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# Zoning Bylaws Town of Westminster Vermont



## INTERIM ZONING AND SUBDIVISION BYLAWS

Approved by the Planning Commission June 17, 2013  
Adopted per VSA 24 § 4415 by the Westminster Selectboard April 22, 2014

Incorporated November 24, 1735: Township #1

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

Note: Bylaws on Zoning and Overlay Districts are authorized by:  
24 VSA 117, Section 4414: Zoning: Permissible Types of Regulation

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## Order of Amendments

- Compiled Zoning Revisions 10/15/2013; proof 11/25/2013; Approved by Planning Commission June 17, 2013; Adopted by the Westminster Selectboard April 22, 2014.
- Revisions Approved by the Planning Commission January 13, 2010  
Adopted by the Selectboard March 30, 2010.
  - Codify the change in zoning permit review procedure. The Town has combined the review of zoning applications by the Planning Commission and the Zoning Board of Adjustment to a one entity review called the Development Review Board.
  - Added Exemptions: Filling of land with less than 42 cubic yards and/or under 30” grade change over a period of a year, Waivers of Dimensional Standards, changes to District Use and Intensity Regulations: added conditional uses, added PUD Density Bonus Incentives, added Permit Fees are doubled if applications are filed after construction begins, added maps: Ridgeline Protection Map, Road Name Map and Community Facilities/Utilities Map, and added to the definitions.
- Adopted Ridgeline Protection Overlay District by the Selectboard April 8, 2008: Effective April 29, 2009.
- Amended Flood Hazard Overlay Ordinance September 11, 2007; Effective October 3, 2007.
- Amended PUD Adding Section 424(b) June 12, 2007
- Revised and adopted by the Selectboard September 27, 2005:
  - Revised and reformatted Administration and Procedure, changed zoning district names, added Connecticut River Conservation District, added Group/Residential Care Home, Home Occupation to Industrial District, dropped and added conditional uses, dropped maximum coverage, Commercial District added child care, group homes, mini-marts, Conditional uses added: redemption center, home business, cottage industry, Telecommunications Facility, deleted maximum coverage, combined all villages into one district, added child care and group homes to permitted uses, added cottage industry and telecommunications to conditional uses, Residential 2 added group homes to permitted uses, deleted PRD from permitted uses, increased from one acre to two acres. Reconfigured Commercial, Industrial and Residential Zoning Districts.
- Revised Subdivision Regulations as part of a separation from other items in the Zoning Ordinance. Approved by Selectboard January 23, 2001, approved by Australian Ballot March 6, 2001:
  - Revised format.

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- Revised March 1, 1994:
    - Reformatted entire bylaw, Commercial District changed max coverage to 50%, Village District called out 3 villages and added conditional uses, changed setbacks, added application and review requirements, Flood Hazard added review by State, and possible flood conditions attached to permit, re-establishment of non-conforming use; added - This does not apply to noncomplying structures, separated subdivision ordinance and others from the Zoning Ordinance.
  - Revised March 3, 1992:
    - Revised organization, added Administrative Procedure, added residential care and residential day care, revised District Use section with additions and deletions (one acre to two acre, add 5 acre zone), increased design control district with name change to historic district, revised entire General Regulations. Revised entire Special Regulations (added PUD to PRD, provisions for temporary ag sale stands), added Tent and Travel Trailer section), added Historic Preservation Overlay District, Agriculture Overlay District, deleted Subdivision Regulations, Bicycle, Dump Control, Acceptance of New Roads.
  - Revised March 6, 1990 Deleted reference to Act 250 in Subdivision Regulations.
  - Revised March 6, 1979.
  - Revised March 3, 1978.
  - Revised March 1, 1977.
  - Revised March 2, 1976.
  - Added Flood Insurance Regulations July 25, 1975.
  - Revised March 5, 1974.
  - Added Subdivision Regulations April 19, 1972.
  - Revised March 2, 1971: Sign Control, Bicycle, Dump Control, Acceptance requirements for New Roads.
  - Adopted permanent zoning March 3, 1970.
  - Adopted Interim Zoning March 1969.

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# ARTICLE I: LEGAL FRAMEWORK

## SECTION 110: INTRODUCTION

### 111 Enactment:

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

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

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

### 113 Applicability:

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

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**114 Effective Date:**

- A. In accordance with the Act these regulations shall take effect twenty-one (21) days from the date of adoption by a majority of the members of the Westminster Selectboard, or immediately upon adoption as the result of a petitioned or warned town meeting vote via Australian ballot.
  
- B. All zoning regulations previously in effect for the Town of Westminster are repealed as of the effective date of these regulations.

**115 Severability:** The provisions of this Bylaw are severable. In the event that any part of this Bylaw, or its application, is judicially determined to be invalid, such determination shall not affect the validity of any other part of these regulations or their application.

**END OF ARTICLE I**

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## ARTICLE II: ADMINISTRATION & ENFORCEMENT

### SECTION 210: PERMITS

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

### 212 Land Use Permits & Approvals:

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

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D. **Coordinated Review:** The Administrative Officer will coordinate the development review process on behalf of the Town of Westminster, refer applications for development to the appropriate town officials (DRB or Selectboard) and provide information to applicants for development permits as appropriate in accordance with Act.

E. **E911 Designations:** New residence or new utility connections will require a new e911 designation.

**213 Exemptions:** In accordance with the Act, the following have been determined to impose no impact or a de minimis impact on the surrounding area and the overall pattern of land development in the town and are exempt from these regulations. No permit is required for the following, *except as may be required* by Article IX-Historic Preservation Overlay District, Article X-Agricultural Land Overlay District, Article XI-Flood Hazard Areas Overlay District, Article XII-Water Supply Source Protection Overlay District, Article XIV-Ridgeline Overlay District and the Connecticut River Conservation District. All new construction or alteration to any existing structure or use shall be reviewed in accordance with the procedures and standards set forth in this Bylaw.

- A. Modifications of building interiors if no change of use is proposed.
- B. Repairs and minor alterations (including chimneys, re-roofing or re-siding) to existing buildings not resulting in any change to the footprint or height of the building.
- C. A residential fence or wall or any landscaping which does not interfere with sight distances for vehicular traffic.
- D. Installation of residential doors, windows, dormers and awnings.
- E. A doghouse, playhouse, tree house, shed or similar structure for residential accessory use with a floor area of not more than one hundred and fifty (150) square feet, not intended for human occupancy, and meeting setback requirements.
- F. Temporary uses and structures as per Section 530 of the Bylaw.
- G. Filling of Land: Filling of land with loam, rock, gravel, sand or other such material with a maximum of forty two (42) cubic yards and/or maximum thirty (30”) inch grade change within a one year (1) period is allowed in all districts as a permitted use provided that:
  - 1. Finish contours are graded and measures taken to prevent erosion; and
  - 2. Natural drainage flows are not obstructed or diverted onto adjacent properties.

Filling of land greater than the above shall require a conditional use review.

- H. The following uses are specifically exempted from local land use and development regulations in accordance with the Act. No zoning permit or approval shall be required for:
  - 1. Structures supporting Agricultural operations but not dwellings or tourist activities. Accepted Agricultural Practices (AAPs) and Accepted Management Practices, including farm structures but not dwellings, as defined by the Secretary of Agriculture, Food and Markets in accordance with the Act. However, a notice of intent (NOI), including a plan of the proposed structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Administrative Officer before beginning any

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construction, as required under AAPs. Such structures shall meet all setback requirements under these regulations, unless waived by the Secretary.

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

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

#### **214 Zoning Permits:**

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

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2. Exceptions to plot plan drawings requirements:
    - a. No plot plan is required for applications for a change of use in cases when the change of use is from residential to residential/home occupation, except for required parking spaces as per Section 552.
    - b. Commercial expansions under an existing permit do not require plot plan prepared by a professional except when otherwise directed by the DRB.
  3. The Selectboard establishes all permitting fees including the fee for a zoning permit. These fees are doubled if an application for a zoning permit is filed after construction begins.
  4. Additional copies of applications, which require referral to a state agency, shall be provided by the applicant and will be forwarded by the Administrative Officer to the appropriate state agency within 30 business days of receipt of the application. This includes all applications for development within the Flood Hazard Areas Overlay District (see Article XI).

**C. Issuance of Zoning Permits:** A zoning permit shall be issued by the Administrative Officer only in accordance with the Act, and the following provisions:

1. No zoning permit shall be issued by the Administrative Officer for any use or structure that requires approval of the DRB until such approval has been obtained.
2. All zoning permits shall include a statement of time within which appeals may be taken; and shall require the applicant to post a notice of permit on a form prescribed by the town, on the property within view of the nearest public right-of-way until the time for appeal has expired under Section 216.
3. The Administrative Officer shall, within three (3) days following the issuance of the permit, deliver a copy of the permit to the Listers, and post a copy of the permit at the town office for a period of 15 days from the date of issuance.
4. The Administrative Officer shall return all incomplete zoning permit applications to the applicant stating why the application was deemed incomplete.
5. The Administrative Officer shall provide copies of the Permit to all interested parties or in the case of administrative approval send copies to all abutters.
6. Refer all non-administrative applications to the Development Review Board.

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#### D. Effective Dates:

1. **Administrative Officer Approvals:** No zoning permit shall take effect before the 15 day appeal period passes, or in the event that a notice of appeal is properly filed, until the appeal has been decided by the DRB. Permits shall remain in effect for two (2) years from the date of issuance. Development authorized by a zoning permit shall start construction and shall be substantially completed within this period or the zoning permit shall become null and void and reapplication and approval under the regulations in effect at the time of reapplication shall be required. A one (1) year extension of an administratively approved zoning permit may be granted by the Administrative Officer only if the extension request comes to the Administrative Officer before the zoning permit expires and if it is determined that there was reasonable cause for delay in beginning development. Within 30 days of receipt of a complete application, including all applications materials, and fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or refer the application to the DRB. If the Administrative Officer fails to act with the 30-day period, a permit shall be deemed issued on the 31<sup>st</sup> day in accordance with the Act.
2. **Board Approvals:** All approvals granted by the DRB, including conditional use approvals and variances, shall expire upon the expiration of the zoning permit. The DRB may initially grant a longer period of approval to accommodate phased development or other projects that reasonably require a longer period of time for project commencement. In addition, the DRB may grant a one (1) year extension to a DRB approval if the extension is requested prior to the permit expiration date, and the DRB determines that there was reasonable cause for delay in the start of development, and that the proposed development remains unchanged from the time of the initial approval. The initial approval process will be the process used to hear the request for the extension.
3. **Recording Requirements:** Within 30 days of the issuance of a zoning permit it must be delivered to the Town Clerk for recording in the land records in accordance with Section 215.F.1. of this Bylaw. The applicant will be charged for the cost of the recording fees as established by the State of Vermont.

#### 215 Administrative Requirements & Procedures:

##### A. Administrative Officer:

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

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2. **Duties:** The Administrative Officer shall:
    - a. Administer the bylaws literally, and strictly enforce the provisions of this Bylaw,
    - b. Provide interested persons with the forms and information required to obtain a permit,
    - c. Coordinate a unified effort on behalf of the town in administering development review programs,
    - d. Maintain records of municipal land use permits, and
    - e. Perform other related tasks as is necessary, appropriate and as required by law.
  
  3. **Authority:** The Administrative Officer is authorized to issue zoning permits only for the following land development activities without approval of the DRB:
    - a. Construction of one or two family dwellings, provided that such construction is in conformance with the provisions of this Bylaw,
    - b. Additions, reconstructions and improvements to one or two family dwellings, provided that such construction is in conformance with this Bylaw,
    - c. Signs (except for those signs in the Historic Preservation Overlay District or as modified by a conditional use permit.),
    - d. Residential accessory uses over 150 square foot in area,
    - e. Lot/boundary line adjustments that do not result in the creation of new lots or non-conformities.
      1. An Administrative Officer's approval of a boundary line adjustment will expire 180 days after the approval, unless a plat or property deed description is given to the Administrative Officer for his or her signature prior to being filed or recorded in the Town Clerk's office.
    - f. Family child care homes serving no more than six (6) full time children and four (4) part-time children, (Section 616 ), and
    - g. Group homes and residential care homes serving not more than eight (8) persons so long as it is not located within 1,000 feet of another existing or permitted group home or residential care home, (Section 616).
    - h. Handicap accessibility and emergency access waivers. (Except for projects done in the Historic Preservation Overlay District and in the Agricultural Overlay District.

**B. Westminster Planning Commission:**

1. **Appointment:** The Westminster Selectboard shall appoint no less than 3 or more than 9 members to the Planning Commission in accordance with the Act. A majority of members must be residents of the municipality. Any member of the Planning Commission may be removed at any time by a unanimous vote of the Selectboard. The Planning Commission shall adopt rules of procedure to guide its official conduct as required by the Act and Vermont's Open Meeting Law [1 V.S.A.

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§§310-314]. The Planning Commission shall act in accordance with a Conflict of Interest policy adopted by the Selectboard.

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

### C. Development Review Board.

1. **Appointment:** The DRB members and its alternates are appointed by the Westminster Selectboard for specified terms in accordance with the Act. There may be no fewer than 5 or more than 9 members. The DRB shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its conduct, as required under the Act and Vermont's Open Meeting Law [1 V.S.A. §§310-314]. Any member of the DRB may be removed for cause by the Selectboard upon written charges and after public hearing.
2. **Alternates:** Alternates on the DRB may participate in quasi-judicial proceedings when one or more members are disqualified according to its conflict of interest rules, or are otherwise unable to serve. Alternates shall be selected in accordance with the DRB's rules of procedure. Once an alternate begins serving in a proceeding before the DRB, that alternate shall participate until the conclusion of the proceeding and a decision is rendered.
3. **Duties:** The DRB shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
  - a. Applications for rights-of-way or easements for development lacking frontage,
  - b. Appeals from any decision, act or failure to act by the Administrative Officer and any associated variance requests,
  - c. Requests for waivers of dimensional standards,
  - d. Applications for site plan approval,

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- e. Applications for conditional use approval,
  - f. Applications for subdivision approval,
  - g. Creation of two lots from one,
  - h. Applications for planned unit development,
  - i. Applications for historic review,
  - j. General and special regulations,
  - k. Agriculture Land Overlay District,
  - l. Flood Hazard Overlay District,
  - m. Water Supply Source Protection,
  - n. Telecommunication Facilities, and
  - o. Ridgeline Protection Overlay District,
  - p. Any development project that includes a right of way or driveway on land with a slope greater than 20% (20 foot drop for 100 feet of run).
4. **Independent Technical Review:** The DRB may require an applicant to pay for the reasonable costs of an independent technical review(s) of a development application, including but not limited to engineering review or legal review of easement documents as permitted by this Bylaw. In the event that the DRB requests an independent technical review:
- a. The DRB shall outline the scope of the technical review specific to the need for additional information and obtain an estimate of the costs.
  - b. The applicant shall be responsible for paying the estimated costs of the review to the Town. The technical review will not take place until the Town receives the funds.
  - c. The funds will be deposited into an interest bearing escrow account. The sum may be drawn against by appropriate town personnel for the payment of the technical assistance hired by the Town to review the project.
  - d. Any balance remaining six (6) months after final action on the application by the DRB shall be returned to the applicant along with the accrued interest.
  - e. Should the review be more than the estimated cost, the applicant shall be required to pay the additional fees.
5. **Public Notice:** A warned public hearing shall be required for all types of development review.
- a. A public hearing shall be required for conditional use review (Section 313), appeals and variance (Sections 216 & 217), and subdivision review (Article VIII). The public notice for public hearings to hear the noted applications shall be given not less than 15 days prior to the date of the public hearing by all of the following for complete applications submitted 21 days before the hearing:

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- i. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the Town of Westminster;
  - ii. Posting of the same information in three (3) or more public places by the Administrative Officer within the municipality in conformance with the requirements with 1 V.S.A. § 312 (c)(2), the applicant shall post the hearing notice within view from the public right of way nearest to the property for which the application is being made;
  - iii. Written notification by the Administrative Officer to the applicant and to owners of all properties adjoining the subject property, without regard to public right of way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is prerequisite to the right to take any subsequent appeal.
- b. Public notice for all other types of hearings, including site plan review (Section 311), historic preservation review (Article IX) and pre-application and preliminary hearings for Planned Development Review (Article VII), shall be given not less than seven (7) days prior to the date of the public hearing, and shall at a minimum include the following:
- i. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the Town of Westminster;
  - ii. Posting of the same information in three (3) or more public places by the Administrative Officer within the municipality in conformance with the requirements with 1 V.S.A. § 312 (c)(2), the applicant shall post the hearing notice within view from the public right of way nearest to the property for which the application is being made;
  - iii. Written notification by the Administrative Officer to the applicant and to owners of all properties adjoining the subject property, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

#### **D. Meetings and Hearings:**

1. **Development Review Board:** In accordance with the Act, all meetings and hearings of the DRB, except for deliberative and executive sessions, shall be open to the public. In addition:
  - a. For the conduct of any meeting and the taking of any action, a quorum is a majority of the members of the DRB.
  - b. The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions which shall be filed immediately in the Town Office as public records. In accordance with 1 V.S.A. § 312 (f), written decisions issued by the DRB in connection with a

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quasi-judicial proceeding need not be adopted at an open meeting as the decision is a public record.

- c. Public hearings shall be noticed and warned in accordance with subsection C.5, above. In any regulatory hearing of the DRB there shall be an opportunity for each person wishing to achieve status as an interested person. To bring an appeal under Section 216, an individual or group must demonstrate that the criterion for achieving such status is met. The DRB shall keep a written record of the name, address, and participation of each of these persons.
- d. The DRB may continue a hearing provided that it announces the date and place of the continuation at the hearing, and must close evidence promptly after all parties have submitted requested information.
- e. No member of the DRB shall communicate on any issue in an application, directly or indirectly, with any party, party's representative, party's counsel, or any person interested in the outcome of the proceeding while the proceeding is pending without additional notice and opportunity for all parties to participate. All ex parte communications received by DRB members, all written responses to such communications, and the identity of the person making the communication shall be entered into the hearing record.
- f. Members of the DRB shall not participate in the decision on an application unless they have heard all the testimony and reviewed all the evidence submitted in the hearing. This may include listening to a recording, or reading the transcripts of testimony they have missed, and reviewing all exhibits and other evidence prior to deliberation.

