989
Amended March 7, 2000
Interim April 8, 2002
Amended March 5, 2013

A Message From The Planning Commission

The Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A. Section 4401, provides that “Any municipality which has adopted and has in effect a plan, and has created a planning commission, or a development review board, under this chapter may implement the plan by adopting, amending, and enforcing any or all of the bylaws provided in this chapter.

These Bylaws are intended to guide the development and growth of the Town of Waterford along the lines designated in the adopted Town Plan. The many factors which these Bylaws must take into account may be found in the Town Plan and Section 4302 of Chapter 117 of Title 24, V.S.A. However, a few factors are the very foundation of these Bylaws and are therefore emphasized by being listed here:

- 1) It is neither desirable nor possible to stop growth.
- 2) Without the aid of Zoning Bylaws, the Town of Waterford could be forced by outside pressure into a growth rate much larger than it can or may want to accommodate.
- 3) The rights of a property owner must never be ignored, and the rights of all property owners and residents must be balanced as to avoid placing an unfair burden on anyone.
- 4) Development of rural land must be guided by the above factors, plus the suitability of soils and terrain, as well as the desire of the people of Waterford to retain a rural, rather than urban or suburban atmosphere.

In the coming months, your Planning Commission will continue work on the Waterford Zoning Bylaws, as these rules require constant updating to comply with Vermont statutes. Among the items on our “to do” list, are possible realignment and redefinition of the current zones in town as we feel that it may be necessary to align the Zoning Bylaws with the current and future Town Plans. We have reviewed and discussed the data and suggestions by residents received in the recent survey we took, and that information will be a consideration in the process.

TOWN OF WATERFORD, VERMONT

ZONING BYLAW

Table of Contents

| | |
|--|-----------|
| ARTICLE 1: ENACTMENT & INTENT | 5 |
| § 101: Enactment | 5 |
| § 102: Intent..... | 5 |
| ARTICLE 2: ESTABLISHMENT OF DISTRICTS REGULATIONS | 5 |
| § 201: Zoning Map and Districts | 5 |
| § 202: Copies of Zoning Maps..... | 5 |
| § 203: District Boundaries | 5 |
| § 204: District Objectives and Land Use Control | 6 |
| Table 204.01: "IND-COM" Industrial Commercial District..... | 6 |
| Table 204.02: "VIL" Village District | 7 |
| Table 204.03: "RR" Rural Residential District..... | 8 |
| § 205: Permitted Uses..... | 9 |
| § 206: Conditional Uses..... | 9 |
| § 207: Application of District Regulations | 10 |
| § 208: Lots Abutting Two or More Public Rights-of-Ways..... | 10 |
| § 209: Limitations on Municipal Bylaws | 10 |
| ARTICLE 3: GENERAL PROVISIONS | 11 |
| § 301: Existing Small Lots | 11 |
| § 302: Frontage on, or Access to, Public Roads or Waters | 12 |
| § 303: Protection of Home Occupations..... | 12 |
| § 304: Lots in Two Zoning Districts | 12 |
| § 305: Principal Buildings Including Dwellings on Lots | 13 |
| § 306: Reduction of Lot Area | 13 |
| § 307: Required Area or Yards..... | 13 |
| § 308: Yards on Corner Lots..... | 13 |
| § 309: Projections into Required Yards | 13 |
| § 310: Location of Driveways | 13 |
| § 311: Temporary Uses and Structures..... | 13 |
| § 312: Collapsed or Burned Buildings and Structures | 13 |
| § 313: Obstruction of Vision..... | 14 |
| § 314: Height Regulations..... | 14 |
| § 315: Private Swimming Pools..... | 14 |
| § 316: Auto Service Stations and Repair Facilities..... | 14 |
| § 317: Off-Street Loading | 15 |
| § 318: Off Street Parking..... | 15 |
| § 319: Screened Service Area Requirements..... | 16 |
| § 320: Residential Business | 16 |
| § 321: Signs..... | 16 |
| § 322: Extraction of Soil, Sand, or Gravel | 17 |
| § 323: Landscaping Requirements | 18 |
| § 324: Grading | 18 |
| § 325: Fences to Excavations | 18 |
| § 326: Flood Hazard Area Requirements | 18 |
| § 327: Recreational Vehicles and Campgrounds | 22 |

| | |
|--|-----------|
| § 328: Mobile Home Parks | 24 |
| § 329: Performance Standards..... | 25 |
| § 330: Discontinuance of Use..... | 25 |
| § 331: Septic Systems..... | 25 |
| § 332: Access to Public Rights-of-Way..... | 25 |
| § 333: Agriculture and Forestry..... | 25 |
| § 334: Wireless Communication Facilities..... | 26 |
| § 335: Accessory Dwellings..... | 29 |
| § 336: Residential Care or Group Homes..... | 30 |
| § 337: Child Care Facilities..... | 30 |
| ARTICLE 4: NON-CONFORMING USES & NON-CONFORMING STRUCTURES..... | 31 |
| § 401: Construction Approved Prior to Amendment of Bylaw..... | 31 |
| § 402: Non-conforming Uses..... | 31 |
| § 403: Non-conforming Structures and Lots | 31 |
| ARTICLE 5: DEFINITIONS..... | 32 |
| § 501: Word Definitions | 32 |
| § 502: Term Definitions..... | 32 |
| ARTICLE 6: ADMINISTRATION & ENFORCEMENT..... | 39 |
| § 601: Administrative Officer..... | 39 |
| § 602: Zoning Permits | 40 |
| § 603: Certificates of Compliance | 41 |
| § 604: Penalties..... | 41 |
| § 605: Development Review Board | 41 |
| § 606: Planning Commission | 42 |
| § 607: Public Notice | 42 |
| ARTICLE 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE..... | 49 |
| § 701: Amendments..... | 49 |
| § 702: Interpretation | 49 |
| § 703: Effective Date..... | 49 |
| § 704: Severability | 49 |
| § 705: Repeal | 49 |

TOWN OF WATERFORD, VERMONT

ZONING BYLAW

ARTICLE 1: ENACTMENT & INTENT

§ 101: Enactment

In accordance with the Vermont Planning and Development Act, 24 VSA, § 4401, there is hereby established a zoning bylaw for the Town of Waterford which is set forth in the text and map that constitute this bylaw. This bylaw shall be known and cited as the "Town of Waterford Zoning Bylaw".

§ 102: Intent

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

ARTICLE 2: ESTABLISHMENT OF DISTRICTS REGULATIONS

§ 201: Zoning Map and Districts

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

| | | | |
|-----------|--------------------------------|------|----------------------------|
| "IND-COM" | Industrial commercial district | "RR" | Rural residential district |
| "VIL" | Village district | | |

§ 202: Copies of Zoning Maps

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

§ 203: District Boundaries

District boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the centerlines. The abandonment of roads shall not affect the location of district boundaries.

When the Administrative Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Planning Commission shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this bylaw.

§ 204: District Objectives and Land Use Control

The following tables set forth the objectives and provisions that apply respectively in each district established in this bylaw. Any use designated as a "Permitted Use" may be commenced pursuant to § 205 of this bylaw. Any use designated as a "Conditional Use" may be commenced pursuant to § 206 of this bylaw. Any use not designated by this bylaw, as a "Permitted Use" or a "Conditional Use" shall be deemed to be prohibited.

Table 204.01: "IND-COM" Industrial Commercial District

Objective: To provide for commercial or industrial development in a manner that will prevent conflicts with residential and other incompatible uses. The creation of employment opportunities and broadening of Waterford's tax base were important considerations in the creation of this district.

Permitted Uses:

- | | |
|---|--|
| <ul style="list-style-type: none"> 1. Accessory use/structure¹ 2. Agriculture² 3. Dwelling, accessory 4. Forestry² | <ul style="list-style-type: none"> 5. Home occupation |
|---|--|

Conditional Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Auto sales/service 2. Auto service station 3. Campground 4. Contractor's yard 5. Correctional facility 6. Earth resources extraction 7. Essential service 8. Neighborhood retail store 9. School* 10. Telecommunication towers** 11. Bank 12. Dwelling, multi-family 13. Dwelling, single family 14. Manufacturing | <ul style="list-style-type: none"> 15. Membership Club 16. Motel 17. Office 18. Personal Service 19. Public facility 20. Recreation 21. Research/testing labs 22. Restaurant 23. Retail Sales 24. Trucking terminal 25. Warehouse/storage units 26. Wholesale Sales 27. Commercial Enterprise |
|--|--|

Minimum Lot Area & Dimensional Requirements

| | | | |
|---|-------|---------------------------|------|
| Lot area (acres) ³ : | 2.0 | Front yard setback (ft.): | 50.0 |
| Area / dwelling unit (acres) ³ : | 2.0 | Side yard setback (ft.): | 35.0 |
| Lot frontage (ft.) ⁴ : | 200.0 | Rear yard setback (ft.): | 35.0 |

Footnotes

¹ Accessory uses and structures for conditional uses shall require conditional use approval.