2. **Historic Review Board:** In accordance with the Act and Article IX of this Bylaw, meetings of the Historic Review to review an application under these regulations shall comply with Vermont's Open Meeting Law and requirements of the Historic Review Board's rules of procedure, and are open to the public. They are not considered hearings before a quasi-judicial body. The Review Board's recommendations may be presented in writing at or before DRB's public hearing on the application, or may be presented orally at the public hearing.

E. **Decisions:** In accordance with the Act, the DRB will close evidence promptly after all parties have submitted requested information, and shall issue a decision within 45 days after the close of the hearing. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 216 of this Bylaw.

1. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence contained in the hearing record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 216 of this Bylaw.
2. In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, this Bylaw, and the town plan currently in effect.

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3. All decisions shall be sent by certified mail, within the required 45 day period, to the applicant or to the appellant on matters of appeal. Copies of the decision also will be mailed to every person or body appearing who has been granted interested party status and at the DRB's discretion for those who have been heard at the hearing, and filed with the Administrative Officer and Town Clerk as part of the public record of the municipality.

**F. Recording Requirements:**

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

**216 Appeals:**

- A. **Administrative Officer Decisions:** An applicant and an interested person as defined in the Act may appeal a decision or act of the Administrative Officer by filing a written notice of appeal with the secretary of the DRB or the Town Clerk, if no secretary has been elected. This appeal must be filed within 15 days of the decision or action. The secretary or Town Clerk shall give a copy of the notice to the Administrative Officer.
  1. **Hearing:** The DRB shall hold a public hearing after public notice within 60 days of the filing of the notice of appeal. The public hearing notice shall be consistent with Section 215.C.5.a of this Bylaw. The DRB shall also mail a copy of the hearing notice to the appellant not less than 15 days before the hearing date.
  2. **Successive Appeals:** If the DRB considers the issues raised by the appellant in the appeal to have been decided in an earlier appeal or to be the same in substantially or materially the same facts by or on behalf of that appellant, the DRB may reject an appeal without hearing and render a decision. Such decision, including findings of fact, shall be rendered within 10 days of the filing of the appeal, in accordance with the Act.
  3. **Hearing Procedure:** All appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of the evidence applied in contested cases in hearings before administrative agencies as set forth in state statutes, 3 V.S.A. § 810. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be continued by the DRB, provided that it announces the date and place of the continuation at the hearing.

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4. **Decision:** The DRB shall issue a decision in regards to the appeal within 45 days after the close of the hearing. The decision shall be sent to the appellant, by certified mail; and a copy of the decision shall also be sent by regular mail to persons granted interested party status and the Town Clerk as part of the public records of the municipality.
- B. **Notice of Appeal:** A notice of appeal filed with the DRB under this section shall be in writing and include the following information, in accordance with the Act:
1. The name and address of the appellant,
  2. A brief description of the property with respect to which the appeal is taken,
  3. A reference to the regulatory provision applicable to that appeal,
  4. The relief requested by the appellant, and
  5. The alleged grounds as to why the requested relief is believed proper under the circumstances.

**217 Development Review Board Decisions:**

- A. An applicant, appellant, or an interested person who has participated in a municipal regulatory proceeding of the DRB may appeal a decision of the DRB, within 30 days of the decision, to the Vermont Environmental Court in accordance with Act, and 10 V.S.A. § 8504(b)(1), and V.R.E.C.P. Rule 5(b)(1).
1. Participation in the local municipal regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.
  2. Notice of the appeal shall be filed by certified mailing, with fees, to the environmental division and by mailing a copy to the Administrative Officer, who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

**218 Violations & Enforcement:**

- A. **Violations:** The commencement or continuation of any land development, subdivision or use that is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with the Act. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute in the name of the town, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected for violations shall be paid over to the town.

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- B. Notice of Violation:** No action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists, as required under the Act. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven (7) day notice period and within the next succeeding 12 months.
- C. Limitations on Enforcement:** An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality in accordance with Section 215.F.

## **END OF ARTICLE II**

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## ARTICLE III: DEVELOPMENT REVIEW

### SECTION 310 TYPES OF REVIEW

- A. **Applicability:** Development review procedures and related standards under this article apply only to land development that requires approval by the DRB before issuance of a zoning permit by the Administrative Officer, under one or more of the following reviews:
1. **Site Plan Review.** As enabled in the Act, site plan review under Section 311 shall apply to all uses and change of uses as listed in Article IV, excluding single and two family dwellings and associated residential accessory structures, specified home child care facilities and group homes under Section 616, signs, agriculture and forestry, and all other uses specifically exempted from these regulations under Section 213. Uses listed as a conditional use under Article IV are not subject to site plan review procedures; however, site plan review standards shall be applied through conditional use review.
  2. **Waivers to Dimensional Requirements.** As enabled in the Act, waivers of dimensional requirements of this Bylaw may be granted by the DRB after considering the waiver criteria. A waiver may be granted to any of the dimensional requirements in the Zoning Bylaw, except minimum lot size unless associated with a planned unit development.
  3. **Conditional Use Review.** In accordance with the Act, proposed conditional uses and conversions to another conditional use as listed in Article IV shall be permitted only if the DRB determines, after public notice and hearing that the proposed use conforms to the general and specific standards contained within this Bylaw.
  4. **Historic Review Board.** As enabled in the Act, proposals within the Historic Preservation Overlay District shall require Historic Review Board review and if the DRB determines, after public notice and hearing that the proposal conforms to the standards contained in Article IX of this Bylaw.
  5. **Planned Unit Development Review.** As enabled in the Act, proposals for a planned unit development shall be permitted only if the DRB determines after public notice and hearing that the proposal conforms to the standards contained within Article VII of this Bylaw.
  6. **Subdivision Review.** As enabled in the Act, proposals for a subdivision shall be permitted only if the DRB determines after public notice and hearing that the proposal conforms to the standards contained within Article VIII of this Bylaw. Subdivision review, if necessary may be combined with planned unit development review in accordance with this Bylaw.
  7. **Flood Hazard Review.** As enabled in the Act, proposals for flood hazard review shall be permitted only if the DRB determines after public notice and hearing that the proposal conforms to the standards contained within Article XI of this Bylaw.
- B. **Application Requirements:**
1. An application for site plan, conditional use, and/ or variances or waivers, must be submitted to the Administrative Officer. In addition to a zoning permit application, required under Section 214 of this Bylaw, and all applicable fees, the applicant must submit two complete sets of application materials. The Administrative Officer shall refer any application requiring a review by the DRB for its action. An application

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will not be considered complete until all necessary materials have been submitted or expressly waived by the DRB, as outlined, below.

2. The Board may waive required application materials if it determines that such information is unnecessary for a comprehensive review of the application. However, the DRB may request additional information as needed, or request independent technical review as provided for under Section 215 to determine compliance with this Bylaw.

### **Section 311 Site Plan Review:**

- A. **Purpose:** Site plan review is intended to ensure that site layout and design are functional, safe, and consistent with the purpose and character of the districts in which the development is located. Standards address internal layout of the site and its physical design, and the functional integration of the site with adjoining properties, uses and infrastructures. The DRB shall review and decide upon site plan applications.
- B. **Review Process:** Within 30 days of receipt of a complete application for site plan review, the Administrative Officer shall refer the application for review by the DRB. A hearing shall be warned in accordance with Section 215 C.5 of this Bylaw. The DRB shall act to approve, approve with conditions, or disapprove an application for site plan review within 45 days of the closed hearing, and issue a written decision to include findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filled according to Section 216 of this Bylaw.
- C. **Site Plan Review Criteria:** In reviewing site plans, the DRB may impose appropriate conditions and safeguards as part of the decision according to Section 215 E. The DRB shall take into consideration the following criteria in reviewing applications:
  1. Maximum safety of traffic between the sites and the streets;
  2. Adequacy of traffic circulation within the project, parking and loading facilities;
  3. Adequacy of landscaping, screening and setbacks in achieving maximum compatibility and protection of adjacent property;
  4. Protection of the utilization of renewable energy resources;
  5. Provision of emergency services;
  6. Adequacy of solid waste disposal plans;
  7. The pattern of development reflects the capability of the land to support the intensity of the use given the constraints resulting from topography, soils, geotechnical factors, drainage, and natural hazards; and
  8. Other matters as specified in the bylaws, including but not limited to Article V, General Regulations and Article VI, Special Regulations.

### **Section 312 Waivers of Dimensional Requirements:**

- A. **Purpose:** Waivers to any dimensional requirements, as authorized under the Act, may be granted by the DRB after considering specific standards that are in conformance with the plan and goals set forth in the Act.

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**B. Waiver application and review process:** When the Administrative Officer refers an application for a waiver to reduce a dimensional requirement, the request may come as part of another application before the DRB or on its own. The notice requirements for a waiver are in accordance with Section 215 C.5.b. Within 30 days of receipt of a complete application for waiver review, the Administrative Officer shall refer the application for review by the DRB. The DRB shall act to approve, approve with conditions, or disapprove an application for a waiver within 45 days of the date that the hearing is closed, and issue a written decision including findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 218 of this Bylaw.

1. In granting a decision in favor of the applicant, the DRB may attach reasonable conditions including mitigation by design, screening, or other remedy.
2. Any waiver granted under this section shall be limited to the specific property to which it has been granted. A waiver on one property shall not be construed as a general guideline or standard for any other property.

**C. Waiver Criteria:** The DRB may grant a waiver to a dimensional requirement, except lot size unless associated with a planned unit development, after considering the following criteria:

1. Reasonable use of the property is only possible if the DRB grants a waiver of the dimensional requirement, rather than the applicant complying with the dimensional requirement;
2. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property;
3. The proposed design, screening, or other remedies mitigate any adverse effects that may result from granting the waiver;
4. If the waiver is granted, the proposed project will continue to conform to the Town Plan;
5. If the waiver is granted, the proposed project will continue to conform to the purpose of the zoning district in which the land development is located; and
6. The proposed project will not have an undue adverse effect on all of the following:
  - a. Surrounding properties and property values;
  - b. The character and aesthetics of the neighborhood;
  - c. Traffic patterns and circulation;
  - d. Public health, safety, and utility services;
  - e. Storm water management; and
  - f. Water and wastewater capacity.

### **Section 313 Variances:**

**A. Granting of Variances:** The DRB shall hear and decide requests for variances in accordance with the Act, and the appeal procedure outlined in Section 216. The DRB may grant a variance to the Bylaw, and issue a decision in favor of the appellant, only if all the following facts are found and the findings are specified in its decision:

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1. That there are unique physical circumstances or conditions, including irregularity in the narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning bylaw in the neighborhood or district in which the property is located;
  2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning bylaw and that the authorization or variance is therefore necessary to enable the reasonable use of the property;
  3. Unnecessary hardship has not been created by the appellant;
  4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare;
  5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning bylaw and from the Town Plan.

**B. Renewable Energy Structures:** Where a variance is sought for a structure that is primarily a renewable energy resource structure (solar panel, wind facility, and other similar renewable energy structures), the DRB may grant such variance only if all of the following facts are found, and the findings are specified in the written decision:

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.
2. The hardship was not created by the appellant.
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 of 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 Town Plan.

#### **Section 314 Conditional Use:**

A. **Purpose:** Conditional use review is intended to ensure compliance with standards addressing the potential impacts of the development on the community. Conditional use review provides careful examination of uses that might not otherwise be appropriate throughout the district due to their scale or intensity, and off-site impacts. The standards address identification, avoidance, and or mitigation of potential impacts. Site plan review standards are incorporated into conditional use review in order to expedite the local review process. Conditional uses shall be permitted only if the DRB determines, after public notice and hearing, that the proposed use conforms to the general and specific standards contained within this Bylaw.

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**B. Review Process:** Within 30 days of receipt of a complete application for conditional use review, the Administrative Officer shall refer the application for review by the DRB. A hearing shall be warned in accordance with Section 215.C.5.a of this Bylaw. The DRB shall act to approve, approve with conditions, or disapprove an application for conditional use review within 45 days of the date the hearing is closed, and issue a written decision to include findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 218 of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 218 of this Bylaw.

1. In granting a conditional use permit, the Board may impose reasonable conditions in addition to those expressly specified in this Bylaw in order to safeguard the interests of surrounding properties, the neighborhood, or the town as a whole. Such conditions may include, but are not limited to the following:
  - a. Increase the required lot size or setback requirements;
  - b. Limit the coverage or height of buildings;
  - c. Control the number and location of vehicular access points;
  - d. Increase the number of off-street parking spaces;
  - e. Limit the number, location and size of signs;
  - f. Require suitable landscaping and screening to accomplish the purpose of screening buffering, erosion control, etc., and to maintain the district character;
  - g. Require the installation of devices or methods to prevent or control the polluting of waters and the emission of fumes, gas, dust, smoke, odor, noise or vibration, except for agricultural uses; and
  - h. Apply any additional standards including levels of operation as provided for within the Act or this Bylaw.

- C. Conditional Use Review Criteria:** The DRB shall determine that the proposed conditional use shall not result in an undue adverse effect on any of the following:
1. The capacity of existing or planned community services or facilities;
  2. The character of the area affected as defined by the purpose or purposes of the zoning district within which the property is located and specifically stated policies and standards of the Town Plan;
  3. Traffic on roads and highways in the vicinity;
  4. Any land use or land development regulations or Bylaws of the Town then in effect; and
  5. Utilization of renewable energy resources.

## **END OF SECTION III**

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## **ARTICLE IV: DISTRICT USE AND INTENSITY REGULATIONS**

### **SECTION 410 ESTABLISHMENT OF DISTRICTS**

The Town of Westminster is hereby divided into the following zoning districts and overlay districts as shown on the Westminster Zoning Map, the Westminster Flood Hazard Map, the Historic Preservation Overlay District Map, the Agricultural Land Overlay District Map, and the Water Source Protection Overlay District Map, the Ridgeline Overlay Map, and referenced herein.

**411 Zoning Districts:** The following districts are shown on the Zoning Map and constitute the underlying zoning for the Town of Westminster.

1. Industrial District IND (fully described in Section 442.1)
2. Commercial District COM (fully described in Section 442.2)
3. Village District V (fully described in Section 442.3)
4. Residential District R (fully described in Section 442.5)
5. Rural-Residential District Ru (fully described in Section 442.6)
6. Resource Conservation District RC (fully described in Section 442.7)
7. Connecticut River Conservation District CR (fully described in Section 442.8)

**412 Overlay Districts:** This Bylaw provides for the regulation of historic districts, locally important agricultural lands, flood hazard areas, ridgeline overlays, and water supply areas through the use of special overlay districts. Descriptions of overlay district locations, use and dimensional regulations and special procedures are defined in Articles V, VI, VII, and VIII.

**413 Purpose of Zoning and Overlay Districts:** The purpose of these districts is to further the public health, safety and welfare of the Town of Westminster. In addition, these districts seek to provide an orderly, attractive, compatible and logical growth pattern for the Town by allocating the various functional uses to areas best suited for them within the Town boundaries, and by protecting environmentally sensitive areas, important agricultural resources, and historic structures. Furthermore, these districts are intended to protect the land use rights of residents and businesses, within the parameters detailed within this Bylaw.

The purpose statements which accompany each district are intended to describe in a general way the character of uses to be encouraged in the district, to assist with the selection of appropriate districts for application of various planned land uses, and to assist with answering questions which may arise with respect to particular land uses in particular locations. The district shall not be used contrary to the statement purposes.

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## **SECTION 420 ZONING AND OVERLAY MAPS**

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

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

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

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

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

## **SECTION 430 DESCRIPTION OF ZONING DISTRICT LOCATIONS**

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

## **SECTION 440 ZONING DISTRICT USE AND DIMENSIONAL STANDARDS**

No land development as defined herein shall be permitted to commence except in conformance with the following regulations, unless provided for elsewhere in this Bylaw.

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## **441 General Standards and Definitions:**

**441.1 Buildings and Uses on Lots:** There shall be only one principal building with one principal use on a lot. Provision is made for secondary uses in Section 614 and home occupations, home businesses, and cottage industries in Section 613 of this Bylaw.

**441.2 Building Heights:** The maximum building height in all districts is thirty-five (35) feet. Structures exempt from this section are: silos and other agricultural uses; church spires; renewable resource structures; cupolas; and bell, clock, and fire towers (see Article X, Definitions). With the exception of these exemptions, and within the limitations established by State and Federal law, no structure in excess of 35 feet in height shall be constructed without prior approval of the DRB (see Section 217 A, Granting of Variances).

**441.3 Setbacks:** All side and rear yard setbacks are measured from the property line back to the closest point of the structure or setback object. Unless otherwise indicated for an individual zoning district (see WZO sections 442.1 through 442.8), the front yard setback is 50 feet. All front yard setbacks are measured from the center of the traveled surface of the public or private road or right of way.

1. Special Setbacks for Signs and Telephone Relay Interface Units. The minimum front-yard setback requirement for signs and telephone relay interface units is 5 feet as measured from the edge of the road or right-of-way.
2. Surface Water Courses and Wetlands. No land development, except for subdivisions, is permitted within 50 feet of a Class II wetland as identified on the Vermont Significant Wetlands Inventory or of the high water mark of a surface water course as identified by the Town of Westminster Water Resources Map. In cases of sub-divisions, the property line may be placed in the center or at the edge of a surface water course.

**441.4 Yards on Corner Lots:** All yards adjoining a street shall be considered a front yard for the purpose of these regulations.

### **441.5 Frontage:**

1. In accordance with the Act, no land development may be permitted on lots that do not have either 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, unless otherwise indicated for an individual zoning district at least fifty (50) feet in width and capable of being traversed by a motor vehicle. The creation of two (2) lots from one (1) lot constitutes development as defined in this Bylaw: a right-of-way must therefore secure the approval of the DRB.
2. The lot frontage requirement for the District shall serve as the lot width requirement for non-frontage lots.

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

**441.7 Existing Small Lots:** As per the Act, any lot in existence on the effective date of this Bylaw may be developed for the purposes permitted in the district in which it is located and in accordance with all applicable requirements of this Bylaw, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth (1/8th) acre in area with a minimum width or depth dimension of forty (40) feet.

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

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

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

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

#### **442 Uses and Dimensional Standards by District:**

##### **Industrial District (IND)**

- A. **Purpose:** The purpose of the Industrial District is to provide a centralized and accessible location for employment opportunities in manufacturing, warehousing, and research and development, and allows for commercial uses that specifically serve the industries or their employees. Industrial uses should not create environmental hazards. In order to avoid potential conflicts in land use, residential, institutional, and public recreational uses should not be permitted in these areas.

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

- |   |  |
|---|--|
| 1. Forestry   | 10. Warehousing                                      |
| 2. Agriculture                                      | 11. Mini-Storage                                     |
| 3. Industrial Business Office                       | 12. Public Utility Facility                          |
| 4. Planned Unit Development                         | 13. Subdivision                                      |
| 5. Automotive Service Station & Repair              | 14. Research & Development                           |
| 6. Manufacturing                                    | 15. Accessory Uses                                   |
| 7. Agricultural Processing                          | 16. Industry   |
| 8. Light Industry                                   | 17. Child Care Home                                  |
| 9. Group/Residential Care Home<br>(see Section 616) | 18. Construction Company Office,<br>Storage & Repair |

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

- |                                   |   |
|-----------------------------------|---|
| 1. Trucking Terminal              | 10. Automobile/Farm Vehicle Sales & Service |
| 2. Truck Stop                     | 11. Junkyards                               |
| 4. Car Wash                       | 12. Recycling Center                        |
| 5. Bulk Storage                   | 13. Home Business                           |
| 6. Child Care Facility            | 14. Cottage Industry                        |
| 7. Airport/aircraft landing strip | 15. Telecommunications Facility             |
| 8. Excavation/Quarry              | 16. Commercial                              |
| 9. Hotel, Motel, Inn              | 17. Government Facilities                   |

**D. Area and Dimensional Requirements:**

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

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## 442.2 Commercial District (COM)

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

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

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

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

- |                             |   |
|-----------------------------|---|
| 1. Multi-Family Dwelling    | 13. Kennel  |
| 2. Planned Unit Development | 14. Public Utility Facility                       |
| 3. Indoor Recreation        | 15. Truck/Bus/Terminal                            |
| 4. Outdoor Recreation       | 16. Excavation/Quarry                             |
| 5. Mobile Home Park         | 17. Childcare Facility                            |
| 6. Drive-Thru Use           | 18. Therapeutic Community Residence               |
| 7. Car Wash                 | 19. Telecommunications Facility                   |
| 8. Hotel, Motel, & Inn      | 20. Redemption Center                             |
| 9. Veterinary Clinic        | 21. Home Business                                 |
| 10. Light Industry          | 22. Cottage Industry                              |
| 11. Health Care Facility    | 23. Construction Company Office, Storage & Repair |
| 12. Bank                    | 24. Automobile Service Station & Repair Garage    |
|                             | 25. Government Facilities                         |

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**D. Area and Dimensional Requirements:**

	<u>Non-Residential Uses</u>	<u>Residential Uses</u>
Minimum Lot Area		
Municipal Sewer	1 acre	1 acre/dwelling unit
On-Site Septic	2 acres	2 acres/dwelling unit
Minimum Lot Frontage	150 feet	150 feet
Minimum Lot Depth	150 feet	150 feet
Minimum Side and Rear Yard Setback	30 feet	30 feet
Minimum Front Yard Setback (if parking is in the front yard)	40 feet	40 feet
Minimum Front Yard Setback (if parking is in the side or rear yard)	25 feet	40 feet

**442.3 Village District (V)**

- A. **Purpose:** The purpose of the Village District is to support the role of the village as the focus of many social and economic activities in the community and to provide for residential, commercial, and other compatible development that serves the needs of the community. Such development should occur at moderate to high densities and include uses that will maintain the traditional economic, social and physical character of the village including its historic, agricultural, and scenic resources.

There are four village districts which are Westminster Village District; Westminster West Village District; Westminster Station Village District; and North Westminster Village District.

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

- |                               |  |
|-------------------------------|--|
| 1. Agriculture                | 6. Cemetery  |
| 2. Forestry                   | 7. Subdivision                                       |
| 3. One & Two Family Dwellings | 8. Accessory Uses                                    |
| 4. Bed & Breakfast            | 9. Child Care Home                                   |
| 5. Professional Office        | 10. Group/Residential Care Home<br>(see Section 616) |

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

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

D. **Area and Dimensional Requirements:**

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

<sup>1</sup> For Residential uses, each dwelling must meet the minimum lot size requirement.

<sup>2</sup>For the Purpose of this Bylaw, sewer means the municipal sewer system.

#### 442.4 Residential District (R)

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

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

- |  |                    |
|--|--------------------|
| 1. Agriculture                                   | 6. Cemetery        |
| 2. Forestry                                      | 7. Subdivision     |
| 3. Wildlife Refuge                               | 8. Accessory Uses  |
| 4. One and Two-Family Dwellings                  | 9. Child Care Home |
| 5. Group/Residential Care Home (see Section 616) |                    |

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

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| 1. Multi-Family Dwellings             | 12. Campground                    |
| 2. Planned Unit Development           | 13. Resource Industry             |
| 3. Mobile Home Park (see Section 630) | 14. Child Care Facility           |
| 4. Bed and Breakfast                  | 15. Veterinary Clinic             |
| 5. Professional Office                | 16. Health Care Facility          |
| 6. Inn                                | 17. Kennel                        |
| 7. Boarding House                     | 18. Public Assembly Facility      |
| 8. Home Business                      | 19. Public Utility Facility       |
| 9. Cottage Industry                   | 20. Excavation/Quarry             |
| 10. Indoor Recreation                 | 21. Garden/Farm Supply or Nursery |
| 11. Outdoor Recreation                | 22. Government Facilities         |

**D. Area and Dimensional Requirements:**

	<u>Non-Residential Use</u>	<u>Residential Use</u>
Lot Area		
Municipal Sewer	1 acre	1 acre/unit
On-Site Septic	2 acres	2 acres/unit
Lot Frontage	200 feet	200 feet
Lot Depth	150 feet	150 feet
Front Yard Setback	50 feet	40 feet
Side and Rear Yard Setback	50 feet	30 feet

**442.5 Rural Residential District (Ru)**

- A. **Purpose:** The purpose of the Rural Residential District is to provide for agriculture, forestry, residential and other compatible uses at low densities appropriate to the physical capability of the land and the rural character of the Town. Development should not harm any irreplaceable, unique, or scarce resources or natural areas.

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

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

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

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

**D. Area and Dimensional Requirements:**

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

**442.6 Resource Conservation District (RC)**

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

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

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

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

- |                               |                                |
|-------------------------------|--------------------------------|
| 1. Public Utility Facility    | 4. Home Business               |
| 2. Limited Outdoor Recreation | 5. Cottage Industry            |
| 3. Resource Industry          | 6. Telecommunications Facility |

**D. Area and Dimensional Requirements:**

	<u>Non-Residential Use</u>	<u>Residential Use</u>
Minimum Lot Area	12 acres	12 acres/dwelling unit
Minimum Lot Frontage	300 feet	250 feet
Minimum Lot Depth	300 feet	200 feet
Minimum Front Yard Setback	50 feet	50 feet
Minimum Side & Rear Yard Setback	50 feet	50 feet

#### **442.7 Connecticut River Conservation District (CR)**

**A. Purpose:** The purpose of the Connecticut River Conservation District is to recognize and designate the river corridor as a valuable floodplain with fertile agricultural soils and as an important natural, cultural, and recreational resource that is worthy of coordinated conservation efforts. It is the goal that valuable agricultural soil and natural vegetation be retained to the maximum extent possible so that the features and qualities of properties along the Connecticut River are preserved.

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

1. Agriculture
2. Forestry
3. Wildlife Refuge

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

1. Limited Outdoor Recreation
2. Subdivision

D. **Area and Dimensional Requirements:**

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

E. **Riparian Buffer:**

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

F. **Water Dependent Uses and Structures:**

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

## **END OF ARTICLE IV**

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## ARTICLE V: GENERAL REGULATIONS

### SECTION 510 GENERAL PERFORMANCE STANDARDS:

In all districts and for all uses, the following general performance standards must be met, together with any applicable state standards and specific standards as required under this Bylaw, The Administrative Officer shall decide whether proposed or existing Permitted Uses and all other existing Conditional Uses meet the standards. The DRB shall decide on the conformance of proposed uses with the standards for conditional use review and site plan approval Review, where applicable.

#### 511 Standards:

The following conditions must not exist at the individual property lines

- A. Offensive odor (odors from customary agricultural operations shall not be considered offensive under this provision).
- B. Dust or dirt that is considered offensive (dust or dirt from customary agricultural and forestry Ringelmann Chart No.2 operations shall not be considered offensive under this provision).
- C. Smoke in excess of Ringelmann Chart #2.
- D. Noxious gases that endanger the health, comfort, safety or welfare of any person, or that have a tendency to damage property, business or vegetation.
- E. Vibration, as a result of normal operation, that creates displacement of two one-thousandths (0.002) of one (1) inch.
- F. Glare, light or reflection which could impair the vision of a driver of any motor vehicle, be detrimental to the general public safety, health or welfare, or which constitutes a nuisance to other property owners or tenants.
- G. Fire, explosion or safety hazard.
- H. Discharge of harmful wastes including, but not limited to, oils, fuels, pesticides, septage, and other pollutants into aquifer recharge areas, groundwater, streams, ponds, lakes or other bodies of water. Effluent disposal shall comply with the local and state health standards.
- I. Storm water discharge that may create an unsafe condition or cause damage to persons or property off the site.
- J. Existing or potential health hazards which result from the improper storage, disposal or removal of garbage, trash, rubbish, noxious substances, or other similar materials
- K. Potential erosion hazards
- L. Any hazard obstructing the stopping sight distance as listed in the Vermont Agency of Transportation's Standards for Residential and Commercial Drives (B-71).

### SECTION 520 NONCONFORMING USES AND NONCOMPLYING STRUCTURES:

**521 Continuation:** Any noncomplying structure, noncomplying lot, or any nonconforming use of a structure or land lawful on the effective date of this Bylaw shall continue to be a lawful structure, lot or use, subject to the provisions of this section, in accordance with Section 4412 of the Act. Any lawful nonconforming use or noncomplying structure may be continued indefinitely, but shall not be moved, enlarged, altered, extended, reconstructed or restored, except as provided in Section 522.

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### **522 Nonconforming Use.**

- A. **Change of a Nonconforming Use:** A nonconforming use may be changed to another nonconforming use of equal or less intensity upon conditional use approval of the DRB, but such use shall not then be permitted to change back to a more intensive, more nonconforming use.
- B. **Reestablishment:** A nonconforming use shall not be re-established or restored without conditional use approval of the DRB if such use has been discontinued in whole or in part for a continuous period of one (1) year, or has been changed to or replaced by a conforming use. The nonconforming use shall not be re-established or restored if such use has been discontinued for a period of more than one (1) year. If the nonconforming use has been changed to or replaced by a conforming use, the nonconforming use shall not be re-established or restored.
- C. **Reconstruction after a Disaster:** If a structure housing a nonconforming use is destroyed, the reconstruction of that structure is permitted provided that the nonconforming use shall not be increased beyond its extent prior to the disaster and shall be made only in accordance with this Bylaw. A zoning permit shall be obtained for all reconstruction occurring under the provisions of this section.
- D. **Approval.** A change or modification of a nonconforming use shall require conditional use approval by the DRB. Except as provided for in Section 215 A.3., a change of a nonconforming use to a permitted use may require site plan approval by the DRB.

### **523 Nonconforming Structures:**

- A. **Extension or Enlargement:** No extensions for enlargements may be made to any nonconforming structure, except that extensions or enlargements may be made to the complying portion of a nonconforming structure in accordance with all applicable requirements of this Bylaw.
- B. **Maintenance and Repair:** Nothing in this Section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of or create any new nonconformity with regards to the regulation pertaining to such structures.

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

### **SECTION 530 TEMPORARY USES AND STRUCTURES**

A temporary permit may be issued by the Administrative Officer for the uses listed below for a period of one (1) year, conditioned upon written agreement by the owner to remove the structure or cease the use upon expiration of the permit, except where otherwise indicated below. If the permitted activities have not been completed within this period, reapplication must be made for a new temporary zoning permit. The combined maximum duration for such a use shall not exceed two years or until the project is complete, whichever is sooner.

- 
- A. Nonconforming uses (excluding residential uses) incidental to a construction project.
  - B. Temporary roadside stands for sale of agricultural products raised on the property requires a “Notice of Intent” for such a use and may be renewed annually.
  - C. A mobile home constituting a seasonal employee farm dwelling. A permit may be renewed annually upon application to the Administrative Officer, with proof of bona fide farm employee occupancy. Temporary mobile homes may not be located in Flood Hazard Areas as defined in Section 1121 or within the boundaries of the Historic District as defined in Section 920 of this Bylaw; they must also meet the dimensional regulations of Section 440, as well as all applicable state and local health regulations.
  - D. A temporary dwelling for the purposes of providing a residence while a home is being built on the property

## **SECTION 540 LANDSCAPING REQUIREMENTS**

**541 Purpose:** The Development Review Board under its Site Plan Review and Planned Residential/Planned Unit Development authority is responsible for assessing the adequacy of landscaping involved with site development. Properly planned and installed landscaping can reduce the potential for conflicts between different, adjoining land uses. It can also help to reduce noise; glare and can provide privacy and separation.

**542 Applicability:** Landscaping, where required under these regulations, shall be installed and maintained in front, side and rear yards and shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas, natural wooded areas, and/or ground covers. Plant materials shall, to the extent practicable, be of native plant species indigenous to the region in order to reinforce the spirit of natural surroundings. Plantings shall be of a type and size which serves to adequately buffer or screen uses, where needed, to serve the purposes outlined in Section 541 above. All required landscaping shall be installed within one-year of substantial completion of site construction activity, or as otherwise designated by the DRB.

**543 Standards.** Compliance with the following standards shall be considered to be the minimum landscaping necessary. Additional landscaping may be required to fulfill the intent of Section 541 above.

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

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## SECTION 550 OFF STREET PARKING REQUIREMENTS

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

### 551 General Standards.

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

### 552 Specific Standards.

#### 552.1 Residential Uses.

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

**552.2 Agricultural Uses.** Agricultural uses shall provide adequate off street parking necessary to meet the needs and ensure the safety of all residents, visitors and farm operators.

**552.3 Public Assembly/Facility Uses.** One (1) space per three (3) patrons to the maximum capacity, plus one (1) space per employee on the largest work shift.

**552.4 Health Care Facility.** Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and one (1) space per two (2) other employees on the largest work shift.

**552.5 Recreational Uses:** One (1) space per four (4) expected patrons at capacity, plus one (1) space per employee on the largest work shift.

**552.6 Office Uses.** One (1) space per two hundred (200) square feet of gross floor area.

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**552.7 Commercial Uses.**

- A. **General:** (All commercial uses except those identified below). One (1) space per two hundred (200) square feet of customer sales and service gross floor area, plus one (1) space per two hundred fifty (250) square feet of storage and/or office gross floor space.
- B. **Hotel, Motel, Lodge or Inn:** One (1) space per sleeping room, plus one (1) space for every three (3) employees on the largest work shift, plus one (1) space per three (3) persons to the maximum capacity of each public meeting and/or banquet room. In addition, accessory uses (e.g. bar, restaurant) must follow their respective standards.

**END OF ARTICLE V**

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## ARTICLE VI: SPECIAL REGULATIONS

### SECTION 610 SPECIFIC STANDARDS FOR CERTAIN USES & AREAS

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

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

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

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

- A. The operation conforms to all standards in Section 510, General Performance Standards.
- B. It will not cause an unreasonable burden on any existing water supply, including that of a neighboring property.
- C. It will not cause unreasonable soil erosion or reduction in the capacity of land to hold water during the operation.
- D. It will not cause unreasonable highway congestion, unsafe conditions or excessive use with respect to highways existing or proposed in the area.
- E. It will not have an undue adverse effect on the scenic or natural beauty of the area, other aesthetic values, historic sites, or rare and irreplaceable natural resources or areas.
- F. It will not result, in an embankment with a slope steeper than one (1) foot vertical to two (2) feet horizontal upon completion of an area of work
- G. It will provide, in the form of a Site Restoration Plan, for restoration of the area excavated and/or quarried, including but not limited to necessary grading, drainage, replacement of loam or other suitable soil cover, erosion control measures, and planting or other beautification of the area disturbed. The DRB shall have the right to require from the applicant, for the benefit of the Town, a performance bond in an amount sufficient to cover

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the full cost of implementing the Site Restoration Plan; such performance bond to be submitted prior to the approval of the application.

- H. It will not undermine any adjacent street
- I. It will not result in excavation or blasting activity within two hundred (200) feet of any street or other property line.

**613 Home Occupations, Home Businesses, and Cottage Industries.**

**613.1 Protection of Home Occupations.** As per Section 4412 of the Act, no regulation may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation that is customary in residential areas and that does not change the character thereof.

**613.2 Home Occupations.** A home occupation, as defined in Article XI, shall be permitted. There is no limit to the number of home occupations allowed per dwelling unit, as long as each home occupation meets the requirements below.