² Agricultural and forestry uses are exempted from the permit process by 24 VSA, § 4413(d).

³ An acre equals 43,560 square feet.

⁴ Lots located on the turn around of a cul-de-sac shall have at least 100 feet of frontage.

*See section 209 (a)(2) ** Telecommunication facilities are subject to provisions of 4412(8)(A-D) and (9)

Table 204.02: "VIL" Village District

Objective: To conserve the integrity of the existing village development and maintain it as the center of activities for the Town and to provide for medium density residential development, public uses, and limited central services and sales.

Permitted Uses

- | | |
|---|---|
| <ul style="list-style-type: none"> 1. Accessory use/structure¹ 2. Agriculture² 3. Dwelling, single family 4. Dwelling, two family | <ul style="list-style-type: none"> 5. Dwelling, accessory 6. Forestry² 7. Home occupation |
|---|---|

Conditional Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Essential service 2. Lodging house 3. Office 4. Public assembly use 5. Public facility* | <ul style="list-style-type: none"> 6. Residential business 7. Retail sales 8. School* 9. Wholesale Sales |
|--|--|

Minimum Lot Area & Dimensional Requirements

| | | | |
|---|-------|---------------------------|------|
| Lot area (acres) ³ : | 2.0 | Front yard setback (ft.): | 35.0 |
| Area / dwelling unit (acres) ³ : | 2.0 | Side yard setback (ft.): | 25.0 |
| Lot frontage (ft.) ⁴ : | 200.0 | Rear yard setback (ft.): | 25.0 |

Footnotes

¹ Accessory uses and structures for conditional uses shall require conditional use approval.

² Agricultural and forestry uses are exempted from the permit process by 24 VSA, § 4413(d).

³ An acre equals 43,560 square feet.

⁴ Lots located on the turn around of a cul-de-sac shall have at least 100 feet of frontage.

*See Section 209

Table 204.03: "RR" Rural Residential District

Objective: To conserve the integrity and natural qualities of rural open space for the betterment of the community; to maintain a dispersed settlement pattern and mixed land uses of a rural nature (i.e., farming, woodlot, low-density residential, residential businesses, public uses and other scattered uses).

Permitted Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Accessory use/structure¹ 2. Agriculture² 3. Church* 4. Dwelling, single family | <ul style="list-style-type: none"> 5. Dwelling, two family 6. Dwelling, accessory 7. Forestry² 8. Home occupation |
|--|--|

Conditional Uses

- | | |
|---|--|
| <ul style="list-style-type: none"> 1. Auto service station 2. Cemetery 3. Dwelling, multi-family 4. Earth resources extraction 5. Essential service 6. Hospital 7. Lodging house 8. Membership club 9. Mobile home park 10. Neighborhood retail store | <ul style="list-style-type: none"> 11. Office 12. Private club 13. Public facility* 14. Recreation 15. Residential business 16. School* 17. Telecommunication towers** 18. Warehouse/storage units 19. Commercial Enterprise 20. Contractor's yard |
|---|--|

Minimum Lot Area & Dimensional Requirements

| | | | |
|---|-------|---------------------------|------|
| Lot area (acres) ³ : | 2.0 | Front yard setback (ft.): | 50.0 |
| Area / dwelling unit (acres) ³ : | 2.0 | Side yard setback (ft.): | 35.0 |
| Lot frontage (ft.) ⁴ : | 200.0 | Rear yard setback (ft.): | 35.0 |

Footnotes

¹ Accessory uses and structures for conditional uses shall require conditional use approval.

² Agricultural and forestry uses are exempted from the permit process by 24 VSA, § 4495.

³ An acre equals 43,560 square feet.

⁴ Lots located on the turn around of a cul-de-sac shall have at least 100 feet of frontage.

*See Section 209

**Telecommunication facilities are subject to provisions of 4412(8)(A-D) and (9)

§ 205: Permitted Uses

Permitted uses are those uses that are allowed, provided the standards established by this bylaw are met. Unless a variance or other special action by the DRB or Planning Commission is required the necessary permit may be issued by the Administrative Officer.

§ 206: Conditional Uses

206.01 Permitted upon issuance of a conditional use permit are those uses that may be allowed by the DRB as provided for in 24 VSA, § 4407(2) after public notice and hearing. In order for the permit to be granted the proposed use shall not adversely affect:

- 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, and;
- E. The utilization of renewable energy resources.

206.02 In permitting a conditional use, the DRB may impose, in addition to the regulations and standards expressly specified by this bylaw, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood, or the municipality as a whole. These conditions may include the following:

- A. Increasing the required lot size or yard dimensions in order to protect adjacent properties.
- B. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property.
- C. Controlling the location and number of vehicular access points to the property.
- D. Increasing street width.
- E. Increasing the number of off-street parking or loading spaces required.
- F. Limiting the number, location and size of signs.
- G. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
- H. Specifying a specific time limit for construction, alteration, or enlargement to begin for a structure to house a conditional use.
- I. Requiring that any future enlargement or alteration of the use be reviewed by the DRB to permit the specifying of new conditions.

206.03 As a condition of approval, the DRB may attach such additional reasonable conditions and safeguards, as it deems necessary to implement the purposes of the 24 VSA, Chapter 117, and this zoning bylaw.

206.04 A change in use, expansion or contraction of land area, or alteration of structures or uses which are designated as conditional uses within the district in which they are located and

are existing therein, prior to the effective date of this bylaw, shall conform to all regulations herein pertaining to conditional uses.

§ 207: Application of District Regulations

207.01 Any "non-conforming use" or "non-conforming structure" as such terms are defined in 24 VSA, § 4408 existing on the effective date of this bylaw, may be continued indefinitely to the extent set forth in Article 4 of this bylaw. Otherwise, no building or land may hereinafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.

207.02 No building shall hereafter be erected or altered:

- A. To accommodate or house a greater number of families, and/or;
- B. To have narrower or smaller front, side or rear yards than is specified herein for the district in which such building is located.

207.03 No part of a yard or other open space around any building required for the purpose of complying with the provisions of this bylaw shall be included as a yard or other open space similarly required for another building.

§ 208: Lots Abutting Two or More Public Rights-of-Ways

Lots that abut on more than one street shall provide the required frontage along every street.

§ 209: Limitations on Municipal Bylaws

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

- (1) State- or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state department of education.
- (3) Churches and other places of worship, convents, and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

(b) A bylaw under this chapter shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

(c) Except as otherwise provided by this section and by 10 V.S.A. § 1976, if any bylaw is enacted with respect to any land development that is subject to regulation under state statutes, the more stringent or restrictive regulation applicable shall apply.

(d) A bylaw under this chapter shall not regulate accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.

(1) For purposes of this section, "farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

(2) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the secretary of agriculture, food and markets. No municipal permit for a farm structure shall be required.

(3) A municipality may enact a bylaw that imposes forest management practices resulting in a change in a forest management plan for land enrolled in the use value appraisal program pursuant to 32 V.S.A. chapter 124 only to the extent that those changes are silviculturally sound, as determined by the commissioner of forests, parks and recreation, and protect specific natural, conservation, aesthetic, or wildlife features in properly designated zoning districts. These changes also must be compatible with 32 V.S.A. § 3755.

(e) A bylaw enacted under this chapter shall be subject to the restrictions created under section 2295 of this title, with respect to the limits on municipal power to regulate hunting, fishing, trapping, and other activities specified under that section.

(f) This section shall apply in every municipality, notwithstanding any existing bylaw to the contrary.

(g) Notwithstanding any provision of law to the contrary, a bylaw adopted under this chapter shall not prohibit or have the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources.

ARTICLE 3: GENERAL PROVISIONS

§ 301: Existing Small Lots

301.01 Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this bylaw, and thereafter, 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 with a minimum width or depth dimension of forty feet.

301.02 If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for the purposes of this bylaw. However such lot shall not be deemed merged and may be separately conveyed, if:

- 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, potable water systems, or both in case there is a failed system or failed supply as defined in 10 VSA, Ch.64.

301.03 If subsequent to separate conveyance, as authorized under § 301.02 of this section, a wastewater system fails, the owner shall be required to obtain from the secretary of natural resources a wastewater permit as required under the State of Vermont subdivision regulations or a certification that the wastewater system has been modified or replaced, with the result that it no longer constitutes a failed system.

§ 302: Frontage on, or Access to, Public Roads or 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, DRB, access to such a road or waters by a permanent easement or right-of-way of at least fifty feet in width.