- A. The home occupation shall be carried on by a member, or members of the family who reside within the dwelling.
- B. The home occupation shall be carried on within a minor portion of the dwelling.
- C. Exterior displays or signs other than those normally permitted in the district is not permitted.
- D. Exterior storage of materials is not permitted.
- E. No traffic shall be generated in substantially greater volumes than would normally be expected in the neighborhood.
- F. Processed products not grown or processed on the premises may not be sold directly to the general public. This limitation does not apply to a mail order home occupation.

**613.3 Home Business.** A home business, as defined in Article XV, shall comply with the following:

- A. A home business may be carried on within the dwelling and within an accessory building such as a garage or a barn.
- B. Home businesses require a zoning permit and site plan approval.
- C. Home businesses shall conform to all standards in Section 510, General Performance Standards.
- D. Off street parking shall be provided as required in Section 550. If it is determined that there will be no customer traffic associated with the Home Business, any required customer parking may be waived.
- E. A permit for a home business shall be personal to the occupant at that location only and shall not attach to the land.

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

- A. The business owner shall reside on the lot.

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- B. The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall occupy less than 50 percent of the combined floor area of all structures on the lot. However, the DRB may permit the use of floor space in excess of 50 percent of the combined floor area of all structures on the lot providing such space is limited to the storage of goods and materials associated with the operation of the Cottage Industry and that such storage occurs in an accessory structure.
  - C. The business shall not necessitate any change in the outward appearance of the dwelling unit or accessory structures on the lot other than the addition of one non-illuminated sign that meets the standards of the Westminster Sign Ordinance.
  - D. The residents of the dwelling unit and no more than six (6) non-resident employees may be employed on site at any one time.
  - E. The business shall not generate traffic including, but not limited to, delivery truck traffic in excess of volumes that are characteristics of the neighborhood.
  - F. Adequate off-street parking shall be provided for all residents, employees, and customers in accordance with Section 550. If it is determined that there will be no customer traffic associated with the Home Business, any required customer parking may be waived.
  - G. There shall be no storage of hazardous waste or materials; fuel storage shall be limited to that needed for heating and the operation of equipment and vehicles associated with the business.
  - H. The business shall be visually compatible with neighboring lots and uses; landscaping and screening may be required as appropriate. In addition, any outdoor storage of materials, including building or construction materials, unregistered vehicles or heavy equipment, firewood or lumber, must be completely screened year-round from the road and from neighboring properties.
  - I. On-site wholesale and/or retail sales shall be primarily limited to products produced on the premises. The sale of products produced off-premises shall be of a similar nature to those produced on-premises and shall not exceed 35 percent of gross sales.
  - J. The business shall not result in hazards to public safety and welfare or to neighboring properties and shall be subject to applicable performance standards under Section 510. Conditions may be placed on the hours of operation as appropriate.
  - K. The permit for a cottage industry shall clearly state that the industry is a home-based business that is an accessory use to the principal residential use and shall be retained in common ownership and management.

**614 Secondary Uses** are permitted in most districts in order to provide for limited but sensible mixed use of properties within the community. In order for a use to be permitted as a secondary use, it must meet the standards below. No variances shall be granted by the DRB for items A through G.

- A. There shall be only one (1) secondary use permitted on a lot.
- B. The use must be permitted or conditionally permitted in the district. If permitted as a conditional use, a conditional use permit must be obtained from the DRB.
- C. The use must meet all requirements for it as specified in the district and this Ordinance (e.g. parking, landscaping, etc.).

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- D. All other applicable state and local permits, including health permits, shall be obtained.
  - E. The secondary use shall comprise fifty percent (50%) or less of the structure(s), including attached garages and barns or other similar attached accessory structures, in which the primary use is located. The total floor area for each use should be compared to the total floor area for the structure(s). The use with fifty percent (50%) or less of the total floor area is the secondary use. Total floor area includes all areas used by persons engaged in the use, such as hallways, bathrooms, areas for copiers and often-used storage space.
  - F. Where the dimensional standards for the secondary use are more restrictive than those for the primary use, the more restrictive standards shall be met. Lot coverage by the primary and secondary uses combined shall not exceed the maximum allowable coverage for the least restrictive use.
  - G. Site plan approval is required for any secondary use which would require such approval as a primary use, and the DRB may review the use of the entire property in this context. Where the primary use requires site plan approval, even if the secondary use alone would not, site plan approval must be obtained for the addition of the secondary use.

### **615 Light Industry.**

In all districts where permitted, light industry uses shall comply with the following.

- A. All equipment, materials, and goods shall be stored within enclosed structures.
- B. It will emit no air, water or noise pollution as specified in Section 511 of this Ordinance.
- C. Vehicular delivery and shipment activity to and from light industry uses shall not cause unreasonable highway congestion or unsafe conditions for vehicular or pedestrian traffic on any public or private road. The total number of deliveries or shipments per day shall be limited to a level which ensures such safety and is appropriate to the existing conditions and capacity of and level of traffic on the road(s) on which the proposed light industrial use is located.
- D. The total number of employees permitted on the largest shift shall be limited to a level which ensures the safe movement of vehicular and pedestrian traffic on public and private roads and which is appropriate to the existing traffic conditions on the road(s) on which the proposed light industrial use is located.

### **616 Childcare Homes and Facilities, Residential Care and Group Homes.**

#### **616.1 Consideration of Residential Care or Group Homes.**

- A. Residential Care or Group Homes are permitted as allowed by Vermont Statute as codified at 24 V.S.A. §4412(1)(G), and as may be amended from time to time.

#### **616.2 Consideration of Child Care Homes and Facilities.**

- A. Pursuant to the Act, a state registered or licensed family child care home serving six (6) or fewer children full-time and four (4) or fewer children part-time as defined in Title 33, subdivision 4902 (3)(a) of the Vermont Statutes, conducted within a single family dwelling by a resident of that dwelling shall be considered by right a permitted single family residential use of the property. Such uses shall require a zoning permit issued by the Administrative Officer in accordance with Section 210. The zoning permit shall not be

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issued until the applicant submits proof that the facility is properly registered by the Vermont Department of Social and Rehabilitative Services. Site Plan approval is not required.

- B. State registered or licensed family child care homes serving greater than six (6) full time and four (4) part-time children and non-residential child or day care facilities may be permitted in designated zoning districts as a Conditional Use. Conditional use approval, site plan approval, and a zoning permit shall be required.

### **617 Ponds, Impoundments and Dams.**

As defined within this Ordinance, the construction of a pond or other impoundment, and the damming of a stream constitute “land development” and therefore require a zoning permit.

No zoning permit shall be issued by the Administrative Officer until the applicant submits the following information:

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

### **618 Land Development in Wetland Areas and Along Surface Water Courses.**

**618.1. Vermont Significant Wetlands Inventory Maps.** Areas identified on the Vermont Significant Wetlands Inventory (VSWI) show the approximate location and configuration of protected wetlands. The VSWI maps are available for review at the Westminster Town Clerk’s Office. The actual boundaries of the wetlands shown on the VSWI maps or those wetlands identified through the results of a town sponsored field investigation shall be determined in the field in accordance with the methodology set forth in the 1989 edition as updated of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands. The location of all proposed land development must be reviewed relative to identified wetland areas, prior to the issuance of a zoning permit, in order to ensure compliance with applicable sections of the current Vermont Wetland Rules and Westminster Town wetlands regulations.

**618.2 Agency of Natural Resources Review.** In accordance with the Act, the applicant is responsible for contacting the regional permit specialist employed by the Agency of Natural Resources to ensure timely action on any state related permits that may be required.

**618.3 Buffer Strips around Wetlands and Surface Watercourses.** Buffer strips help maintain water quality, protect wildlife habitat, and prevent soil erosion and pollution associated with surface runoff. No land development or vegetative manipulation shall be allowed within the buffer strip other than Accepted Agricultural Practices (AAPs) approved by the State of Vermont. Direct discharges into wetlands and surface water courses are prohibited.

- A. **Wetlands.** A naturally vegetated buffer strip at least 50 feet in width shall be maintained around all naturally occurring wetlands as identified on current Vermont Significant Wetland Inventory maps or through site investigation. The width of the buffer strip shall be measured from the wetland boundary.
- B. **Surface Watercourses.** A naturally vegetated buffer strip of at least 50 feet shall be maintained from the mean water mark of all lakes and ponds, and the top of the banks of all named streams and rivers, and at least 20 feet from all other streams and rivers, as

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identified on the Westminster Town Water Resources Map or from current U.S. Geological Survey maps.

**619 Storage of Flammable Liquids.**

Storage of flammable liquids including, but not limited to, petroleum and toxic, corrosive or other chemical substances, and flammable or combustible liquids or gases (other than bulk storage for commercial distribution) is permitted in any district, but shall require a zoning permit if the storage capacity is such that it requires a state permit. Bulk storage for commercial distribution is only permitted in the Industrial District (I).

No zoning permit shall be issued by the Administrative Officer for the installation of an above ground or of an underground storage tank until the applicant submits proof that all applicable state permits and approvals have been secured. Permits may include, but may not be limited to, those required by:

- A. The Vermont Department of Environmental Conservation, Underground Storage Tank Program.
- B. The Department of Public Safety.

**SECTION 630 MOBILE HOME PARKS**

A mobile home park shall be developed in accordance with:

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

**SECTION 640 TENT, TRAVEL TRAILER, RECREATIONAL VEHICLE, CAMPGROUND**

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

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

- A. An individual access driveway and parking area, suitably surfaced, shall be provided for each campsite.
- B. Each site shall be at least 1500 square feet in area. Each travel trailer and recreational vehicle site shall have a compacted gravel surface at least twenty-five (25') feet in width.
- C. Each site shall be located in a clean, dry and well-drained area.
- D. There shall be an undeveloped area of not less than 100 feet in depth between all camping sites and the traveled portion of any adjacent highway and other boundaries of the campground. These areas shall be landscaped with existing or planted trees or other plant materials for screening purposes.
- E. Each site shall have access to water and sewage disposal in compliance with and approved by the State (Division of Protection, Agency of Environmental Conservation) and in conformance with any local health regulations.

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- F. All roads within the campground shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the utilization of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established.
  - G. All campgrounds shall keep at least 25% of the total ground area for recreation or open space purposes.

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

## **END OF ARTICLE VI**

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## **ARTICLE VII: PLANNED UNIT DEVELOPMENT**

**SECTION 710: Purpose.** Planned Unit Development (PUD) is provided in order to promote creative and efficient use of land with respect to topography, farmland and other natural features; encourage the preservation of open space; provide for the economical development of the site and the more efficient use of public facilities; promote an improved level of amenities, creative design, and a more attractive environment; and provide greater opportunities for varied, attractive and affordable housing. In accordance with the Act, and within specified districts in order to achieve these objectives, these zoning regulations may be modified by the DRB under an application for Planned Unit Development, subject to the following standards and procedures.

### **SECTION 720 Applicability.**

- A. Planned Unit Developments are authorized in specific districts as both permitted and conditional uses. The proposed development area may be contiguous parcels or non-contiguous parcels, in common or separate ownership. An application for a development area consisting of multiple parcels and/or separate ownership shall be applied for jointly and heard as one application.”
- B. A proposed PUD may include within its area any permitted or conditional residential or nonresidential use allowed in the district in which it is located, subject to the standards and procedures of this section. A specific conditional use permit from the DRB is not required when a conditional use is developed as part of a PUD. Where the PUD itself is listed as a conditional use, conditional use approval is necessary.
- C. The development of five or more residential units or two or more non-residential uses on one lot, or the subdivision into four or more lots shall require major PUD approval. These applications are required to go through preliminary and final development plan review, and receive approval from the DRB.
- D. The development of a PUD in an existing building on less than five acres, or three non-residential uses or residential units on a single lot shall require minor PUD approval. Minor PUD applications are required to go through final development plan review and receive approval from the DRB. Minor PUD review shall not be required for the subdivision of land into three or fewer lots, unless requested by the applicant.
- E. All prerequisite reviews (conditional use, subdivision and PUD) shall be applied for and heard concurrently by the DRB.

### **SECTION 730 APPLICATION AND REVIEW PROCEDURES FOR PLANNED UNIT DEVELOPMENT**

#### **731. Pre-application Hearing.**

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

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the requirements of this Bylaw, and quantitative data necessary for a preliminary application.

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

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

- A. All applications for a major PUD (Section 720.C.) require preliminary development plan review from the DRB.
- B. After issuance of the DRB's written comments (Section 731.C.), the applicant shall submit two complete preliminary development plan applications to the Administrative Officer for review by the DRB.
- C. **Public Hearing.** The applicant shall submit a complete preliminary development plan application to the Administrative Officer. It shall include the payment of fees and submission of all materials, and address all issues outlined in the pre-application hearing comments. Within 30 days of receipt of the application, the Administrative Officer shall warn a hearing in accordance with Section 215.C. 5.b.
- D. **Application Materials.** The preliminary development plan application shall include:
  - 1. Name and address of the owner of record, applicant, and designer of the preliminary development plan. Date, true north point, and scale.
  - 2. A narrative statement by the applicant describing the character of the development and the reasons for the particular approach proposed, and its conformance with the Town Plan.
  - 3. A development schedule indicating the approximate date when construction of the PUD or phases of the PUD can be expected to begin and be completed.
  - 4. Quantitative data indicating the total number and type of dwelling units and non-residential uses, parcel size, proposed lot coverage of buildings and structures, approximate residential and nonresidential densities, and amount of usable open space.
  - 5. Maps of existing site conditions, including contours at five (5) foot intervals, water courses, flood plains, agricultural lands, wetlands, unique natural features, and forest cover. Maps over 12"x17" shall be submitted electronically in addition to paper copies.

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6. Proposed lot lines.
  7. The location, ground coverage, floor area size and maximum heights of all existing and proposed buildings and structures, types of dwelling units, and density per type.
  8. The location and size of all land areas to be conveyed dedicated or reserved as common open space, parks, recreational areas, etc.
  9. The existing and proposed pedestrian and vehicular circulation systems, including off-street parking areas, service areas, loading areas and points of access to public rights-of-way.
  10. Existing and proposed utility systems.
  11. General landscaping and grading plans.
  12. The proposed treatment of the perimeter of the PUD, including materials and techniques used for buffers.
  13. Any additional information required by the DRB, as specified in the pre-application conference, to enable it to evaluate the character and impact of the proposed PUD.

E. **Decisions.** Approval of the preliminary development plan shall not constitute final approval. Within forty-five (45) days of the close of the preliminary development plan hearing, the DRB shall determine compliance with the bylaws and approve, approve with conditions, or disapprove the preliminary development plan. This decision shall be in conformance with Section 215.E. and F. of this Bylaw. Preliminary development plan approval shall be effective for a period of six (6) months from the date of issuance of the preliminary approval, unless otherwise approved or extended by the DRB.

### **733. Final Development Plan Application and Review.**

- A. Final development plan approval is required of all PUD applications, (both major and minor PUD applications.)
- B. Within six (6) months of written approval of the preliminary development plan (Section 732. E), the applicant shall submit, to the Administrative Officer, a complete application for final [development plan] approval. If the final development plan application is not submitted within six (6) months of preliminary plan approval, the DRB may require resubmission of a preliminary development plan for reconsideration.
- C. **Application Materials.** The final development plan application shall include all fees and shall contain the information identified in Section 732.D of this Bylaw, including all changes in, or modifications contained in the preliminary development plan approval.
  1. All additional materials, maps or information required by any applicable bylaws (subdivision or conditional use) in effect must be submitted along with final development plan application.
  2. Specific uses as well as general categories of uses within PUD shall be listed. (It should look like a zoning district use list.)

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- D. **Public Hearing.** The applicant shall submit two complete final development plan applications to the Administrative Officer. It shall include the payment of fees and submission of all materials, and address all issues outlined in the preliminary development plan approval. Within 30 days of receipt of the application, the Administrative Officer shall warn a hearing in accordance with Section 215.C.5.a.
- E. **Determination.** Within forty-five (45) days after the final public hearing held under Section 733.D of this Bylaw, the DRB shall determine compliance and shall approve, approve with conditions, or disapprove the PUD. A decision shall be based on the findings of the DRB that the PUD is in conformance with the municipal plan and all applicable bylaws. This decision shall be in conformance with Section 215.D. and E. of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46<sup>th</sup> day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 216 of this Bylaw.
- F. **Filing.** Within one hundred eighty (180) days of the DRB approval, the PUD and subdivision plat, where applicable, shall be filed or recorded, at the owner's expense, in the office of the Town Clerk.