§ 303: Protection of Home Occupations

No bylaw may infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

§ 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 such lot shall extend not more than thirty feet into the more restricted part, provided the lot has frontage on, or approved access to a public road or waters in the less restricted district.

§ 305: Principal Buildings Including Dwellings on Lots

There shall be only one principal building on a lot.

§ 306: Reduction of Lot Area

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

§ 307: Required Area or Yards

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

§ 308: Yards on Corner Lots

Any yard adjoining a street shall be considered a front yard for the purposes of this bylaw.

§ 309: Projections into Required Yards

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

§ 310: Location of Driveways

All driveways are to be located at least seventy-five feet from highway rights-of-way line intersections for all uses.

§ 311: Temporary Uses and Structures

Temporary permits may be issued by the Administrative Officer for a period not exceeding one year, for non-conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

§ 312: Collapsed or Burned Buildings and Structures

No owner or occupant of land in any district shall permit a demolished, 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.

§ 313: Obstruction of Vision

There shall be no obstructions, such as vegetation, fences, and signs, within the road right-of-way. On a corner lot regardless of the district, within the triangular area formed by the intersection of the rights-of-way line intersections and a third line joining them at points twenty-five feet away from their intersection, there shall be no obstruction to vision between the height of one foot and ten feet above the average grade of each street.

§ 314: Height Regulations

With the exception of farm structures, church steeples, and telecommunication towers, no structure shall exceed a height of 40 feet above the average ground level unless approved by the DRB. The DRB may authorize a greater height in any district, providing such an increase will not be disruptive to its surroundings and providing it does not constitute a hazard.

Heights of renewable energy resource structures. The height of wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high, any of which are mounted on complying structures, shall not be regulated, unless the bylaws provide specific standards for regulation. In addition, the regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, may be exempt from review under this chapter according to the provisions of that section.

§ 315: Private Swimming Pools

All in-ground swimming pools shall be enclosed by a 5-foot high fence designed and built in a manner that will make it difficult to climb.

§ 316: Auto Service Stations and Repair Facilities

In addition to the district regulations, all auto service stations and repair facilities shall comply with the following requirements:

316.01 Lot area and dimensional requirements

- A. Lot size shall be at least two acres.
- B. Lot frontage shall be at least 200 feet. Minimum lot line setbacks - 50 feet.
- C. Lot depth shall be at least 125 feet.
- D. Pumps, lubricating and other service devices shall be located at least 50 feet from front, side and rear lot lines.
- E. All fuel and oil shall be stored at least fifty feet from any property line.

- 316.02 An auto service station lot shall not be located within three hundred feet of any lot occupied by a school, hospital, library, or religious institution.
- 316.03 All automobile parts and dismantled vehicles are to be stored within a building, and no major repair work is to be performed outside a building.
- 316.04 No signs shall extend more than ten feet beyond the pumps on the street side nor exceed fifteen feet in height.
- 316.05 There shall be no more than two access driveways from the road. The maximum width of each access driveway shall be 40 feet. The location of the driveway shall comply with § 310.
- 316.06 A suitably curbed and landscaped area shall be maintained at least 5 feet in depth along all road frontage not used as driveway.

§ 317: Off-Street Loading

Off-street loading spaced logically, conveniently located for bulk pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and industrial uses. Required off-street loading space is not to be used as off-street parking space. Off-street loading spaces shall be at least twelve feet wide, fifty-five feet long and have an overhead clearance of fourteen feet.

§ 318: Off Street Parking

Off street parking spaces shall be provided in accordance with the specifications of this section in any district whenever any new use is established or existing use is enlarged, unless in the determination of the DRB a lesser amount of parking spaces may be allowed as long as such decrease does not interfere with the convenience of the public.

Number Of Parking Spaces Required

- | | |
|-----------------------------------|---------------------------|
| A. 1 per 3 seats in assembly room | F. 1.5 per lodging unit |
| B. 1 per 75 sqft of floor area | G. 2 per dwelling unit |
| C. 1 per 200 sqft of floor area | H. 1.5 per 4 seats |
| D. 1 per 500 sqft of floor space | I. 1.5 per bed |
| E. 1 per campsite + 5 | J. As required by the DRB |

| <u>Land Use</u> | <u>Spaces Required</u> | | |
|-------------------------|------------------------|----------------------------|---|
| Accessory use/structure | J | Dwelling, multi-family | G |
| Agriculture | J | Dwelling, single family | G |
| Auto sales/service | J | Dwelling, two family | G |
| Auto service station | J | Earth resources extraction | J |
| Bank | C | Essential service | J |
| Campground | E | Forestry | J |
| Cemetery | J | Home occupation | C |
| Church | A | Hospital | I |
| Contractor's yard | J | Lodging house | F |
| Correctional facility | I | Manufacturing | D |

| Land Use | Spaces Required | | |
|---------------------------|-----------------|--------------------------|---|
| Membership club | A | Recreation | A |
| Mobile home park | G | Research/testing labs | C |
| Motel | F | Residential business | B |
| Neighborhood retail store | B | Restaurant | H |
| Office | C | Retail sales | B |
| Personal service | B | School | A |
| Private club | A | Telecommunication towers | J |
| Public assembly use | A | Trucking terminal | D |
| Public facility | C | Warehouse/storage units | D |
| | | Wholesale sales | B |

When being expanded, existing non-conforming uses shall provide parking as required by the DRB.

§ 319: Screened Service Area Requirements

In any district all areas designated, used or intended to be used as service areas for any building or land use, other than one family and two family dwelling units, shall be screened from view with either a wall, a solid fence or a fence of evergreens at a height of at least five feet above grade level, on all sides where the adjacent land is in a residential district or is in residential use.

§ 320: Residential Business

Residential businesses are allowed as conditional uses in the Village and Rural Residential district provided they come within the definition of residential business as set forth in Article 5, § 502 and comply with the following conditions:

- 320.01 The residential business shall be carried on within an accessory structure.
- 320.02 The residential business shall be clearly secondary to use of the property as a home.
- 320.03 Exterior displays or signs other than normally permitted in the district, exterior storage of materials, production of noise, vibration, smells or pollutants which are inconsistent with the residential character shall not be permitted.
- 320.04 The septic system shall comply with state regulations.

§ 321: Signs

Signs, as defined in Article 5, are specifically prohibited except as provided herein:

- 321.01 All signs must be constructed of durable materials and shall be maintained in good condition and repair at all times.
- 321.02 In any residential district, a sign not exceeding twelve square feet of surface area per side is permitted which announces the name, address, profession, residential business or home occupation of the occupant of the premises on which said sign is located.
- 321.03 A bulletin board not exceeding twenty-four square feet of surface area, in connection with any church, school or similar public structure.

- 321.04 A temporary real estate or construction sign, not exceeding twenty-four square feet of surface area, on the property being sold, leased, or developed. Such sign shall be removed promptly when it has fulfilled its function.
- 321.05 A business sign 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.
 - B. Signs shall not extend above the roof or parapet of the building. The height of a freestanding sign shall not exceed 15 feet.
 - C. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.
 - D. Signs which are animated, flashing, or with intermittent illumination are prohibited.
 - E. Signs shall not project over public rights-of-way or property lines.
 - F. Maximum square footage of any sign shall be 100 square feet or a total of one hundred-fifty square feet for the two signs.
 - G. Signs shall meet side yard setbacks and rear yard setbacks of the zone in which the sign is located.

§ 322: Extraction of Soil, Sand, or Gravel

In any district where permitted as a conditional use, the removal of soil, sand or gravel for sale, except when incidental to construction of a building on the same premises, shall be permitted only upon the DRB's approval of a plan, after a public hearing, for the rehabilitation of the site. In any district, the following provisions shall apply:

- 322.01 Before approval of any new sand or gravel operation, a performance bond shall be secured from the applicant sufficient to ensure that, upon completion of the extraction operations, the abandoned site will be left in a safe, attractive and useful condition in the interest of the public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end.
- 322.02 The removal of all material shall be conducted so as to result in the improvement of the land, giving due regard to the contours in the vicinity, such as leveling slopes and removing hills. Vegetation sufficient to prevent erosion shall be installed to the satisfaction of the Administrative Officer.
- 322.03 Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited.
- 322.04 The DRB may attach any additional conditions, as it may find necessary for the safety and general welfare of the public.

§ 323: Landscaping Requirements

Landscaping, where required under this bylaw to be installed and maintained in front, side and rear yards, shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas and ground cover.

All such landscaping shall be maintained in healthy, growing condition, with ground cover or grassed area.

Following are the minimum landscaping requirements:

- 323.01 Where any land use in non-residential districts abuts land in any residential district, a strip of land, at least twenty-five feet in width shall be maintained as a landscape and utility area in the front, side and rear yards which adjoin these other districts.
- 323.02 Where any non-residential land use in a residential district abuts any land use in a residential district, a strip of land at least fifteen feet in width shall be maintained as a landscape and utility area in the front, side and rear yards which adjoin these uses.
- 323.03 In a village district, a strip of land at least five feet in width shall be maintained as a landscape and utility area in the front, side and rear yards.
- 323.04 In an industrial district each industrial lot or use shall have a strip of land at least fifteen feet in width in the front yard and at least five feet in width in the rear and side yards, which shall be maintained as a landscape and utility area.
- 323.05 The requirements of this section may be waived by the DRB.

§ 324: Grading

No grading, cut, or fill shall be carried out in any district, which leaves the slope of the finished grade in excess of a two to one slope.

§ 325: Fences to Excavations

Excavations with slopes exceeding two to one shall be protected from encroachment by a fence at least four (4) feet in height.

§ 326: Flood Hazard Area Requirements

- 326.01 Lands to which these regulations apply. These regulations shall apply in all areas in the Town of Waterford identified as areas of special flood hazard on the National Flood Insurance Program maps which are hereby adopted by reference and declared to be part of these regulations.
- 326.02 Development permit required. A permit issued by the administrative officer is required for development in areas of special flood hazard. Conditional use approval by the DRB is required for the construction of new buildings, the substantial improvement of existing

buildings or floodway development prior to the issuance of a zoning permit by the administrative officer.

326.03 Procedures.

- A. Prior to issuing a permit, a copy of the application shall be submitted to the Flood Plain management section of the Vermont Department of Environmental Conservation in accordance with 24 VSA, § 409. 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 comes first.
- 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. 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, State or Municipal law.

326.04 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 areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program (i.e., Zone A) base flood elevations and floodway information available from State or Federal agencies or other sources, shall be obtained and reasonably utilized to administer and enforce these regulations.

326.05 Development standards

A. Floodway areas

- 1. 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.
- 2. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

B. Fringe areas (i.e., flooded areas outside of the floodway)

- 1. All development shall be designed to:

- a. Minimize flood damage to the proposed development and to the public facilities and utilities, and
 - b. Provide adequate drainage to reduce exposure to flood hazards.
2. Buildings shall be:
- a. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the building during the occurrence of the base flood,
 - b. Constructed with materials resistant to flood damage,
 - c. Constructed by methods and practices that minimize flood damage, and
 - e. 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.
3. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
4. 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.
5. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
6. 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.
7. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
8. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of § 326.05(B)(7).
9. Existing buildings to be substantially improved for non-residential purposes shall either:
- a. Meet the requirements of § 326.05(b)(8), 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 flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

10. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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. 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.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

11. Recreational vehicles placed on sites within Zones A1-A30, AH and AE shall either:
 - a. Be on the site for fewer than 180 consecutive days,
 - b. Be fully licensed and ready for highway use, or
 - c. Meet all standards or § 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured home" of § 60.3(c)(6).

326.06 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 flood proofing certifications required under this regulation.
- E. All variance actions, including justification for their issuance.

326.07 Variances to the development standards. Variances shall be granted by the DRB only:

- A. In accordance with 24 VSA, §§ 4412(h) and 4468 and in accordance with the criteria for granting variances found in 44 CFR, § 60.6 of the National Flood Insurance Program regulations.
- B. Upon a determination that during the base flood discharge the variance will not result in increased flood levels.
- C. Upon determination that the building or other development is protected by methods that minimize flood damages during the base flood and creates no additional threats to public safety.

§ 327: Recreational Vehicles and Campgrounds

327.01 Recreational Vehicles. It shall be unlawful for any person to park a recreational vehicle on any public or private property, except in accordance with the regulations as follows:

- A. In an approved campground.
- B. In an approved recreational vehicle sales lot.
- C. Any property owner may park his recreational vehicle, or that of a visitor, on his own property, provided the vehicle is parked to meet front, rear, and side yard setbacks for the zone it is located in. A recreational vehicle so parked shall not be used as living quarters for more than 28 cumulative nights in any calendar year.

327.02 Campgrounds. It shall be unlawful for any person to construct, enlarge, maintain, or operate any campground unless he or she or any firm holds a valid permit issued by the Administrative Officer. The issuance of a permit shall require conditional use approval by the DRB. The following standards shall apply with respect to all campgrounds:

- A. Applications for permits shall be made in writing, signed by the applicant who shall file with the application proof of ownership of the premises or of a lease or written permission from the owner thereof together with a complete set of plans drawn to scale, showing:
 - 1. The location of the proposed campground.
 - 2. The areas and dimensions of the tract of land.
 - 3. The maximum number, location and size of all campsites.
 - 4. The location of any existing buildings and any proposed structures.
 - 5. The location and width of access driveways, roadways, parking areas, walkways, and turnarounds.
 - 6. The location of electrical, water, storm drainage and sewer lines and the sewage disposal systems.
 - 7. A contour map showing the proposed grading of the campground.
- B. The DRB may require a performance bond from the operator of the campground to assure that the campground is constructed and maintained in a satisfactory manner. The DRB may require any other improvements deemed necessary.
- C. Campground requirements.
 - 1. Area and Dimensional Requirements.
 - a. A campground shall have an area of not less than 10 acres.
 - b. Campgrounds shall provide for individual campsites, access driveways, and parking.

- c. Each campsite shall be at least 1,800 square feet in area, at least 30 feet in width and include an area at least 10 feet wide and 20 feet long covered with a layer of compacted gravel 12 inches deep.
 - d. All access driveways within a campground shall have a right-of-way at least thirty feet in width and have a compacted gravel surface at least twenty feet in width.
 - e. No campsite or service building shall be closer to any public street right-of-way line than eighty feet or closer to any property line than fifty feet.
- 2. Landscaping shall be provided as required in § 323 of this bylaw.
 - 3. Utilities
 - a. An electrical source supplying at least 50 amps, 110 volts with weatherproof electrical outlets shall be provided for each campsite. The installation shall comply with all applicable laws and regulations.
 - b. An accessible, adequate, safe and potable supply of water shall be available at each campsite.
 - c. Every campground shall have a dumping station for sewage disposal meeting applicable state and local laws and regulations.
 - d. Provisions for the disposal of solid waste shall be made.
 - 4. Each campground shall provide one or more service buildings in accordance with the following specifications:
 - a. Flush-type toilets shall be placed in buildings that are not more than a maximum distance of 300 feet from any campsite nor less than 15 feet from any campsite. No service building shall be located within 80 feet of any public street or highway. Separate toilets shall be provided for males and females.
 - b. Each room of the building that is accessible by the campground's guests shall be illuminated with a light intensity of 2 watts per square foot of floor area.
 - c. The building shall be a permanent structure sheathed with impervious material, adequately ventilated and with all openings to the outside effectively screened, and supplied with a floor drain.
 - d. Toilet rooms shall contain one lavatory with hot and cold running water for each two toilets, but in no case shall any toilet room be without one lavatory with hot and cold running water.
 - e. Each service building shall have heating facilities to maintain a minimum temperature of 60 degrees F.
 - f. Each service building shall have two showers with hot and cold running water for every ten campsites.

327.03 Recreational vehicles that are part of traveling circuses, fairs, carnivals, etc. may secure a temporary permit not to exceed 21 days.

§ 328: Mobile Home Parks

The following requirements shall apply with respect to mobile home parks:

328.01 Area and dimensional requirements.

- A. A mobile home park shall have an area of not less than 10 acres.
- B. A mobile home shall be located on the mobile home space so that it is at least twenty feet from the right-of-way of the access driveway and ten feet from any other lot line of the mobile home space.
- C. No mobile home office or service building shall be closer to a public street right-of-way line than eighty feet, nor closer to a property line than fifty feet.

328.02 Mobile home parks shall provide for individual mobile home spaces, access driveways, parking and recreation open space as follows:

- A. Each mobile home space shall be at least 8,000 square feet in area, and at least sixty feet wide by at least one hundred and twenty feet in depth, and shall front on an access driveway.
- B. A suitable non-porous pad shall be provided on each mobile home space.
- C. All roads within a mobile home park shall have a right-of-way at least fifty feet in width and have a surface of treated compacted gravel at least twenty-four feet in width and twelve inches in depth. All weather walkways shall be provided.
- D. Two parking spaces with a compacted gravel surface twelve inches in depth, each ten feet wide by twenty-two feet long, shall be provided for each mobile home space.
- E. Mobile home parks shall provide at least ten percent of the total area for recreation and other open space purposes.

328.03 Utilities

- A. Each mobile home space shall have an attachment for water supply that is adequate, safe and potable.
- B. Each mobile home space shall have an attachment for sewage disposal. The sewage disposal system shall not be located on the mobile home space unless the mobile home space is at least one acre in size.
- C. Provisions for disposal of household garbage and rubbish shall be made.
- D. An electrical source supplying at least 100 amps, 220 volts, shall be provided for each mobile home space. Such electrical outlets shall be weatherproof. The use of underground utility installation shall be required unless waived by the DRB.