#### **734. Specific Standards and Criteria.**

- A. **Coverage.** The total ground area covered by buildings, structures and other impervious surfaces shall not exceed forty percent (40%) of the total ground area within a PUD, except as otherwise required under the Agricultural Land Overlay District, Article X.
- B. **Density.** Total allowable dwelling units or non-residential uses shall equal the number which could be permitted, in the DRB's judgment, if the land were subdivided into lots in conformance with these zoning regulations for the district in which such land is situated, and pursuant to the conditions identified below. Land areas within public and private road rights-of-way and utility easements shall not be included in the calculation of density.
1. **Site Limitations/Reduction in Density.** The DRB may make reductions in the density allowed if, in their judgment, steepness of slope, shallow depth to bedrock, wet areas or other physical features limit the site's ability to support development. Land with a slope of 25% or more shall not be included in the calculation of density.
  2. **Density Bonus Incentives.** The total allowable units may be increased by the DRB by up to twenty-five (25%) percent for each of the following as an incentive for:
    - a. Cluster rather than dispersed development for the provision of affordable housing for at least 15 years which meets the needs of the community's low and moderate income families;
    - b. Use of public water and sewer;
    - c. Permanent provisions for mass transportation;

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- d. The provision of senior housing which meets the needs of the community for at least 15 years.
3. **Exemptions.** Zoning district density requirements are waived for non-residential uses in structures constructed prior to September 27, 2005 within the Commercial and Industrial Districts.
- C. **Usable Open Space.** Usable open space is required for PUDs involving residential uses and shall not be less than forty percent (40%) of the total ground area of the property. Usable open space shall be accessible and available for the individual and collective use and benefit of the occupants of the development and shall be of a nature described in Section 734. In calculating usable open space, the DRB may determine that all or part of stream areas, bodies of water, wetlands, drainage easements, or slopes in excess of twenty-five percent (25%) may be included by considering:
- a. The extent of these areas in relation to the total area of the PUD.
  - b. The degree to which these areas contribute to the quality, livability and amenity of the PUD.
- D. **Common Open Space.** All common open space development rights must be conveyed either to the Town (at the Town's discretion), or to a funded trust, or contained in to the covenants or deeds of the individual property owners in the PUD, or to a homeowners association. The terms of the conveyance must include provisions for guaranteeing:
- a. The continued use of the land for the intended purposes.
  - b. Continuance of proper maintenance of the common open space.
  - c. The availability of funds for proper common open space maintenance.
- E. **Privacy and Access.** Dwelling units shall be assured reasonable visual and aural privacy and shall have access to a public street, walkway or other area dedicated to common use.
- F. **Parking.** Parking shall be provided as required under Section 550 of this Bylaw. Screening of parking and service areas is required by use of landscaping, walls or fences. Traffic circulation and flow shall be designed to minimize both large-scale parking areas and through-traffic to other parking areas. Lighting in parking areas shall not reflect further than in the area itself.
- G. **Phased Development.** The PUD may be proposed in phases over a reasonable period of time to ensure project conformity with the town plan and orderly development of the PUD, and/or to avoid overburdening municipal facilities and services. Each phase of the proposed development must contain the required parking spaces, landscaping, and utility areas necessary for creating and sustaining a desirable and stable environment. These amenities must be installed and completed for each phase prior to the issuance of a zoning permit for the commencement of construction of a subsequent phase, unless otherwise waived by the DRB in writing. If waived, the DRB may require the developer to secure a performance bond, letter of credit, or equivalent surety in an amount sufficient to secure the full completion of such improvements.

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- H. **Setbacks.** The zoning district requirements for lot size, yard setback and frontage are waived for the PUD. However, structures located on the perimeter of the development must be set back at least to the requirement of the underlying district and must be screened in a manner approved by the DRB.
- I. **Protection of Agricultural Land.** Where a PUD involves land which meets the definition of “locally important farmland” (see Definitions), the development shall make provisions for the use of such land for agricultural purposes and/or for maintaining its open, scenic quality. Examples of such provisions include minimizing the land that is developed by impervious surfaces, placing the land in common/usable open space to facilitate lease-back for farming, and annual mowing of meadowland (see Article X, Agricultural Land Overlay District).
- J. **Conformance with Town Plan.** The PUD shall be consistent with the goals and policies of the Town Plan and all other applicable provisions of this Bylaw not modified under PUD review and approval.

**735. Revisions to an Approved Development Plan.** No changes, modifications, or other revisions that alter the DRB’s approval, including conditions shall be made unless the proposed revisions are first resubmitted as a PUD amendment in accordance with the final development plan review procedures in Section 733, and are approved by the DRB. Any changes to a PUD approval without review by the DRB or, if appropriate, the Administrative Officer shall be an enforcement action for the Administrative Officer.

Minor changes identified in the PUD permit may be administratively approved by the Zoning Administrator. Minor changes within the scope of the PUD permit are reviewed by the DRB under the final review process. Changes not provided for in the PUD permit are reviewed as the DRB decides is appropriate. Minor amendments are changes which do not substantially alter the concept of the approved PUD in terms of floor space, use, height, lighting, provisions for open space or the physical relationship of the elements of the development.

Major amendments are substantial deviations from the concept approved by the DRB. Major amendments include: over 5% changes in floor area, mix of uses, site coverage, height, setbacks or open space, significant changes in the location of buildings, open space or parking, lighting, changes in traffic circulation systems including site access and walkways.

## END OF ARTICLE VI

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## ARTICLE VIII SUBDIVISION OF LAND

### SECTION 810 AUTHORIZATION AND PURPOSE

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

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

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

### SECTION 820 ESTABLISHMENT OF DISTRICT BOUNDARIES

Review of subdivisions uses the same zoning districts as a regular zoning permit.

**SECTION 830 DEVELOPMENT PERMIT REQUIRED** An application for a zoning permit for the subdivision of land into three or more lots or parcels. Whenever any subdivision of land is proposed, before construction is commenced thereon, before any contract for sale of all or any part of the land or structures involved, before any permit for the erection of any building in such proposed subdivision shall be granted, and before any subdivision plat may be filed with the Town Clerk, the Applicant or his/her authorized agent shall apply for and secure final approval from the DRB of the proposed subdivision.

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## **SECTION 840 SUBDIVISION REVIEW PROCESS**

### **840.1 Applications:**

The applicant shall file, as part of the zoning permit application, all required applications materials as outlined in Section 214 of this Bylaw: The submittal shall be made in two (2) copies to the Zoning Administrator. Maps shall be at scale no greater than one hundred (100) feet per inch. The zoning administrator shall within 30 days refer the completed application to the DRB for review.

### **841 Informational Meeting:**

A preliminary meeting may be requested by the Applicant to gauge the sense of the DRB. A hearing shall be warned in accordance with Section 215 C. this Bylaw. The DRB shall write it comments and issue them to the Applicant within 45 days from the close of the hearing. These comments are not binding on the DRB.

### **842 Minor subdivisions:**

- A. An applicant of a minor subdivision may submit a final subdivision plat application and proceed to a final hearing on such application.
- B. The Minor Subdivision Plat and Application must be submitted to the Zoning Administrator at least twenty (20) days prior to the date of the regular monthly meeting of the DRB in order for it to be given consideration at that meeting. This plat must satisfy the requirements of these Regulations to be considered complete, and all supporting documents must be presented in duplicate.
- C. There will be a public hearing in accordance with Section 4414 and 4447 of the Act within thirty (30) days after submission of a completed subdivision plat plus all essential supporting documents to the DRB. The applicant or authorized representative shall attend the hearing.
- D. The DRB shall, within forty-five (45) days of the adjournment of the public hearing on the minor subdivision plat, give approval the subdivision plat, give approval subject to stated conditions, or deny with the reasons stated therefore. The DRB's action shall be in writing, and shall specify variances, waivers, restrictions and conditions. Performance instrument requirements may be included in accordance with Section 897 of these Regulations.
- E. The applicant in the office of the Town Clerk must record the final plat within one hundred eighty days (180) of the date of the Final Plat Approval. One copy of the approved final plat approval shall be filed on a permanent recordable print(s) of 18" x 24" size or a size determined by the Town Clerk. Failure to file a timely recorded shall result in expiration of the permit.

### **843 Major Subdivisions:**

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

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

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

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

**846 Preliminary Plat:**

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

**847 Final Plat:**

- A. The Final Subdivision Plat and Application must be submitted to the Zoning Administrator for Preliminary Plat approval at least twenty (21) days prior to the date of the regular monthly meeting of the DRB in order for it to be given consideration at that meeting. This plat must satisfy the requirements of these Regulations and responses to the Preliminary Plat decision to be considered complete, and all supporting documents must be presented in duplicate.
- B. There will be a public hearing in accordance with Section 4414 and 4447 of the Act within thirty (30) days after submission of a completed subdivision plat plus all essential supporting documents to the DRB. The applicant or authorized representative shall attend the hearing.
- C. The DRB shall, within forty-five (45) days of the adjournment of the public hearing on the Preliminary Plat, give approval the subdivision plat, give approval subject to stated conditions, or deny with the reasons stated therefore. The DRB's action shall be in writing, and shall specify variances, waivers, restrictions and conditions. Performance instrument requirements may be included in accordance with Section 890 of these Regulations.

**SECTION 850 APPLICATION REQUIREMENTS**

The applicant shall file, as part of the application, the information outlined in section 214 (B) of this Bylaw and additional information as described below except for the preliminary informational meeting.

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**851 Informational Meeting:**

This meeting is to gauge the sense of the DRB for any subdivision. The application consists of a letter of request dated 21 days before the DRB meeting and a location map and a sketch of the proposed subdivision.

**852 Minor Subdivision:** For a minor subdivision, the applicant shall file, as part of the application, the information outlined in section 214 (B) of this Bylaw and additional information as described below.

- A. A survey of the boundaries by a Vermont licensed surveyor of the subdivision parcels(s), number of acres with the proposed subdivision, water courses and other essential physical features, true north point, a survey drawn to scale of the boundaries, all existing and proposed lot lines, right-of-way lines, all buildings, walkways, driveways, parking areas, paved/graveled surfaces, and other manmade improvements.
- B. A sketch of all proposed buildings, walkways, amenities, utilities, water wells, septic systems, and other manmade improvements.
- C. In the event the subdivision grants an easement or right(s)-of-way, the applicant must provide a recordable instrument delineating the responsibility for maintenance of easement or right(s)-of-way, if required.

**853 Major Subdivision Application:**

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

- 1. The Preliminary Plat Application for a major subdivision shall consist of the required maps and information filed 20 days before the DRB meeting. The submittal shall be made in two (2) copies to the Zoning Administrator. Maps shall be at a scale no greater than one hundred (100) feet per inch and indicate phasing of development.
- 2. The Preliminary Plat Application shall include all of the following. If a certain element is not applicable to the subdivision in question, the Preliminary Plat application shall so state.
  - a. A statement detailing the proposed subdivision's compliance with the Westminster Town Plan, the Westminster Zoning Bylaw, including reference to any zoning variances, and other bylaws in effect.
  - b. A complete survey of the boundaries of the subdivision parcel by a Vermont licensed surveyor.
  - c. Description of proposed water supply system(s). If source is an existing community water supply system, evidence of the right to use such system and the adequacy of such a system to meet water supply requirements shall be shown. All design criteria shall be in accordance with applicable State and local health regulations.

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- d. Description of proposed sewage disposal system(s). If on-site sewage disposal is proposed, then a State Subdivision permit is required as part of the application.
  - e. If a community sewage disposal system is to be used, demonstrate the institutional arrangements are in place addressing the legal relationships of parties responsible for the continued operation of a shared system and a financial mechanism to assure continued operation and maintenance/replacement in the event of failure.
  - f. Preliminary grading plans showing areas of cut and fill and revised contours at a contour interval not greater than five (5) feet.
  - g. In addition all maps and plans will be submitted electronically.
  - h. Storm water drainage plan, drawn at a contour interval not greater than five (5) feet, shall indicate the methods of collecting and discharging of drainage, as well as methods for temporary and permanent erosion control.
  - i. All existing and proposed right-of-way lines, widths of roads, typical road profiles, dimensions of all lot lines and size of all lots, locations of all buildings, walkways, amenities, utilities and other manmade improvements.
  - j. Calculation of stopping sight distances for new road or driveway intersections with Town or State highways.
  - k. Typical landscaping plans showing plant types and size, ground cover, lighting and signage.
  - l. All land proposed to be dedicated to open or public uses or to be reserved for screening and buffer purposes, and the methods for assuring and maintaining such dedication or reservation.
  - m. Description of any proposed covenants, and/or deed restrictions which are intended to cover all or part of the subdivision.
  - n. Description of the homeowner's association or other form of management organization, if such is proposed.
  - o. In the event the subdivision grants an easement or right(s)-of-way, the applicant must provide a recordable instrument delineating the responsibility for maintenance of easement or right(s)-of-way.

**854 Application for Final Plat:** Upon receiving approval from and other entities with jurisdiction, the applicant shall submit an application for approval.

If the application is for a major subdivision, include the DRB Preliminary Plat approval. The final plat application shall conform to the layout shown on the Preliminary Plat plus any recommendations made by the DRB. If a minor subdivision, the application must satisfy the requirements of these Regulations, including but not limited to:

- A. Proof of conformity with State Septic and Solid Waste Disposal regulations;
- B. Proof of conformity with the Westminster Town Plan;
- C. Offers of cession, if necessary, of streets, rights-of-way, public areas, and easements;
- D. Required performance bonds;
- E. Certified deed description;
- F. Additional legal assurances and information previously stipulated by the DRB;

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G. The Final Application shall include a written project description including the following information;

1. All information required for the Preliminary Plat shall be submitted in final form, including any revision or additional detail requested by the DRB;
2. In the event of granting of easements to the municipality, a written recordable instrument of the applicants (or his heirs or assigns) responsibility for maintenance of easement areas until such land has been legally accepted by the Town;
3. Written evidence of approval by all local, regional, State and Federal agencies having jurisdiction over the project, including final approvals for any water supply and sewage disposal systems, and certification of the expiration of all appeal periods.

## **SECTION 860 CRITERIA FOR APPROVAL**

### **861 General:**

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

### **862 Informal Review Criteria:**

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

### **863 Minor Application Review Criteria:**

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

### **864 Final Plat Review Criteria:**

### **865 Character of the Land:**

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

### **866 Lot Layout/Siting:**

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

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## **867 Preservation of Existing Features.**

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

### **A. Wetlands.**

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

1. Water quality control;
2. Groundwater supply;
3. Flood and erosion control;
4. Flora and fauna; and
5. Education and recreation.

### **B. Deeryard.**

Subdivision immediately adjacent to a deeryard identified and mapped by the State of Vermont shall be designed, sited and undertaken in a manner compatible with the continued viability of the deeryard. Applicants submitting proposals for subdivision of a lot involving or adjacent to an identified deeryard shall include a consultation with and or approval by representatives of the Vermont Department of Fish and Wildlife and shall provide evidence of such to the DRB.

Where subdivision takes place within a deeryard or includes part or all of a deeryard in the land base for the subdivision or the determination of its density, the remainder of the deeryard owned by the applicant shall be managed in a manner compatible with the continued viability of the deeryard. This may include the preparation and implementation of a forest management plan approved by the Vermont Department of Fish and Wildlife.

### **C. Aquifer Recharge Areas.**

Applicants submitting a subdivision proposal in an Aquifer Recharge Area shall present evidence from the Vermont Department of Water Resources that the proposal will not result in the pollution of ground or surface waters or an unreasonable reduction of the supply of groundwater. The DRB shall consider such factors as the amount and type of wastes to be generated by the proposed use and the adequacy of design for the proposed disposal system and the capability of the land and water to sustain such use without degradation. In considering an application, the DRB may consult with the Vermont department of Water Resources for assistance or require certification by a registered professional engineer that the project will not result in degradation.

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**D. Scenic Roads.**

Subdivision proposals adjacent to those Town or State roads officially designated as scenic highways or highways generally accepted as exhibiting exceptional scenic character or values shall be reviewed by the DRB to ensure that the siting of any proposed structure and any site alterations, including grading, filling, removal of trees, stonewalls or other existing landscape features are consistent with the scenic quality of the road, roadside and area and to minimize an interference with views or vistas afforded from the scenic road. To accomplish this purpose, the DRB may guide the location of structure(s) by varying setbacks, height and other requirements of the district and may restrict or require landscaping or screening measures.

**E. Energy Conservation.**

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

**868 Roads**

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

**A. Layout**

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

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

**B. Traffic Management**

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

1. A description of the general location of the project;
2. A statement of existing traffic conditions and projected traffic conditions on all impacted roadway(s) for ten (10) years;

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3. A statement comparing the operating Level of Service (LOS) of the impacted roadway(s) and/or intersection(s) at the opening date of the project and for ten (10) years; and
  4. A statement of recommendations outlining any adverse traffic impact of a proposed project and the necessary improvements to mitigate negative impacts.
  5. Based upon a review of the study, the DRB shall set appropriate conditions to avoid or mitigate any traffic congestion or safety problems associated with the proposed subdivision.

**C. Location and Design of Intersections**

Proposed intersections with existing roadways shall be as close to ninety (90) degrees as possible. Approaches to intersections with existing roads shall be at a maximum grade of three (3) percent for a distance of fifty (50) feet from the edge of the travel lane. In its considerations, the DRB shall consider the following standards of the American Association of State Highway Officials:

**1. Minimum Stopping Sight Distance**

Design Speed of Roadway Section ( <u>mph</u> )	Stopping Sight Distance ( <u>feet</u> )
30	130
40	180
50	220

The DRB may recommend special intersection design or use.

Intersections with Town highways require a town access permit. Intersections with State highways require a State access permit. Approval of a subdivision permit shall not be construed as approval to access a town or State highway.

**2. Design Standards for Town Roads**

All roads proposed for acceptance by the Town shall comply with the Westminster Road Specifications and any revisions made thereto, as adopted by the Selectboard. Road improvements shall be installed at the expense of the applicant.

Any exceptions to the above standards shall be granted by written approval of the Selectboard and a copy shall be filed with the Town Clerk.

**3. Road Maintenance**

The applicant shall supply evidence and assurance that said roads will be adequately maintained. Each such lot deed shall contain the provision that in accepting the conveyance, the purchaser accepts the obligation of his proportionate share of the expenses of maintaining said park or other recreation area until such time that the Town accepts said road(s).

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#### 4. **Road Name Signs**

All roads shall be signed subject to the policies of the Town of Westminster.

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

#### 5. **Easements and Rights-of-Way**

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

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

#### **869 Monuments.**

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

#### **SECTION 870 SCHOOLS.**

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

#### **871 Open Space**

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

#### **872 Power, Telephone and Cable**

Poles, power lines and cable installations are to be approved by the local power company and the Town. The DRB may require the underground installation of power, telephone lines and cable installations wherever it is necessary to maintain and protect the character of a highly sensitive area. A diagram showing location of utility lines shall be submitted with the final site plat.

#### **873 Watersheds, Drainage and Erosion Control**

When a drainage system is proposed, the applicant shall ensure that it is designed and installed in conformance with State health and environmental regulations.