328.04 Landscaping shall be provided as required under § 323 of this bylaw.

§ 329: Performance Standards

In accordance with 24 VSA, § 4414(5), in all districts the following performance standards together with all applicable state standards must be met. The DRB shall decide whether proposed uses meet the standards. No use shall:

- 329.01 Emit noise in excess of 70 decibels on a one-hour average and/or spontaneous levels of 100 decibels according to an "A" frequency weighting, at the property line.
- 329.02 Emit any noxious gases, odor, dust, liquid or substance which endangers the health, comfort, safety or welfare of any person, or which has a tendency to cause injury or damage to property, business or vegetation, or which unreasonably interferes with the use of other property.
- 329.03 Emit any smoke in excess of Ringleman Chart No. 2.
- 329.04 Cause, as a result of normal operations, a vibration that creates displacement of 0.002 of one inch.
- 329.05 Create lighting or signs that create glare, which could impair the vision of a driver of any motor vehicle.
- 329.06 Cause any condition that violates Vermont Occupational Safety and Health Administration (VOSHA) regulations.

§ 330: Discontinuance of Use

Any use that has been discontinued for a period of 2 years or more shall not be resumed without a zoning permit. Intent to resume a discontinued use after such 2-year period shall not confer the right to do so. Dwelling unit and agricultural uses are exempt from any time period.

§ 331: Septic Systems

The State of Vermont regulates all on-site septic systems. All lots shall have a system designed by a certified engineer or a state certified site technician before building construction can commence. The person or persons designing the system shall inspect and approve the system before it is buried or covered, and shall file a form verifying these facts with the town clerk.

§ 332: Access to Public Rights-of-Way

Prior to construction of any driveway or other private access to a public right-of-way, the landowner shall obtain the approval of the Board of Selectmen or their duly appointed agent as authorized by 19 VSA, § 1111.

§ 333: Agriculture and Forestry - See Section 209

§ 334: Wireless Communication Facilities

334.01 Purpose. The purposes of this bylaw are to advance the objectives of the Waterford Town Plan, to protect the public health, safety and general welfare of the Town, and to accommodate the communication needs of the community. This bylaw shall:

- A. Preserve the character and appearance of the Town of Waterford while allowing adequate telecommunications services to be developed.
- B. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring and removal of telecommunications facilities and towers.
- C. Minimize tower and antenna proliferation by requiring the sharing of existing telecommunications facilities, towers and sites where possible and appropriate.

334.02 Authority. Pursuant to 24 V.S.A. §4412(12), the DRB is authorized to review and conditionally approve applications for wireless telecommunications facilities. Pursuant to 24 V.S.A. §4461(c), the DRB is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

334.03 Exemptions. No permits shall be issued for the following:

- A. The placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.
- B. The placement of an antenna structure which is less than 20 feet in height, and its primary function is to transmit or receive communication signals for commercial, industrial, institutional, nonprofit or public purposes, and if it is located on a structure located within the boundaries of a downhill ski area and permitted under this chapter. For the purposes of this bylaw, "downhill ski area" means an area with trails for downhill skiing served by one or more ski lifts and any other areas within the boundaries of the ski area and open to the public for winter sports.
- C. The placement of a Wireless Telecommunication Facility that has received a certificate of public good pursuant to 30 V.S.A. §248a.

334.04 Limitations. Except as necessary to ensure compliance with the national flood insurance program, this bylaw shall not regulate any of the following:

- A. An ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet.
- B. The following improvements associated with the construction or installation of a communications line:

- C. The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.
- D. The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

334.05 De Minimus Impact. A permit shall be issued by the DRB for a Wireless Telecommunications Facility that in, the determination of the DRB will impose no impact or merely a de minimus impact upon any criteria established this bylaw. The determination regarding no impact or de minimus impact shall be in writing and shall be subject to appeal under 24 V.S.A. §4471.

334.06 Permitted and Prohibited Locations

- A. Wireless communication facilities are permitted within all existing districts.
- B. Equipment, buildings, and other structures shall conform to the minimum front, side, and rear setbacks for the district in which they are located.
- C. Towers or antennas over 20 feet in any elevation may not be located:
 - i. Closer than tower height plus one-hundred (100) feet horizontally to the boundary of the property on which the tower is located.
 - ii. Closer than tower height plus one-hundred (100) feet horizontally to any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building.
 - iii. Within tower height plus one-hundred (100) feet horizontally of any river or perennial stream.
 - iv. Within tower height plus one-hundred (100) feet horizontally of any publicly maintained road.

334.07 Lighting . Unless required by the Federal Aviation Administration (FAA), no lighting of towers is permitted. In any case where a tower is determined to need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted by the applicant.

334.08 The height limit for towers, antennas, and tower-related fixtures shall not be more than fifteen (15) feet above the average height of the tree line measured within one hundred (100) feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the DRB that the additional height is necessary in order to provide adequate coverage in the Town of Waterford or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

334.09 Collocation Requirements: An application for a new wireless telecommunications facility shall not be approved unless the DRB finds that the facilities planned for the proposed structure cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

- A. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, or the existing tower cannot be reinforced or modified at a reasonable cost.
- B. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility and such interference cannot be mitigated at a reasonable cost.
- C. The proposed antennas and equipment, alone or together with existing facilities, equipment or antennas, would create excessive radio frequency exposure.
- D. Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably.
- E. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
- F. There is no existing or approved tower in the area in which coverage is sought.
- G. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

334.10 Access Roads and Above Ground Utilities. Where new wireless communication facilities require construction of or improvement to access roads, to the extent practical, roads shall follow the contour of the land. Access roads, when consistent with the purposes of this section and economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the ecology, scenic character or beauty of the area.

334.11 Upon review of the applicant's permit application, supporting materials, testimony from the parties, and inspections from the designated vantage points, the DRB shall find that the proposed tower shall not have an undue adverse visual impact on the scenic or natural beauty of the land proposed to be developed as viewed from a public highway or water body within the Town. For the purposes of the section, a tower shall be considered to break the skyline when the protrusion is more than eight (8) inches wide or in diameter.

334.12 Application Requirements. In addition to the information required for a Zoning Permit Application described in §602 of this bylaw, an application for a Wireless Telecommunication Facility must be accompanied by a report prepared by a licensed engineer that contains at a minimum:

- A. A map or sketch of the property proposed to be developed, professionally drawn to scale and with the area to be developed clearly indicated;

- B. A description of the proposed development;
 - C. The location of the proposed structure on a USGS Topographic Map or Survey with 20' contours;
 - D. A utility and access road plan located on a USGS Topographic Map;
 - E. Where the compound or tower is located on a parcel that is forested, the approximate average height of the existing vegetation within 50 feet of the tower;
 - F. A design or plan for all structures, buildings, or facilities proposed for the site;
 - G. The proposed locations of all existing and future wireless service facilities in Waterford for all licenses carriers seeking approval under this application; and
 - H. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, an Environmental Assessment (EA) draft or final report outlining the probable impact of the proposed facility on wildlife habitats, endangered species, historic and archeological resources, wetlands, and other resources.
- 334.13 Amendments. Notwithstanding the limitations identified in §334.04 of this bylaw, an amendment to a prior approved wireless communications facility shall require Conditional Use Approval from the DRB when any of the following are proposed:
- A. Changes in the number of facilities or towers permitted on the site;
 - B. Changes in technology used for the facility or tower;
 - C. Addition of any equipment or additional height not specified in the original application.
- 334.14 Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspection. The owner shall remove the abandoned structure(s) and restore the site to its original natural condition within 90 days of receipt of a declaration of abandonment from the Board notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a noticed public hearing conducted by the Board with notice to the last know owner/operator of the tower. If the abandoned tower is not removed within 90 days, the Town may bring action to have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

§ 335: Accessory Dwellings

In accordance with Ch. 117, Section 4412(E), one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling shall be considered a permitted use. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly

subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- (i) The property has sufficient wastewater capacity.
- (ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
- (iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.
- (iv) Conditional use review shall be required for one or more of the following that is involved in creation of an accessory dwelling unit:
 - (I) a new accessory structure;
 - (II) an increase in the height or floor area of the existing dwelling; or
 - (III) an increase in the dimensions of the parking areas.

§ 336: Residential Care or Group Homes

A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.

§ 337: Child Care Facilities

A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but shall require site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children shall be subject to all applicable municipal bylaws.

ARTICLE 4: NON-CONFORMING USES & NON-CONFORMING STRUCTURES

§ 401: Construction Approved Prior to Amendment of Bylaw

Permits issued under the March 7, 2000 Waterford 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 non-conforming under the requirements of this Bylaw. In addition, nothing contained herein shall require any changes to the plans or construction of previously permitted structures and/or uses. However, such structures and/or uses shall be established within the permit's effective period of two years. Applications to renew expired permits issued under the March 7, 2000 Waterford 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.

§ 402: Non-conforming Uses

In accordance with Title 24 VSA 4408, the following provisions shall apply to all non-conforming uses existing on the effective date of this bylaw.

Any non-conforming use of structures or land, except those specified below, may be continued indefinitely, but:

- 402.01 A non-conforming use may not be changed to another non-conforming use without conditional use approval being granted by the DRB, and then only if the DRB finds the proposed use more appropriate in the zoning district than the previous use.
- 402.02 The expansion of a non-conforming use must receive approval as a conditional use from the DRB prior to the issuance of a zoning permit by the Administrative Officer;
- 402.03 A non-conforming use may not be resumed once it has been discontinued for a period in excess of two (2) years.

§ 403: Non-conforming Structures and Lots

In accordance with Title 24 VSA, § 4408, the following provisions shall apply to all non-conforming structures.

Any non-conforming structure or lot, except those specified below, may be continued indefinitely but:

- 403.01 A non-conforming structure may not be enlarged or changed in a manner that increases its degree of non-conformance.
- 403.02 The use conducted within a non-conforming structure or on a non-conforming lot may not be changed to another use that would increase the structure's degree of non-conformance.

- 403.03 A non-conforming structure damaged or destroyed by fire, collapse, explosion, normal deterioration or other peril may be repaired or completely reconstructed if such repair or reconstruction is completed within two (2) years of the date of damage, destruction or observance of deterioration.
- 403.04 A non-conforming structure may not be reconstructed once it is completely or substantially removed voluntarily.
- 403.05 Nothing contained in this section regarding the use of non-conforming lots shall restrict the right conferred by § 301 of this bylaw to develop and use an existing small lot.

ARTICLE 5: DEFINITIONS

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

§ 501: Word Definitions

The word PERSON includes firms, associations, organizations, partnerships, trusts, companies, corporations and individuals.

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

The word SHALL is mandatory, the word MAY is permissive. The words USED or OCCUPIED include the words INTENDED, DESIGNED, or ARRANGED TO BE USED OR OCCUPIED. The word LOT includes the word PLOT or PARCEL.

Definitions contained in the Vermont Planning and Development Act, 24 VSA, Chapter 117, shall be applicable throughout this bylaw unless otherwise specifically defined in this bylaw.

§ 502: 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 principal use or structure.

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

AREA OF SPECIAL FLOOD HAZARD: Is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special

flood hazard".

AUTO SALES AND SERVICE: The use of any building, land area or other premises for the display, sale, servicing, or repair of new or used automobiles, panel trucks or vans, trailers, or recreational vehicles.

AUTO SERVICE STATION: Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or deigned to be used for polishing, greasing, washing, spraying, cleaning or servicing such motor vehicles. A service station is not a sales or major repair agency for autos, trucks, or trailers.

BANK: An establishment that provides savings and checking accounts, loans, and other financial assistance to the general public.

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 sub grade (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, as well as a manufactured home.

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, but does not include steps.

BUILDING HEIGHT: The vertical distance of a building measured from the average elevation of the finished grade within twenty feet of the structure to the highest point of the roof. In the case of church buildings with steeples, building height shall be measured to the ridgepole of the main roof and not to the top of the steeple.

BUSINESS OR PROFESSIONAL OFFICE: Place where the business of commercial, industrial, service or professional organization is transacted.

CAMP: A building without plumbing that necessitates a septic system.

CAMPGROUND: A plot of ground on which two or more recreational vehicles are located and occupied for sleeping purposes for a fee.

CEMETERY: Property used for the interring of the dead.

CHURCH: A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CONTRACTOR'S YARD: A lot or portion of a lot, with or without buildings, used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor.

CORRECTIONAL FACILITY: A building that is used for the incarceration, punishment, and/or rehabilitation of persons convicted of crimes.

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.

DWELLING, 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.

DWELLING, MULTI-FAMILY: A residential building designed for or occupied by three or more families living independently of each other in individual dwelling units with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE FAMILY: A detached residential dwelling unit, including a mobile home or modular home, designed for and occupied by only one family.

DWELLING, TWO FAMILY: A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

DWELLING UNIT: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. It shall include prefabricated, modular units and mobile homes, but shall not include motels, hotels, or other commercial lodging establishments.

EARTH RESOURCES EXTRACTION: Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances, or organic substances other than vegetation, from water or land, on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

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 in connection therewith, and including buildings, reasonably necessary for the furnishing of adequate service by such public utilities municipal or other governmental agencies or for the public health, safety, or general welfare.

FAMILY: One or more persons occupying a single dwelling units, provided that, unless all members are legally related, no such family shall contain over five 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 INSURANCE STUDY: Means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

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

HOME: A dwelling occupied as a primary residence by one or more individuals.

HOME OCCUPATION: The use of a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character thereof.

HOSPITAL: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

LOADING SPACE, TRUCK: Off-street space for the temporary parking of a truck for the purpose of loading and/or unloading.

LODGING HOUSE: A building in which the rooms are rented with or without meals to three (3) or more persons. A boarding house, rooming house or a furnished room shall be deemed a lodging house.

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 incidental 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 are herein required. 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 lots of record and portions of lots of record, or of portions of lots of record; or (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 FRONTAGE: The minimum length of the front lot line as required by Tables 204.01 to 204.03 found herein.

LOT LINE, FRONT: That lot line separating a lot from a public right-of-way. In the event of a land locked parcel, that lot line that transects the private right-of-way providing access to the land locked parcel. Where the width of a public right-of-way has not been established, the front lot line shall be considered to be twenty-five feet from the center of the traveled portion of the right-of-way.

LOT LINE, REAR: That lot line most nearly parallel to and most distant from the front lot line.

LOT LINE, SIDE: Any lot line that is not 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.

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

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

MANUFACTURING: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the

manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

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

MEMBERSHIP CLUB: An organization operating on a membership basis with pre-established formal membership requirements and with the intent to promote the interests of its members. Such an organization includes trade associations, professional organizations, unions, and similar political and religious organizations.

MOBILE HOME: A structure, transportable in one or more section, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. This term does not include recreational vehicles.

MOBILE HOME PARK: A site with required improvements and utilities for the long-term parking of two or more mobile homes which may include services and facilities for the residents.

MOTEL: An establishment providing transient accommodations containing six or more rooms with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

NEIGHBORHOOD RETAIL STORE: 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.

NEW CONSTRUCTION: Means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial flood insurance rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NON-CONFORMING STRUCTURE: A structure or part thereof not in conformance with this zoning bylaw covering building bulk, dimensions, height, area, yards, density or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of this zoning bylaw.

NON-CONFORMING USE: A use of land or a structure which does not conform to all zoning regulations found herein where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of this zoning bylaw.

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

OFF-LOT WATER AND SEWER: The providing of water from a source and the disposal of sewage by a system not located on the lot on which is located the building for which these utilities are provided. Further that each of these systems shall be designed to provide service to ten or more independent users.

ON-LOT WATER AND SEWER: The provision of by such means as a drilled well, and disposal of sewage by such means as a septic tank and leach field located on the same adjacent lot as the building for which these utilities are provided.

PARKING SPACE, OFF-STREET: For the purposes of this bylaw, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

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.

PRINCIPAL BUILDING: A building in which is conducted the main or principal use of the lot on which such building is located. Attached garages, porches, or carports open at the side but roofed are part of the principal building. Any building providing sleeping quarters is a principal building.

PRINCIPAL USE: The primary or predominant use of any lot.

PRIVATE CLUB: A building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational or cultural enrichment of its members and not primarily for profit, and whose members meet certain prescribed qualifications for membership and pay dues.

PUBLIC ASSEMBLY USE: Usage by agencies and departments of local, county, state and federal government. Includes auditorium, theater, public hall, meeting hall, church or temple.

PUBLIC FACILITY: Any area of land, including structures thereon, used or intended to be used by agencies of local, county, state, and/or the federal government.

PUBLIC WATER, PUBLIC SEWER: Water supply and/or sewage disposal systems approved by the town for municipal operation.

RECREATION: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities. This shall not include automobile or other motorized vehicle racing tracks.

RECREATIONAL VEHICLE: A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

RESIDENTIAL BUSINESS: Any income generating activity, whether or not for profit, carried on within an accessory building by one or more of its inhabitants.

RETAIL SALES: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

ROAD: A vehicular right-of-way of class three or better with either a paved or gravel surface that is maintained by either the Town or the State.

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

SERVICE AREAS: Any outdoor area of land that is used for the erection or placement of accessory uses including but not limited to dumpsters, fuel tanks, electrical utilities and/or heating and ventilation systems.