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- A. The DRB may require such temporary and permanent drainage and erosion control techniques as may be necessary to control surface runoff. Factors to be considered in determining the types of controls necessary shall include, but not be limited to, vegetation and ground cover, slopes, soil types, percentage of land covered by impermeable surfaces, distances to streams and impact on adjacent properties.
  - B. The DRB may require the phasing of construction to reduce the amount of land disturbed by construction at any one time and may stipulate deadlines for the installation of erosion control or soil stabilization measures.
  - C. (10) year storm precipitation factor shall be used.
  - D. The DRB may require that the applicant provide a determination of the effect of the subdivision on the existing watershed outside of the area of the subdivision by a qualified hydrogeologist or hydrologist. Where the DRB anticipates a change in the runoff resulting from the subdivision, it may require the applicant to modify the proposal to protect existing watersheds.

#### **874 Fire Protection.**

The DRB may require the provision of facilities necessary for adequate fire protection. Such facilities shall be designed in consultation with the Chief of the Westminster Volunteer Fire Department.

#### **875 Provision of Buffer Area.**

Compliance with the following standards shall be considered to be the minimum landscaping necessary.

- A. Where any non-residential land use abuts a residential land use, a strip of land, at least twenty-five (25) feet in width shall be maintained as a landscaped area or natural wooded area in the front yard, side yards and rear yard, unless waived or amended by the DRB.
- B. Commercial and industrial uses shall provide for a strip of land at least twenty-five (25) feet in width that shall be maintained as a landscaped area or a natural wooded area in the front, side and rear yards, unless waived or amended by the DRB. Parking facilities may not be located within this landscaped buffer area.
- C. Where required by the DRB, additional landscaping shall be installed to minimize the impact on adjoining residential properties and roadways.
- D. In any Planned Residential/Planned Unit Development, landscaping shall be installed as required by the DRB.
- E. The DRB may require greater setbacks from property boundaries or changes in use in order to create buffer zones. Conditions for requiring buffer areas may include, but not be limited to, lack of dense vegetation, proximity to scenic highways, streams or waterways, heightened visibility due to differences in elevation, concentration of uses on the site, and incompatibility of adjacent uses or other aesthetic considerations. The DRB may require that the applicant coordinate buffer zones on his parcel with buffer areas on adjoining parcels in order to provide a continuous system of greenbelts.

#### **876 Site Preservation and Improvements.**

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

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

**877 Landscaping.**

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

**878 Excavation and Grading.**

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

**879 Water Supply.**

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

**880 Sewage Disposal.**

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

**881 Fire Hydrants.**

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

**882 Flood Hazard Areas.**

Development of any kind in flood hazard areas, as defined by the current National Flood Insurance Maps, must conform to the Flood Insurance Study for the Town of Westminster as designated by flood maps supplied by the Federal Emergency Management Agency (FEMA).

**883 Agricultural Land Overlay District.**

Subdivisions within the agricultural land overlay district shall conform to the requirements of the Westminster Zoning Bylaw.

**884 Historic and Special Town Features.**

The applicant shall plan the subdivision to be in harmony with the natural, scenic, archeological, and historical assets of the Town. The DRB may impose special restrictions to insure that this provision be met.

**885 Disclosure of Subsequent Development Plans.**

Whenever an applicant submits a proposal for development on only a portion of a contiguous parcel, the DRB may require a general indication of the intended uses of the remaining portion of land. Such an indication should include access, type of use, intensity of use, and phasing.

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## **SECTION 890 SUBDIVISION APPROVAL CONDITIONS.**

### **891 General Conditions**

The DRB may add conditions that help the application comply with the intent of these regulations or assist in ensuring that the permit is enforceable.

- A. No subdivision of the resulting lots shall be approved unless all roads or other improvements, including installation of utilities and sewage disposal systems, required by the subdivision plat have been installed according to these Regulations, or until a performance bond has been posted, as provided for in Section 897.
- B. The DRB reserves the right to approve a final plat subject to a final inspection of certification that all roads and infrastructure improvements were constructed and installed in accordance with the standards, specifications and requirements set forth in these regulations.

### **892 Specific Required Conditions**

Each approval for a final plat shall contain a time limit within which the entire project is completed not to exceed three (3) years, unless extended by the DRB.

### **893 Filing of Final Subdivision Plat**

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

### **894 Revision of Approved Plat**

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

### **895 Public Acceptances of Roads and Open Spaces.**

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

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### **896 Compliance with Other Bylaws**

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

### **897 Performance Surety Requirements**

- A. The DRB shall require from the applicant, for the benefit of the Town, a performance bond or other instrument in an amount sufficient to cover the full cost of constructing any public improvements that the DRB may require in approving the project; such performance bond to be submitted prior to approval of the Final Subdivision Plat. Security that the project shall be completed, as approved, may be required in the form of:
1. A surety bond, issued by a surety company authorized to do business in Vermont, to be filed with the Selectboard in form and amount satisfactory to it, or
  2. A letter of credit, cash, escrow account or savings bond book properly endorsed to the Town in an amount to be determined by the Selectboard, or
  3. A performance bond from the developer or contractor.  
The performance guarantee shall not be released until the DRB has certified completion of the improvements in substantial accordance with the approved Final Subdivision Plat. The performance bond shall run for a term to be fixed by the DRB.
  4. The DRB may also require surety covering the maintenance of said improvements for a period of five (5) years after acceptance by the Town; said surety to be equal to not less than ten (10 %) percent of the estimated cost of those improvements.

### **898 Revocations**

The DRB may, after a hearing, revoke subdivision approval if it finds that the applicant or applicant's representative willfully or with gross negligence submitted inaccurate, erroneous, or materially incomplete information in connection with the permit application and that accurate and complete information may have caused the DRB to deny the application or require additional or different conditions.

## **END OF ARTICLE VIII**

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## **ARTICLE IX: HISTORICAL PRESERVATION OVERLAY DISTRICT**

### **SECTION 910 AUTHORIZATION AND PURPOSE.**

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

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

### **SECTION 920 ESTABLISHMENT OF DISTRICT BOUNDARIES.**

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

### **SECTION 930 HISTORICAL REVIEW BOARD.**

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

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

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

1. Advising and assisting the legislative body, planning commission, and other entities on matters related to historic preservation; and

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2. Advising the DRB and Administrative Officer in development review according to this Bylaw and the Act.

### **SECTION 940 DEVELOPMENT PERMIT REQUIRED.**

An application for a zoning permit for development within the Historic District that proposes the rehabilitation, substantial alteration, restoration, moving, demolition, or change of an existing structure, a change of use, or for the construction of a new structure, shall be filed as set forth in Section 214 of this Bylaw. With respect to external appearances only, and other than normal maintenance and minor repairs as defined in Article XV, no structure, fence, lamp post, or retaining wall within the Historic District as defined herein shall be rehabilitated, substantially altered, restored, moved, demolished or changed, and no new structure, fence, lamp post, sign, or retaining wall within the Historic District shall be erected without approval of the plans by the DRB.

Any proposed development in the Historic District must be able to meet all the standards and criteria for development in the underlying zoning district, after which it must meet the requirements of this overlay district. The requirements of the Historic District supersede those of the underlying district and may render otherwise permitted uses conditional uses. Of note, when measuring setback distance in the Historic District the public right-of-way is wider than in most areas of town. The public right-of-way along U.S. Route 5 extends 49.5 feet from the center of the traveled right-of-way, while the public right-of-way along School Street measures 35 feet from the center of the traveled road.

**941 Application Requirements.** The applicant shall file, as part of the zoning permit application as outlined in Section 214 of this Bylaw:

- A. A statement of the proposed construction or alteration for which historic review approval is sought;
- B. Illustrations of sufficient detail to illustrate clearly the proposed construction, alteration or change to the property,
- C. A description of the location of the proposed construction or the building proposed to be altered,
- D. A drawing showing existing conditions of any building proposed to be altered, including structural features and materials,
- E. A site development plan as required pursuant to Section 511; and
- F. Such other information as is relevant and necessary for proper consideration of the application. The application shall also include a statement of the degree to which the proposed scheme is compatible with the existing historic structures of the surrounding area and with the distinctive characteristics of the Historic District itself.

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#### **942 Review Process.**

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

#### **SECTION 950 CRITERIA FOR APPROVAL.**

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

- A. That the materials, their texture and arrangement, proposed for use in any rehabilitation, restoration, or substantial reconstruction project, or for any new structure, be compatible with the existing buildings of the Historic District, and most especially with the buildings, structures, et cetera, in the immediate vicinity of the project in question, and
- B. That the scale and general size of any proposed new building or structure be appropriate to what would become, if the project in question were to be approved, that new building's or structure's immediate surroundings, and
- C. That the overall height, width, number of stories, roof type, facade openings, architectural details, and street frontage of any proposed new building or structure be appropriate in relation to said new building's or structure's immediate surroundings, and to the nature and character of the Historic District itself, and
- D. That any new site plan, or any new arrangement of buildings or structures upon a given lot, not be in conflict with the adjoining uses of land, and
- E. That any new buildings or structures be arranged at such angles to streets and roads that the aesthetics of the environment shall be preserved, and

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- F. That the sign design, size, location, lighting, and other aspects of any signage, be compatible with the village setting and conform to all requirements of the Sign Bylaw.

## **SECTION 960 DEMOLITION.**

**961 Applicability.** The demolition or replacement of any structure, or portion thereof, within the Historic District shall be reviewed by the Historic Review Board and the DRB in accordance with the process in Section 940. In its consideration of the demolition plans, the Historical Review Board and the DRB shall consider the demolition criteria when reviewing applications in the Historic District.

**962 Application Requirements.** In addition to the requirements of Section 941, the Applicant shall submit a demolition and site restoration plan which, at minimum, describes the intended use of the site and the manner in which the site shall be restored to grade, surfaced, and landscaped, and/or screened so as to minimize adverse visual impacts and to prevent hazards to public safety and the adjoining properties.

**963 Criteria for Non-Historic Structures.** In order for the demolition of a non-contributing structure to occur, the DRB must find that the demolition and site restoration plan minimizes adverse visual impact and prevents hazards to public safety and the adjoining properties.

**964 Criteria for Historic Structures.** In order for the demolition of a contributing structure listed on the National Register of Historic Places Inventory (See Appendix C) to occur, or for the partial demolition of such a structure to be authorized, the DRB must find:

- A. That retention of the structure, or part thereof, is not feasible because the structure in question, or part thereof, is structurally unsound, or
- B. That rehabilitation of the structure, or part thereof, would cause undue financial hardship for said structure's owner or owners, or
- C. That there is a demonstrated public need for the proposed new use of the property in question which would outweigh any public benefit that could be obtained were the subject building or site to be preserved; and
- D. That the demolition and site restoration plan minimizes adverse visual impact and prevents hazards to public safety and adjoining properties.

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

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

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

**SECTION 970 ADDITIONAL GUIDELINES FOR REVIEWING APPLICATIONS.**

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

**971 Additions and Alterations.**

- A. A non-character defining elevation of an historic structure may be added to, provided that the addition in question not overpower said historic structure visually, nor diminish, conceal, or detract from the historic structure itself, nor from the setting of this structure. Any addition to an historic building or structure shall be compatible with that building or structure, and where feasible, shall be designed in such a manner as to be removable, if desired at some future date, with but minimal damage to the original historic building structure.
- B. The materials used for additions shall be compatible with the materials used on the original building. For example, if the original existing building should be clapboarded, then any additions to this building shall also be clapboarded, the new clapboarding having the same dimensions and orientation as did the original.
- C. Window additions shall be similar in pattern, proportion, and scale, to the existing or original windows.
- D. The roof on any addition should have the same or similar pitch as the original or existing roof whenever possible.
- E. Character defining elements of the original building shall be respected and shall not be altered unless absolutely necessary. Original window or door openings shall not be altered or covered over. Facade details shall not be obscured. The original building entrance shall be preserved.

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- F. New porches or entrances shall be located so as not to diminish the character of the existing structure to which they are attached, or for which they provide access. No new porch or entrance shall be constructed along or through the street facing façade of an historic building except as part of an accurate full or partial restoration of the building in question. Porches shall be designed to be compatible in size, scale, and style with the existing building to which they are to be attached.
  - G. Storm windows and doors may be added to an existing historic structure so as to increase energy efficiency. Any storm windows or storm doors so added shall be installed in such a manner as not to damage existing window casings or doorframes, or existing window sashes or doors.
  - H. Slate roofs shall be repaired in kind. No slate roof or the remnant thereof, located within the Westminster Historical Preservation Overlay District, shall be permanently removed or replaced without a permit from the DRB.
  - I. Transformers, meters, pipes, and mechanical or communication-related items shall be located as inconspicuously as possible.
  - J. Additions required for safety, or for accessibility, such as fire escapes or handicap entrances shall be designed so as to be as compatible as possible with the existing building or structure.

**972 New Construction.**

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

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**973 Signs.**

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

**END OF ARTICLE IX**

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## ARTICLE X: AGRICULTURAL LAND OVERLAY DISTRICT

### SECTION 1010 AUTHORIZATION AND PURPOSE.

**1011 Statutory Authorization.** As provided for in the Act, there is hereby established a special overlay zoning district known as the Westminster Agricultural Land Overlay District (herein after called Ag Lands).

**1012 Purpose.** The purpose of this section is to allow landowners a reasonable return on their land holdings in such a way that the majority of existing “locally important farmland” in Westminster may remain un-built for agricultural use by future generations. The Agricultural Land Overlay District has been created to foster patterns of land development, which shall:

- A. Preserve large, contiguous tracts of “locally important farmland” for existing and future food production;
- B. Maintain and encourage the future growth of Westminster’s agricultural base by protecting existing agricultural operations from incompatible land uses and by providing a stable agricultural land base for future agricultural uses;
- C. Maintain a sufficiently large scale of agriculture in Westminster to encourage the economic feasibility of necessary support services for the agricultural community.

**1013 Establishment of District Boundaries.** These districts were identified using the Westminster Land Evaluation and Site Assessment System (LESA) and include all lands which meet the LESA threshold score of 195 or greater (as identified in the “Summary Report: Agricultural Land Evaluation and Site Assessment, Westminster, Vermont, 1990”)

Any proposed development located within this district must meet the requirements of this section in addition to the requirements of the underlying zoning district. Where provisions of the Agricultural Land Overlay District regulations overlap or conflict with the provisions of the underlying zoning district, the provisions of the Agricultural Lands Overlay District regulations shall prevail.

**SECTION 1020: PERMITS REQUIRED.** An application for a zoning permit for the subdivision of lots and the siting of all non-agricultural buildings, including dwellings for farm workers and farm families within the Agricultural Overlay District and agriculture tourism facilities is required.

- A. Permitted Uses. The following uses are Permitted Uses within the Agricultural Land Overlay District provided they are also permitted in the underlying district:
  1. Agricultural uses and buildings and customary agricultural accessory uses (e.g. barns, sugar houses, silos, etc).
  2. Forestry and Wildlife Refuge uses.

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B. Conditional Use. The following uses are Conditional Uses within the Agricultural Land Overlay District and require approval from the DRB:

1. All other uses which are either Permitted or Conditional Uses according to the underlying zoning district.
2. The subdivision of land.

**SECTION 1030 APPLICATION.**

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

**1031 Application Requirements.** The applicant shall file as part of the zoning permit application, all required application materials as outlined in Section 214 and include:

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

**1032 Review Process.**

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

**1033 Criteria for Approval.** In its consideration of Ag Lands review approval, the DRB shall consider the following criteria when reviewing applications in the Agricultural Overlay District:

- A. Lots shall be located and sized, and proposed development shall be designed and sited, so as to preserve large blocks of contiguous farmland within the AG Overlay District to the maximum extent possible.
- B. Land subdivision and development shall be compatible with agricultural land uses and operations, and shall not interfere with accepted farming practices carried out on adjacent lands.
- C. Buildings and other structures, as well as roadways, shall not be sited in the middle of open farmlands, but shall be located in wooded areas, or at the edge of fields; every effort shall be made to locate the proposed use or subdivision upon land which is unsuitable or least productive for agricultural use and has the least impact on the agriculturally productive use of the remainder of the parcel.
- D. At a minimum, 60% of farmland involved in the development or subdivision of a parcel of land shall be preserved for present and/or future agricultural use as defined in Article X (shall not be built upon); permanent conservation restrictions or covenants shall be applied to the undeveloped portion of the property in order to keep it open and available for agricultural use.

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**1034 Approval Conditions.** When approving an application for construction in the Agricultural Overlay District, the DRB may stipulate that one or more of the following steps are undertaken so as to mitigate the loss that such construction will necessarily entail:

- A. That certain other reasonable measure of mitigation of the impacts on agriculture, which may occur to the DRB, or to the Applicant, be affected, provided that the measures in question are both feasible and not cost prohibitive.

**END OF ARTICLE X**

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## **ARTICLE XI: FLOOD HAZARD AREAS OVERLAY DISTRICT**

### **SECTION 1110 AUTHORIZATION AND PURPOSE.**

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

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

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

### **SECTION 1120 ESTABLISHMENT OF DISTRICT BOUNDARIES.**

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

### **1121 Base Flood Elevations and Floodway Limits.**

- A. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the provisions of these regulations.
- B. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps (i.e., Zone A), base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained by the Administrative Officer and reasonably utilized to administer and enforce the provisions of these regulations.
- C. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill), shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

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## **SECTION 1130 DEVELOPMENT PERMIT REQUIRED.**

A permit is required, to the extent authorized by State law, for all proposed construction or other development, including agriculture buildings and the placement of manufactured homes, in areas of special flood hazard.

**1131 Permitted Uses.** Upon issuance of a permit by the Administrative Officer the following land uses shall be permitted within the area of special flood hazard to the extent that they are not prohibited by any other Bylaw or by any other section of this Bylaw and provided that they do not require the erection of structures or storage of materials and equipment, the borrowing of fill from outside the floodway area, or channel modification or relocation, and do not obstruct flood flows, nor result in any increase in flood levels during the occurrence of the base flood discharge, decrease the water-carrying capacity of the floodway or channel, or increase off-site flood damage potential:

- A. Agricultural uses, such as general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming and forestry.
- B. Recreation uses, such as parks, camps, picnic grounds, tennis courts, golf courses, golf driving ranges, archery and shooting ranges, hiking and riding trails, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas, and boat launching sites.
- C. Accessory residential uses, such as lawns, gardens, parking areas, and play areas.

**1132 Conditional Uses.** All new construction, substantial improvement of existing buildings, and development in a floodway are permitted only upon the granting of a conditional use permit by the DRB in accordance with the development standards of Section 1150. All development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

**1133 Prohibited Uses.** Junkyards, as defined herein and storage facilities for chemicals, explosives, flammable liquids or other toxic materials shall be prohibited.

## **SECTION 1140 PERMIT APPLICATION.**

**1141 Application.** All zoning permit applications shall be filed with the Administrative Officer, who shall determine, upon receipt of a complete application, whether or not the proposed development is located within the area of special flood hazard and whether or not the proposed use requires conditional use review. The Administrative Officer shall transmit such application to the DRB for review as provided for by these Regulations.

**1142 Application Requirements.** In addition to the requirements of Section 214 B. of this Bylaw, an application for conditional use review in the Flood Hazard Areas Overlay District shall include:

- A. An Elevation Certificate prepared by a licensed surveyor.
- B. Existing and proposed structures including the elevation of the lowest habitable floor including basement and certifications to whether such structures contain a basement;
- C. Proposed fill and/or storage of materials;

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

#### **1143 Special Permit Application Requirements.**

- A. **State Review.** Prior to issuing a permit for any development in a flood hazard area, a copy of the application shall be submitted to the Vermont Department of Water Resources and Environmental Engineering in accordance with Section 4409 of the Act. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date they application was mailed to the Department, whichever is sooner.
- B. **Notification.** Adjacent communities and the Vermont Department of Water Resources and Environmental Engineering shall be notified at 30 days prior to issuing any permit 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. **State and Federal Approvals.** Proposed development shall be reviewed by the Administrative Officer to assure that Federal, State or Municipal law has received all necessary permits from those governmental agencies from which approval is required. The applicant is responsible for contacting the regional permit specialist employed by the Agency of Natural Resources to determine which permits are required. A permit for development in the Flood Hazard Overlay District may only be issued after the applicant submits a copy of any required Federal, State, or other Municipal permits to the Administrative Officer.

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## **SECTION 1150 CRITERIA FOR REVIEW.**

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

### **1151 Floodway Areas.**

Development within the regulatory floodway, as determined by Section 1144, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

### **1152 Floodway Fringe Areas.**

(i.e., special flood hazard areas outside of the floodway)

**1152.1 All Development** - All development shall be reasonably safe from flooding and:

- A. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
- B. Constructed with materials resistant to flood damage,
- C. Constructed by methods and practices that minimize flood damage, and
- D. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- E. The preference is for little or no fill in fringe areas. Use stilts, pylons or floating structures instead.

### **1152.2 Residential Development.**

- A. New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation. New construction and existing buildings to be substantially improved that are located in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in the feet on the community's FIRM or at least two feet if no depth number is specified.
- B. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
  1. Located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.

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2. Located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.
  - C. Residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

### **1152.3 Non-Residential Development**

- A. New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation. New construction located in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in the feet on the community's FIRM or at least two feet if no depth number is specified.
- B. Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Existing buildings to be substantially improved located in AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM or at least two feet if no depth number is specified or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- C. A permit for a building proposed to be flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- D. Non-residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

### **1152.4 Subdivisions.**

- A. New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
- B. Subdivisions (including manufactured home parks) shall be designed to assure:
  1. Such proposals minimize flood damage within the flood-prone area,
  2. Public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

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3. Adequate drainage is provided to reduce exposure to flood hazards.

**1152.5 Enclosed Areas Below the Lowest Floor.**

- A. Enclosed areas below the lowest floor, which are subject to flooding, shall be used solely for parking of vehicles, building access, or storage.
- B. New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- C. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**1152.6 Recreational Vehicles.**

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

- A. Be on the site for fewer than 180 consecutive days,
- B. Be fully licensed and ready for highway use, or
- C. Is permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section 1152.2 B. 2.

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

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

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

**1152.9 Sanitary Sewage Systems.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

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

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

**1152.12 Variances to Flood Hazard Area Development Standards.** Variances shall be granted only in accordance with the criteria found in 44 CFR, Section 60.6, of the National Flood Insurance Regulations.

## **SECTION 1160 ADMINISTRATION AND ENFORCEMENT.**

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

- A. All permits issued for development in areas of special flood hazard;
- B. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings;
- C. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) to which buildings have been flood proofed;
- D. All flood proofing certifications required under this regulation; and
- E. All variance actions, including justification for their issuance.

**1162 Annual Report to Federal Insurance Administration.** The Administrative Officer shall, to the extent possible, submit to the Administrator the information required by the FIA annual report form with respect to the administration and enforcement of the flood hazard area regulations. A copy of the annual report shall be submitted to the state coordinating agency.

**1163 Enforcement and Penalties.** It shall be the duty of the Administrative Officer to enforce the provisions of this Bylaw. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists; that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. If the structure is still noncompliant after the opportunity to cure has passed, the Administrative Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or Bylaw, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

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**SECTION 1180 WARNING OF DISCLAIMER OF LIABILITY AND PRECEDENCE OF REGULATIONS.**

**1181 Warning of Disclaimer of Liability.** These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Westminster, reliance on this Bylaw or any administrative decision lawfully made there under.

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

**END OF ARTICLE XI**

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## **ARTICLE XII: WATER SUPPLY SOURCE PROTECTION OVERLAY DISTRICT**

### **SECTION 1210 AUTHORITY AND PURPOSE.**

**1211 Authority.** Pursuant to the Act there is hereby established a Water Supply Source Protection Overlay District for the Town of Westminster.

**1212 Purpose.** The Water Supply Source Protection Overlay District is created to protect, preserve, and maintain source water supplies that provide potable drinking water to the public from adverse impacts that may result from inappropriate development or land use practices.

### **SECTION 1220 ESTABLISHMENT OF DISTRICT BOUNDARIES.**

**1221 Boundaries.** The Water Supply Source Protection Overlay District is defined as the areas shown on the Westminster Water Resources Map as wellhead protection areas. The Water Supply Source Protection Overlay District consists of the wellhead protection locations from the Vermont Agency of Natural Resources Water Supply Division digital data. The Water Supply Source Protection Overlay District is an overlay district, which imposes additional requirements and restrictions to those in the underlying district. In all cases, the more restrictive requirement(s) shall apply.

**1222 Lots Divided by the Overlay District.** Where the boundary of the Water Supply Source Protection Overlay District divides a lot of record such that part of the lot falls within the Water Supply Source Protection Overlay District and part of the lot is outside of it, the lot provisions of this Article shall only apply to development on the lot that occurs within the boundary of the Water Supply Source Protection Overlay District.

### **SECTION 1230 DEVELOPMENT PERMIT REQUIRED.**

An application for a zoning permit is required for any construction or change in use in the water supply source protection overlay district under Section 310, and:

**1231 Permitted Uses.** The following uses are permitted provided that they are conducted in accordance with the intent of this Bylaw:

- A. Any use permitted in the underlying zoning district, except as prohibited by Section 1232 or regulated by Section 1233 of this Article.
- B. Agricultural and forestry uses, provided that fertilizers, pesticides, manure and other leachable wastes are used according to the Accepted Agricultural Practices as prescribed by Vermont Agency of Agriculture, Food and Markets as applicable. All said leachable wastes must be stored under shelter.

### **1232 Prohibited Uses.**

- A. The following uses shall be prohibited in the Water Supply Source Protection Overlay District:
  1. On-site disposal, bulk storage, processing or recycling of toxic or hazardous materials or wastes.

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2. Underground storage tanks, except septic tanks as regulated by the Town of Westminster Sewage Disposal Bylaw and the Vermont Department of Environmental Conservation, Wastewater Management Division.
  3. Industrial uses which discharge contact-type process waters on site.
  4. Unenclosed storage of road salt.
  5. Dumping of snow carried from off-site.
  6. Automotive uses: automobile service stations, repair garages, carwashes, junkyards, and truck stops.
  7. The siting or operation of a wastewater or septage lagoon.
  8. Sale, storage, lease or rental of used and new cars or other motorized vehicles.
  9. Laundry and dry cleaning establishments.
  10. Landfills.

B. **Use List Not Exhaustive.** The uses prohibited by this district represent the state of present knowledge and most common description of said uses. As other polluting uses are discovered, or other terms of description become necessary, it is the intention to add them to the list of uses prohibited by this district. To screen for such other uses or terms for uses, no use shall be permitted in this district without first submitting its building, site, and operational plans for DRB review and approval under Sections 1233, 1260, and 1261 of this Bylaw.

C. **Changing Technology.** The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, which technology causes the uses as a class to be groundwater pollution risks. As the technology of identified use classes changes to non-risk materials or methods, is the intention to delete from the prohibited list or allow conditionally, uses which demonstrate convincingly that they no longer pose a pollution hazard.

### **1233 Conditional Uses.**

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

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

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**1240 REVIEW PROCESS.**

- A. Within 30 days of receipt of a complete application for water source protection, the Administrative Officer shall refer the application for review by the DRB.
- B. The DRB shall act to approve, approve with conditions, or disapprove an application within 45 days of the date the hearing is closed, and issue a written decision including findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E. of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 218 of this Bylaw.

**1250 APPLICATION REQUIREMENTS.** Application for a zoning permit shall be filed as set forth in Sections 214 (B) of this Bylaw. In addition to the above, the applicant shall file, as part of the application the following:

- A. A complete list of all types and volumes of hazardous materials (including fuels) used, stored, processed, handled or disposed, other than those volumes and types associated with normal household use.
- B. Description of types of wastes generated and method of disposal including: solid wastes, hazardous wastes, sewage and non-sewage wastewater discharges.
- C. Location of all private drinking water supply wells within 200 feet of the property line.

**1260 REVIEW CRITERIA.** Conditional use approval shall only be granted for those uses listed above only after it is determined that, in addition to the standards in Section 133(d) of this Bylaw, all of the following conditions have been met:

- A. The use will not detrimentally affect the quality of water from the supply source, nor cause a significant long term reduction in the volume of water contained in the aquifer or in the storage capacity of the aquifer.
- B. The use will discharge no wastewater on-site other than that typically discharged by domestic wastewater disposal systems;
- C. The proposed use complies with all other applicable provisions of this Article.
- D. Where the premises is partially outside of the Water Supply Source Protection Overlay District, potential pollution sources such as, but not limited to, on-site waste disposal systems shall be located outside and down gradient of the overlay district where feasible.

**1261 Subdivision Review Criteria** All subdivision proposals, site plan applications, or any change in use, alteration, or expansion of an existing use within the Water Supply Source Protection Overlay District shall be reviewed by the DRB and shall conform to provisions of this Bylaw and other applicable regulations of the Town of Westminster and further shall assure that:

- A. All such proposals are consistent with the need to protect surface and groundwater supply sources in the Town of Westminster and adjacent communities.

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- B. All sanitary sewer systems are designed to minimize or eliminate leakage and discharges from the system into the groundwater.
  - C. On site waste disposal systems are located so as to avoid or minimize groundwater contamination.
  - D. Streets, road, and parking areas are constructed so that direct application of road salt is not required for winter safety and so that runoff from such uses is channeled so as to avoid or minimize groundwater contamination.

**END OF ARTICLE XII**

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## ARTICLE XIII: TELECOMMUNICATIONS FACILITIES

### SECTION 1310 AUTHORITY AND PURPOSE

**1311 Authority.** Pursuant to § the Act, the Development Review Board is authorized to review, approve, conditionally approve, and deny applications for wireless telecommunications facilities, including sketch, preliminary and final plans, and installation. Pursuant to the Act, the Development Review Board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the application to pay for all reasonable costs thereof.

**1312 Purpose.** This regulation has been enacted to protect the public health, safety and general welfare of the Town of Westminster and to fulfill the following goals:

- A. Preserve the character and appearance of the Town of Westminster while allowing adequate wireless telecommunications services to be developed.
- B. Protect the scenic, historic, environmental, and natural resources of the Town of Westminster.
- C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of wireless telecommunications facilities and towers.
- D. Minimize tower and antenna proliferation by requiring the sharing of existing communications facilities, towers and sites where possible and feasible.
- E. Facilitate the provision of telecommunications services to the residences and businesses of the Town of Westminster.
- F. Minimize the adverse visual effects of towers and other facilities through careful design and siting standards.

**1313 Consistency with Federal Law.** In addition to other findings required by this bylaw, the DRB shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. This section does not:

- A. Prohibit or have the effect of prohibiting the provisions of personal wireless services;
- B. Unreasonably discriminate among providers of functionally equivalent services; or
- C. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

### SECTION 1320 PERMITTED AND PROHIBITED LOCATIONS.

**1321 Location.** Telecommunications towers and associated equipment, buildings, and infrastructure are allowed as Conditional Uses in the following zoning districts:

1. Industrial District
2. Commercial District
3. Village District
4. Resource and Conservation District

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

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

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

**1323 Temporary Wireless Communication Facilities.** Any wireless facility designed for temporary use is subject to the following:

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

## **SECTION 1330 APPLICATION REQUIREMENTS**

Application for a zoning permit shall be filed as set forth in Sections 214 (B) of this Bylaw. In addition to the above, the applicant shall file, as part of the application the following:

**1331 Small Scale Facilities.** The placement of the wireless telecommunications antennas, repeaters, or microcells on existing towers, buildings, structures, roofs, or walls, and not extending more than 10 feet from the same, and located no closer than 50 feet to an existing residence, or the installation of ground facilities less than 20 feet in height and located no closer than 50 feet to an existing residence, may be approved by DRB, provided the antennas, repeaters, or microcells meet the applicable requirements of this bylaw, upon submission of:

- A. An application for a zoning permit accompanied with a site plan, elevations, and a building plan (if it is to be mounted on an existing tower, building, structure, or roof).
- B. A report by a qualified engineer indicating the structure’s suitability for the telecommunications facility, and that the proposed method of affixed the antenna or other device to the structure complies with standard engineering practices. Complete details of all fixtures and coupling and the exact points of attachment shall be indicated.

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- C. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner on which the existing structure.

**1332 Application for Wireless Telecommunications Facilities not covered under Section 1331.**

An applicant for a permit must be a personal wireless provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, to the Administrative Officer at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation. No construction, alteration, modification (including the installation of antennas for new uses) or installation of any wireless telecommunications tower or facility shall commence without a conditional use approval first being obtained by the DRB and a Site Plan Review by the Development Review Board. In addition to the information otherwise required in the Westminster Zoning Bylaw, applicants for wireless telecommunications towers or facilities shall include the following supplemental information.

- A. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is a business, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.
- B. The name, address, and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
- C. The names and addresses of the record owners of all abutting properties, including those that fall within the property boundaries across a street or stream.
- D. A report from a qualified engineer(s) that:
  1. Describes the facility height, design, and elevation.
  2. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas.
  3. Describes the tower's proposed capacity, including the number, height, and type(s) of antennas that the applicant expects to accommodate.
  4. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures, or structures proposed by the applicant within 5 miles of the proposed site, including in New Hampshire, cannot reasonably provide adequate coverage and adequate capacity to the Town of Westminster as well as the intended service area. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable.
  5. Demonstrates that the applicant has analyzed the feasibility of using "repeaters" or microcells to provide coverage to the intended service area.
  6. Describes potential changes to those existing facilities or site in their current state that would enable them to provide adequate coverage.
  7. Describes the output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
  8. Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional coverage within the Town.

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9. Demonstrates the tower's compliance with the setback requirements of the Westminster Zoning Bylaw.
  10. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure.
  11. Includes other information requested by the DRB that is deemed necessary to evaluate the request.
  12. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
  13. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Administrative Officer at the time an application is submitted).
  14. To the extent required by the National Environmental Policy Act (NEPA) and the National Historic Preservation Act of 1966 (NHPA) as administered by the FCC, a complete draft or final report describing the probable impacts of the proposed facility. The applicant shall submit the Environmental Assessment to the DRB prior to the beginning of the federal 30-day comment period.
  15. A copy of the application or draft application for an Act 250 permit, if applicable.
  16. A copy of the terms of any easements associated with the tower or facility.
  17. Studies of collocation opportunities as required by Section 941.
  18. An itemized estimate of the current cost of complying with the requirements of Section 1362 ("Facility Removal").
  19. DRB may waive one or more of the application filing requirements of this section if they find that such information is not necessary for a thorough review of a proposed Facility.

**1333 Site Plan Requirements for Wireless Telecommunications Facilities not covered under Section 311 Site Plan Review.**

- A. In addition to site plan requirements found in Section 214 (B), site plans for wireless telecommunications facilities shall include the following supplemental information:
  1. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed facility site.
  2. Vicinity Map showing the entire vicinity within a 2500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed facility site parcel and all easements or rights-of-way needed for access from a public way to the facility.
  3. Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening, and roads.
  4. Elevations showing all facades and indicating all exterior materials and color of towers, buildings, and associated facilities.

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5. Computer generated photo simulations of the proposed facility showing the facility from all public rights-of-way and any adjacent property from which it may be visible. Each photo must be labeled with the line of sight, elevation, and the date taken imprinted on the photo. The photos must show the color of the facility and method of screening.
  6. If the proposed site is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
  7. Construction sequence and time schedule for completion of each phase of the entire project.
  8. Balloon or crane test: If requested by the DRB, the applicant shall fly a balloon or set up a crane (and provide photographic documentation of the balloon or crane test) on the date and time requested by the Development Review Board.
  9. Include any other information requested by the Administrative Officer; Development Review Board that they judge is necessary to evaluate the application.
- B. Site plans shall be drawn at a minimum at the scale of one inch equals fifty feet.
- C. The DRB may waive one or more of the application filing requirements of this section if they find that such information is not necessary for a thorough review of a proposed Facility.