SIGN: Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product service, event or location by any means,

including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

SIGNS, NUMBERS AND SURFACE AREA: For the purpose of determining numbers 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 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 matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

SITE TECHNICIAN: A state approved individual trained to perform percolation and other tests necessary in the design of septic systems and then use the information gathered from such tests to then design a septic system for the lot on which the tests were conducted.

STREET: Public way for vehicular traffic that affords the principal means of access to abutting properties.

STRUCTURE: Means an assembly of materials for occupancy or use, including, but not limited to, a building, manufactured home, billboard, and satellite dish. This definition shall exclude signs, driveways, grave markers, walls, fences, and septic systems.

SUBSTANTIAL IMPROVEMENT: Means any reconstruction, rehabilitation, addition, or other improvement of a building, the cost of which equals or exceeds 50 percent of the market value of the building before the "start of construction" of the improvement. This term includes buildings which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a building to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

TELECOMMUNICATION TOWER: A structure more than 30 feet in height above the ground elevation built for the purpose of supporting, elevating, or placement of antennas for broadcast services or wireless services.

TRUCKING TERMINAL: An area and building where cargo is stored and where trucks load and unload on a regular basis.

WAREHOUSE/STORAGE UNITS: A building used primarily for the storage of goods and materials. This shall include structures containing separate storage spaces of varying sizes leased or rented on an individual basis.

WHOLESALE SALES: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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 front lot line 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 principal building or accessory building and a side lot line, extending through from the front yard to the rear yard.

ARTICLE 6: ADMINISTRATION & ENFORCEMENT

§ 601: Administrative Officer

The Administrative Officer shall be appointed to administer this zoning bylaw pursuant to 24 VSA, § 4448. (a) The administrative officer, who may hold any other office in the municipality other than membership in the board of adjustment or development review board, shall be nominated by the planning commission and appointed by the legislative body for a term of three years promptly after the adoption of the first bylaws or when a vacancy exists. The administrative officer shall administer the bylaws literally and shall not have the power to permit any land development that is not in conformance with those bylaws. An administrative officer may be removed for cause at any time by the legislative body after consultation with the planning commission.

(b) The planning commission may nominate and the legislative body may appoint an acting administrative officer who shall have the same duties and responsibilities as the administrative officer in the administrative officer's absence. If an acting administrative officer position is established, there shall be clear policies regarding the authority of the administrative officer in relation to the acting or assistant officer.

(c) The administrative officer should provide an applicant with forms required to obtain any municipal permit or other municipal authorization required under this chapter, or under other laws or ordinances that relate to the regulation by municipalities of land development. If other municipal permits or authorizations are required, the administrative officer should coordinate a unified effort on behalf of the municipality in administering its development review programs. The administrative officer should inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

(d) If the administrative officer fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day.

§ 602: Zoning Permits

(a) Within this municipality:

(1) No land development may be commenced within the area affected by the bylaws without a permit issued by the administrative officer. No permit may be issued by the administrative officer except in conformance with the bylaws. If the zoning permit is approved, all activities authorized by its issuance 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.

(2) 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 after the effective date of this chapter, within the area affected by those bylaws, until a certificate of compliance is issued therefore by the administrative officer, stating that the proposed use of the structure or land conforms to the requirements of those bylaws. The three stages of completion are: 1) Foundation Stage – This includes but is not limited to excavation, footings, foundation walls, (or slab), waterproofing, backfill and compaction, and underground plumbing; 2) Framing Stage – This includes but is not limited to wood or steel framing, exterior wall and roof sheathing, windows and exterior doors, roofing, decks and porches. A certificate of compliance may be issued after stage two (see §603); 3) Paint, Trim, Finishes Stage – This includes finished flooring, cabinets, countertops, wall tile, mirrors, shower doors, final electrical (including fixtures), final plumbing (including fixtures), and final mechanical.

(3) No permit issued pursuant to this section shall take effect until the time for appeal in section 4465 of 24 VSA, Ch. 117 has passed, or in the event that a notice of appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the appropriate municipal panel is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken to the environmental court, the permit shall not take effect until the environmental court rules in accordance with 10 V.S.A. § 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

(b) Each permit issued under this section shall contain a statement of the period of time within which an appeal may be taken and shall require posting of a notice of permit on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal in section 4465 of this title has passed. Within three days following the issuance of a permit, the administrative officer shall:

(1) Deliver a copy of the permit to the listers of the municipality; and

(2) Post a copy of the permit in at least one public place in the municipality until the expiration of 15 days from the date of issuance of the permit.

(c)(1) Within 30 days after a municipal land use permit has been issued or within 30 days of the issuance of any notice of violation, the appropriate municipal official shall:

(A) deliver the original or a legible copy of the municipal land use permit or notice of violation or a notice of municipal land use permit to the town clerk for recording; and

(B) file a copy of that municipal land use permit in the offices of the municipality in a location where all municipal land use permits shall be kept.

(2) The municipal officer may charge the applicant for the cost of the recording fees as required by law.

(d) If a public notice for a first public hearing pursuant to subsection 4442(a) of 24 VSA, Ch. 117 is issued by the local legislative body with respect to the adoption or amendment of a bylaw, or an amendment to an ordinance adopted under prior enabling laws, the administrative officer, for a period of 150 days following that notice, shall review any new application filed after the date of the notice under the proposed bylaw or amendment and applicable existing bylaws and ordinances. If the new bylaw or amendment has not been adopted by the conclusion of the 150-day period or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under existing bylaws and ordinances. An application that has been denied under a proposed bylaw or amendment that has been rejected or that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing bylaws and ordinances, upon request of the applicant. Any determination by the administrative officer under this section shall be subject to appeal as provided in section 4465 of this title.

§ 603: Certificates of Compliance

Applications for certificates of compliance shall be made on forms supplied by the Administrative Officer. The Administrative Officer shall then verify that all requirements and conditions of the zoning permit and/or DRB decision have been met and shall issue a certificate to that effect before it is used or occupied. A copy shall be filed with the Town Clerk.

§ 604: Penalties

Any Violation of this bylaw after the effective date thereof shall be punished as provided in 24 VSA, §§ 4451 and 4452, and 4454.

§ 605: Development Review Board

605.01 The Board of Selectmen shall appoint a DRB of three (3) to nine (9) members who shall serve without remuneration and act on all matters within its jurisdiction under this bylaw in the manner prescribed in the 24 VSA, Chapter 117, provided however, that the members of the DRB incumbent on the effective date of this bylaw shall continue in office for the duration of the terms to which they were respectively appointed.

605.02 Rules of procedure applicable to the DRB, the nature of appeals to the Board from actions of the Administrative Officer, notice requirements, public notice, conditions for variance relief, and all other matters governing the action of said Board shall be as provided in 24 VSA, Chapter 117, Subchapter 8.

§606: Planning Commission

The Planning Commission is authorized to carry out the following duties (see 24 VSA §4325):

- 1) Prepare a plan and amendments thereof for consideration by the legislative body and to review any amendments thereof initiated by others as set forth in subchapter § of 24 VSA, Chapter 117;
- 2) Prepare and present to the legislative body proposed bylaws and make recommendations to the legislative body on proposed amendments to such bylaws as set forth in subchapter 6 of 24 VSA, Chapter 117;
- 3) Administer bylaws adopted under this chapter, except to the extent those functions that are performed by a development review board;
- 4) Undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources and wetland protection. Data gathered by the planning commission that is relevant to the geographic information system established under 3 VSA §20 shall be compatible with, useful to, and shared with that system;
- 5) Prepare and present to the legislative body recommended construction specifications for streets and related public improvements;
- 6) Hold public meetings;
- 7) Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission;
- 8) In the performance of its functions, enter upon land to make examinations and surveys;
- 9) Participate in a regional planning program;
- 10) Retain staff and consultant assistance in carrying out its duties and powers;
- 11) Undertake comprehensive planning, including related preliminary planning and engineering studies;
- 12) Perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of, this chapter.

§ 607: Public Notice

Any requirements of public notice required by this bylaw, whether or not required by any provision of 24 VSA, Chapter 117, and whether applicable to the DRB or the Planning Commission, shall be given by the publication of the date, place and purpose of such hearing, as required by 24 VSA, §4464:

(1) A warned public hearing shall be required for conditional use review, variances, administrative officer appeals, and final plat review for subdivisions. 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 the following:

(A) Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected.

(B) Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.

(C) Written notification to the applicant and to owners of all properties adjoining the property subject to development, including the owners of properties which would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way and, in any situation in which a variance is sought regarding setbacks from a state highway, also including written notification to the secretary of transportation. The notification shall include a description of the proposed project and shall be accompanied by 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.

(2) Public notice for hearings on all other types of development review, including site plan review, shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum all the following:

(A) Posting of the date, place, and purpose of the hearing in three or more public places within the municipality in conformance with the time and location requirements of 1 V.S.A. § 312(c)(2).

(B) Written notification to the applicant and to the owners of all properties adjoining the property subject to development, including the owners of properties which would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way and, in any situation in which a variance is sought regarding setbacks from a state highway, also including written notification to the secretary of transportation. The notification shall include a description of the proposed project and shall be accompanied by 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.

(5) No defect in the form or substance of any requirements in subdivision (1) or (2) of this subsection shall invalidate the action of the appropriate municipal panel where reasonable efforts are 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 environmental court or by the applicable municipal panel itself, the action shall be remanded to the applicable municipal panel to provide new posting and notice, hold a new hearing, and take a new action.

(b)(1) Decisions. The appropriate municipal panel may recess the proceedings on any application pending submission of additional information. The panel should close the evidence promptly after all parties have submitted the requested information. The panel shall adjourn the hearing and issue a decision within 45 days after the adjournment of the hearing, and failure of the panel to issue a decision within this period shall be deemed approval and shall be effective on the 46th day. Decisions shall be issued in writing and shall include a statement of the factual bases on which the appropriate municipal panel has made its conclusions and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection.

(2) In rendering a decision in favor of the applicant, the panel may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of this chapter and the pertinent bylaws and the municipal plan then in effect. A bylaw may provide for the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a form acceptable to the legislative body of the municipality, to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project.

(3) Any decision shall be sent by certified mail within the period set forth in subdivision (1) of this subsection to the applicant and the appellant in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing and a copy of the decision shall be filed with the administrative officer and the clerk of the municipality as a part of the public records of the municipality.

(4) Conditions may require that no zoning permit, except for any permits that may be required for infrastructure construction, may be issued for an approved development unless the streets and other required public improvements have been satisfactorily installed in accordance with the approval decision and pertinent bylaws. In lieu of the completion of the required public improvements, the appropriate municipal panel may require from the owner for the benefit of the municipality a performance bond issued either by a bonding or surety company approved by the legislative body or by the owner with security acceptable to the legislative body in an amount sufficient to cover the full cost of those new streets and required improvements on or in those streets or highways and their maintenance for a period of two years after completion as is estimated by the appropriate municipal panel or such municipal departments or officials as the panel may designate. This bond or other security shall provide for, and secure to the public, the completion of any improvements that may be required within the period fixed in the subdivision bylaws for that completion and for the maintenance of those improvements for a period of two years after completion.

(5) The legislative body may enter into an agreement governing any combination of the timing, financing, and coordination of private or public facilities and improvements in accordance with the terms and conditions of a municipal land use permit, provided that agreement is in compliance with all applicable bylaws in effect.

(6) The performance bond required by this subsection shall run for a term to be fixed by the appropriate municipal panel, but in no case for a longer term than three years. However, with the consent of the owner, the term of that bond may be extended for an additional period not to exceed three years. If any required improvements have not been installed or maintained as provided within the term of the performance bond, the bond shall be forfeited to the municipality and upon receipt of the proceeds of the bond, the municipality shall install or maintain such improvements as are covered by the performance bond.

(c) Administrative review. In addition to the delegation of powers authorized under this chapter, any bylaws adopted under this chapter may establish procedures under which the administrative officer may review and approve new development and amendments to previously approved development that would otherwise require review by an appropriate municipal panel. If administrative review is authorized, the bylaws shall clearly specify the thresholds and conditions under which the administrative officer classifies an application as eligible for administrative review. The thresholds and conditions shall be structured such that no new development shall be approved that results in a substantial impact under any of the standards set forth in the bylaws. No amendment issued as an administrative review shall have the effect of substantively altering any of the findings of fact of the most recent approval. Any decision by an administrative officer under this subsection may be appealed as provided in section 4465 of this title.

§ 4465. Appeals of decisions of the administrative officer

(a) An interested person may appeal any decision or act taken by the administrative officer in any municipality by filing a notice of appeal with the secretary of the board of adjustment or development review board of that municipality or with the clerk of that municipality if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the administrative officer.

(b) For the purposes of this chapter, an interested person means any one of the following:

(1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.

(2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.

(3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on that person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.

(4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.

(5) Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

(c) In the exercise of its functions under this section, a board of adjustment or development review board shall have the following powers, in addition to those specifically provided for elsewhere in this chapter:

(1) To hear and decide appeals taken under this section, including, without limitation, where it is alleged that an error has been committed in any order, requirement, decision, or determination made by an administrative officer under this chapter in connection with the administration or enforcement of a bylaw.

(2) To hear and grant or deny a request for a variance under section 4469 of this title.

§ 4466. Notice of appeal

A notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.

§ 4468. Hearing on appeal

The appropriate municipal panel shall set a date and place for a public hearing of an appeal under this chapter that shall be within 60 days of the filing of the notice of appeal under section 4465 of this title. The appropriate municipal panel shall give public notice of the hearing and shall mail to the appellant a copy of that notice at least 15 days prior to the hearing date. Any person or body empowered by section 4465 of this title to take an appeal with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing. Any hearing held under this section may be adjourned by the appropriate municipal panel from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All hearings under this section 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 3 V.S.A. § 810.

§ 4469. Appeal; variances

(a) On an appeal under section 4465 or 4471 of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is not primarily a renewable energy resource structure, the board of adjustment or the development review board or the environmental court created under 4 V.S.A. chapter 27 shall grant variances and render a decision in favor of the appellant, if all the following facts are found, and the finding is specified in its decision:

(1) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.

(2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) Unnecessary hardship has not been created by the appellant.

(4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

(5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

(b) On an appeal under section 4465 or 4471 of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is primarily a renewable energy resource structure, the board of adjustment or development review board or the environmental court may grant that variance and render a decision in favor of the appellant if all the following facts are found, and the finding is specified in its decision:

(1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.

(2) The hardship was not created by the appellant.

(3) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

(4) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and from the plan.

(c) In rendering a decision in favor of an appellant under this section, a board of adjustment or development review board or the environmental court may attach such conditions to variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this chapter and the plan of the municipality then in effect.

§ 4470. Successive appeals; requests for reconsideration to an appropriate municipal panel

(a) An appropriate municipal panel 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 date of filing of the notice of appeal, if the appropriate municipal panel considers the issues raised by the appellant in the appeal have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of that appellant. The decision shall be rendered, on notice given, as in the case of a decision under subdivision 4464(b)(3) of this title, and shall constitute a decision of the appropriate municipal panel for the purpose of section 4471 of this title.

(b) A municipality shall enforce all decisions of its appropriate municipal panels, and further, the superior court, or the environmental court shall enforce such decisions upon petition, complaint or appeal or other means in accordance with the laws of this state by such municipality or any interested person by means of mandamus, injunction, process of contempt, or otherwise.

§ 4471. Appeal to environmental court

(a) Participation required. An interested person who has participated in a municipal regulatory proceeding may appeal a decision rendered in that proceeding to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

(b) Appeal on the records. If the municipal legislative body has determined (or been instructed by the voters) to provide that appeals of certain appropriate municipal panel determinations shall be on the record, has defined what magnitude or nature of development proposal shall be subject to the production of an adequate record by the panel, and has provided that the municipal administrative procedure act shall apply in these instances, then an appeal from such a decision of an appropriate municipal panel shall be taken on the record in accordance with the Vermont Rules of Civil Procedure.

(c) Notice. Notice of the appeal shall be filed by certified mailing, with fees, to the environmental court and by mailing a copy to the municipal clerk or the administrative officer, if so designated, who shall supply a list of interested persons to the appellant within five working

days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

ARTICLE 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

§ 701: Amendments

This bylaw may be amended according to the requirements and procedures established in 24 VSA, §§ 4403 and 4404.

§ 702: Interpretation

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, comfort, convenience, and general welfare.

Except for 24 VSA, § 4409(b) and where, in this bylaw, specifically provided to the contrary, it is not intended by this bylaw to repeal, annul, or in any way to impair any regulations or permits previously adopted or issued, provided that where this bylaw imposes a greater restriction upon use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of this bylaw shall control.

§ 703: Effective Date

This regulation shall take effect in accordance with the voting and other procedures contained in 24 VSA, § 4404.

§ 704: Severability

If any provision of this bylaw or the application of this bylaw to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this bylaw that can be given effect without the invalid provision or application, and for this purpose, the provisions of this bylaw are severable.

§ 705: Repeal

To the extent that this bylaw is inconsistent with the existing zoning bylaw and its amendments, such existing bylaw and its amendments shall be repealed upon the effective date of this bylaw. As

to matters which are not inconsistent, this bylaw shall be deemed a continuation of the existing bylaw and its amendments.