**1334 Amendments to Existing Zoning Permit.** An alteration or addition to a previously approved wireless telecommunications facility shall require a new zoning permit when any of the following are proposed.

- A. A change in the number of buildings or facilities permitted on the site; or
- B. The addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

**SECTION 1340 REVIEW PROCESS.**

- A. Within 30 days of receipt of a complete application for historic review, the Administrative Officer shall refer the application for review by the DRB on the application.
- B. The DRB shall act to approve, approve with conditions, or disapprove an application within 45 days of the date the hearing is closed, and issue a written decision including findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E. of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 216 of this Bylaw.

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## **SECTION 1350 CRITERIA FOR APPROVAL.**

**1351 Technical Review.** DRB is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

### **1352 Collocation Requirements**

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

**1353 Access Roads and Above Ground Facilities.** Where the construction of new wireless telecommunications towers and facilities requires construction or improvement to access roads, to the extent practical, roads shall follow the contour of the land, and be constructed or improved within forest or forest fringe areas, and not in open fields. Construction of the access roads shall not cause erosion. Access driveways shall be gated, where appropriate, to limit public access to the Facility site. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area. The DRB may require that utility lines be buried.

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### **1354 Tower and Antenna Design and Screening Requirements.**

- A. The Development Review Board shall conclude that the proposed telecommunications tower have used designs, materials, colors, textures, screening, and landscaping, and have been located to blend the towers with their natural setting and built environment to the maximum extent possible. The least visually intrusive tower and facility shall be built.
- B. It is recognized that most towers are, by the nature of their design, readily visible and cannot be completely screened from view. Their usefulness requires line of sight capability and some height above tree lines and nearby buildings. Height and mass of towers shall not exceed that which is essential for the intended use and public safety.
- C. Towers, antennas, and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Administration (FAA), state, or federal authorities have dictated design requirements, including but not limited to color and lighting. Designs that imitate natural features may be required by the DRB in visually sensitive locations.
- D. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas, and tower-related fixtures shall be no more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding that the additional height is necessary in order to provide adequate coverage in the intended service areas 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.
- E. Protection of Prominent Ridgeline and Hilltops: Towers, antennas, and any necessary support structures shall be designed to avoid having an undue adverse visual impact on prominent ridgelines and hilltops. In determining whether or not a tower would have an undue adverse visual impact, the Development Review Board shall consider:
  - 1. The period of time during which the traveling public on a public highway would view the proposed tower;
  - 2. The frequency of the view experience by the traveling public;
  - 3. The degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
  - 4. Background features in the line of sight to the proposed tower that obscures the facility or makes it more conspicuous;
  - 5. The distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;
  - 6. The sensitivity or unique value of a particular view affected by the proposed tower;
  - 7. Significant disruption of a view shed that provides context to a historic structure or district on the National Register or to a scenic resource;
  - 8. Whether the tower violates a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area.

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### **1355 Tower Lighting, Signs, and Noise Generated.**

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

### **SECTION 1360 MAINTENANCE, INSURANCE AND REMOVAL.**

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

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

- A. The owner of the facility and tower shall annually, between January 15 and 30, file a declaration with the Town of Westminster Administrative Officer certifying the continuing safe operation of every facility and tower installed subject to these regulations. Failure to file a declaration shall mean that the facility and tower is not longer in use and considered abandoned.
- B. Abandoned or unused towers or facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the DRB. In the event that the tower or facility is not removed within 180 days of the cessation of operations at a site, the Town shall notify the owner and may remove the tower or facilities. Cost of removal shall be assessed against the property or tower owner.
- C. Towers and facilities which are constructed in violation of permit conditions or application representations shall be removed and disposed of and the site remediate within 180 days of notice of a violation by the Administrative Officer unless a time extension is approved by the DRB as a Conditional Use. In the event that the tower and facilities are not removed and disposed of and the site remediate within 180 days of notification of such a violation, the Town may remove and dispose of the tower and facilities and remediate the site. All costs for removal, disposal, and remediation as well as all legal costs shall be assessed against the property and/or tower owner.
- D. An owner who has failed to file an annual declaration with the Administrative Officer between January 15 and 30 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.
- E. The applicant shall, as a condition of conditional use approval, provide a financial surety bond payable to the Town of Westminster and acceptable to the DRB to cover the cost of removal of the facility and remediation of the landscape, should he above clauses be invoked.

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**1363 Maintenance Requirements.** The applicant shall maintain all facilities. Such maintenance shall include, but not be limited to painting, structural integrity, and landscaping. In the event the applicant fails to maintain the facility, the Town of Westminster may undertake such maintenance at the expense of the applicant or landowner.

**1364 Insurance Requirements.** The facility owner shall maintain adequate insurance on all facilities.

**SECTION 1370 ADMINISTRATION AND ENFORCEMENT.**

**1371 Enforcing Agent.** The Administrative Officer shall be the agent to the enforce the provisions of these regulations.

**END OF ARTICLE XIII**

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## **ARTICLE XIV: RIDGELINE PROTECTION OVERLAY DISTRICT**

### **SECTION 1410 AUTHORITY AND PURPOSE**

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

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

### **SECTION 1420 ESTABLISHMENT OF DISTRICT BOUNDARIES**

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

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

### **SECTION 1430 DEVELOPMENT PERMIT REQUIRED.**

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

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

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

- A. Agriculture and Forestry activities in compliance with "Acceptable Management Practices for maintaining Water Quality on Logging Jobs in Vermont" (published by Vermont Department of Forests, Parks and Recreation) are exempt from review, except as follows:
  - 1. Clearing of forests for the purpose of further development within a 5 year period.
  - 2. Landscaping and/or screening associated with any other uses or development.
- B. Additions, exterior alterations, accessory structures, and additions to accessory structures that the Zoning Administrator determines will not be visible from a town road due to screening by an existing structure on the same property or by topography, regardless of vegetation and/or forest cover.
- C. Uncovered decks attached to a one or two-unit dwelling.

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- D. Changes in use that do not involve any exterior alterations to a structure.

**SECTION 1440: APPLICATION REQUIREMENTS**

Application for a zoning permit shall be filed as set forth in Sections 214 (B) of this Bylaw.

**SECTION 1450: REVIEW PROCESS**

- A. Within 30 days of receipt of a complete application for water source protection, the Administrative Officer shall refer the application for review by the DRB.
- B. The DRB shall act to approve, approve with conditions, or disapprove an application within 45 days of the date the hearing is closed, and issue a written decision including findings, conclusions, any conditions of approval, and provisions for appeal to Environmental Court, in accordance with the Act and Section 215 E. of this Bylaw. Failure to issue a decision within the 45 day period shall be deemed approval and shall be effective the 46th day. The process by which an applicant asserts deemed approval is an appeal filed according to Section 216 of this Bylaw.

**1452 Pre-application.** Conference prior to the filing of an application: DRB and the applicant shall hold one or more pre-application conferences to exchange information and reach an understanding of the nature and scope of the proposal, municipal requirements, and quantitative data necessary for a preliminary application.

- A. For the purposes of pre-application discussions, the applicant shall file with the DRB sketch plans and basic site information. Such information shall first be filed with the Administrative Officer at least fifteen (15) days prior to a regularly scheduled meeting of the DRB. The DRB shall meet with the applicant at its next regularly scheduled meeting.
- B. Within thirty (30) days of the applicant's pre-application meeting with DRB, the DRB shall furnish the applicant with written comments and appropriate recommendations to inform and assist the applicant in the preparation of the ridgeline development application.

**1453 Development Plan Application and Review.**

- A. Within one year of the DRB's written pre-application conference comments the applicant shall, using the form prepared by the DRB, file a completed application to the Administrative Officer for approval by the DRB. Failure to do so within one year shall require resubmission of the pre-application information for reconsideration.
- B. A completed ridgeline development plan application shall be filed with the Administrative Officer at least thirty (30) days prior to a regularly scheduled meeting of the DRB. The DRB shall meet with the applicant at its next regularly scheduled meeting.
- C. Within forty-five (45) days of completion of the development plan review meeting (s), the DRB shall approve, modify and approve, or disapprove the development plan and the grounds for any modifications required or disapproval shall be set forth in written notice of decision.
- Failure of the DRB to act within forty-five (45) days shall constitute an approval of the preliminary plan. Copies of the notice of decision of the DRB shall be sent to the applicant within the forty-five (45) day period.

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## SECTION 1460: CRITERIA FOR APPROVAL

**1461 Dimensional Standards.** All dimensional standards shall be as set forth for the underlying district.

**1462 District Standards.** Development within the RPOD shall comply with the following:

- A. **Placement of Structures.** The highest feature of all structures shall be located a minimum of 20 feet below the nearest identifiable ridgeline unless the DRB determines that an alternative location with less than the 20 foot minimum on the parcel would be less visible and better comply with these standards. However, this standard shall not prohibit development of any preexisting lot that is entirely within the 20 vertical feet of the nearest identifiable ridgeline. In such case, the structure shall be located in such a way as to minimize adverse visual impact.

Structures shall be situated so that the height of any structure will not visually exceed the height of the tree canopy adjacent to or serving as the visual backdrop for the structure.

B. **Development shall not:**

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

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

**SECTION 1470: CONDITIONS OF APPROVAL** The DRB shall consider the location of proposed structures relative to existing vegetation, and

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

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

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

**END OF ARTICLE XIV**

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## ARTICLE XV DEFINITIONS

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

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

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

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

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

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

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

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

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

***Adequate Coverage:*** Coverage for wireless telephony is “adequate” within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that most of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and

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without calls being dropped. In the case of cellular communications in a rural environment, this would be signal strength of at least -90 dbm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

**Administrator:** The Federal Insurance Administration (when used in Article VII, Flood Hazard Areas).

**Administrative Determination:** Any decision made by the Administrative Officer or an Assistant Administrative Officer.

**Adverse Visual Impact:** A condition that results from development which stands in contrast to the surrounding area, is incompatible with surrounding features in terms of size, color, and height, and/or which serves as a focal point when viewed from a vantage points.

**Affordable Housing:** Housing that a family of four, with an income at or below 80 per cent of the median income level for the county, can afford without spending more than 30% of its income on monthly housing costs; housing costs for renters include rent and utilities, and condominium association fees, while housing costs for homeowners include mortgage payments, insurance, property taxes, and condominium association fees.

**Agricultural Land:** Land dedicated to agricultural uses.

**Agriculture, Agricultural Use:** synonymous terms for the use of land for raising livestock, agricultural or forest products, including farm structures and the storage of agricultural products raised on the property. Agricultural uses include, but are not limited to, production of crops, vegetables and eggs; raising of cattle, sheep, fowl and similar animals; dairying; orchards; and maple syrup products. In addition, the sale, whether to the general public or not, of agricultural products, at least 50% of which are grown or grown and processed (primary processed) on the property, shall be considered an agricultural use. For example, a farmer selling goods grown on his own land would be an agricultural use, whereas a farm stand which brings in more than half of its saleable goods from other farmers would be considered a commercial use.

**Alteration:** Structural changes, rearrangement, change of location or addition to a structure; other repairs and modification in structure equipment.

**Animal:**

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

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

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

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

**Applicant:** The owner of land proposed to be subdivided or his/her representative. Any party with a legal interest in the property may apply in cooperation with the owner of the property.

**Approval:** The form of approval shall be a written resolution prepared by the DRB and attached to the subdivision application, or in the event that the DRB should fail to act with the forty-five (45) day time limit specified in Article IV, Section 3 of these Regulations, certification of such failure

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to act by the Town Clerk, and recording of the approved application and subdivision plat with the Town Clerk, in accordance with the conditions set forth in Article IV, Section 3 of this Bylaw.

***Aquifer:*** A consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have the ability to receive store or transmit water.

***Automated Teller Machine (ATM):*** An automated device that performs banking or financial functions at or in a location remote from the controlling financial institution.

***Automobiles Service Station and Repair Garage:*** Land or structures used for either or both the sale of petroleum products, motor fuel, oil or other fuel for the propulsion of motor vehicles and the maintenance, servicing, repairing or painting of vehicles.

***Automobile Service Station:*** Land or structures used for the sale of petroleum products, motor fuel, oil or other fuel for the propulsion of motor vehicles, which includes facilities for lubrication, washing or servicing motor vehicles. A service station is not a sales agency for any type of motor vehicle.

***Authorized Agent or Representative:*** A person or group of persons, who have been duly authorized, in writing filed with the DRB, by the applicant to act in his or her behalf.

***Bar:*** A room or establishment where the sale and consumption of alcoholic beverages are the primary activities.

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

***Base Flood:*** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

***Bed and Breakfast:*** A private owner occupied business with 4 - 7 guest rooms where overnight accommodations and a morning meal are provided to transients generally staying no more than 20 days for compensation and where the bed and breakfast is operated primarily as a business.

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

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

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

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

**Buffer:** Any space between adjoining land uses or between a land use and a natural feature, which is intended and designed to reduce the impact of one use on the other use or feature. Buffers may include open space, woodland, landscaped areas, undisturbed vegetated areas, or other types of physical, visual or sound barriers.

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

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

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

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

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

**Camp:** A lot on which is located a single cabin, travel trailer, recreational vehicle, shelter, houseboat or other recreation accommodation for seasonal or temporary living, and which meets all standards for residential development in the district, excluding mobile homes.

**Campground:** An area that is intended, designed or improved for occupancy by transients using tents, recreational vehicles, motor homes, or mobile trailers for dwelling, lodging, or sleeping purposes and is held out as such to the public.

**Cemetery:** Property used for interring the dead.

**Child Care Facility:** A facility where the owner or operator is to be licensed or registered by the state for child care serving more than six full-time and four part-time children, as defined in 33 V.S.A. §4902(3)(A).

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***Child Care Home:*** A home where the owner is to be licensed or registered by the State for child care of up to six full-time children and four part-time children. See 33 V.S.A. §4902(3)(A) for important details.

***Clinic:*** An office building used by members of the medical profession for the diagnosis and outpatient treatment of human ailments.

***Club:*** A building or use catering exclusively to club members and their guests for recreational and/or social purposes and not operated primarily for profit. Includes YMCA, YWCA, fraternity, sorority, lodge, religious and similar clubs that may have dormitory accommodations.

***Color Rendering Index:*** A figure of merit, on a scale of 0 to 100, used by manufacturers of fluorescent, metal halide, and other non-incandescent lighting equipment to describe the visual effect of the light on colored surfaces.

***Commence Construction:*** The start or preparations required for the permitted use.

***Commercial Use:*** Activity carried out for pecuniary gain. This definition specifically excludes Agricultural Uses with more than 50% of sales derived from items grown or made on the farm. See also, Agriculture.

***Completed Construction:*** When the permitted use can occupy the building.

***Community Care Facility:*** A residential structure used to provide a home-like environment and provide specialized care or supervision for persons who do not need the more intensive level of care provided by a hospital or institution. Community care would include limited medical services or specialized counseling for treatment of addictions or supervision during a short-term re-adjustment to independent self-care. The home-like environment limits the number of persons sleeping overnight in such a facility.

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

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

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

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

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

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

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

**Conservation Restrictions:** See Covenants.

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

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

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

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

**Covenants:** A restriction on the use of land usually set forth in the deed. The restrictive covenant usually runs with the land and is binding upon subsequent owners of the property.

**Coverage:** That portion of a lot that is covered by structures and man-made improvements on the ground surface, such as paving, that prevent the absorption of storm water.

**Creation of Two Lots from One Lot:** The division of a lot into two lots for single family residential use. For the purposes of this Bylaw the creation of two lots from one lot is not considered subdivision, but such action is subject to site plan review as provided in to this Bylaw.

**Cul de Sac:** A road intersecting another road at one end and terminated at the other end by some form of vehicular turnaround.

**Curb Cut:** A curb cut is an inclined cut in the edge of a sidewalk to permit vehicular access to a driveway, garage, parking lot or loading dock. In lower- and medium-density residential districts, the maximum width for a curb cut is 12 feet; 15 feet for paired curb cuts. There must be a minimum width of 16 feet between curb cuts to ensure adequate curbside parking.

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**Daycare Facility:** Any place operated under a state day care facility license as a business or service on a regular or continuous basis, whether for compensation or not. Its primary function is protection, care and supervision of children under sixteen (16) years of age outside their homes for periods of less than twenty-four (24) hours a day by a person other than a child's own parent, guardian or relative.

**Dedication:** The formal acceptance by the Town of Westminster of title to streets, easements, or land to be used for public purpose.

**Demolition:** The destruction and physical removal of any structure or portion of a structure.

**Demolition By Neglect:** Any neglect in the maintenance and repair of a structure which results in the deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows; the lack of adequate waterproofing; or the deterioration of interior features which will or could result in permanent damage, injury, or loss of foundations, exterior walls, roofs, chimneys, doors, or windows or so as to create or permit a hazardous or unsafe condition to exist.

**Density:** Density refers to the intensity of development within a zoning district. In residence districts, density is measured by the maximum number of dwelling units permitted on a zoning lot. The maximum number of units is calculated by dividing the maximum residential floor area permitted on a zoning lot by the applicable factor for each zoning district. (Fractions equal to at least .5 are considered one unit.) The factors for each district are approximations of average unit size plus allowances for any common areas. Special density regulations apply to mixed buildings that contain both residential and community facility uses.

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

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

**DRB:** The Westminster Development Review Board of the municipality of Westminster created under 24 VSA chapter 117, subchapter 2.

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

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

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

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

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

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

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

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

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

***Easement:*** The authorization by a property owner of any designated part of his/her property for the use by another for a specified purpose.

***Easement, Conservation:*** An easement intended to protect, preserve and conserve a natural feature, which shall prohibit the construction of any buildings or structures within the easement and shall prohibit the removal of all vegetation, except that which is necessary for protecting the public health and safety and/or according to any approved forest management plan, where required.

***Easement, Utility:*** An easement provided for entities and companies providing sanitary sewer, water, storm water, gas, electric, telecommunication, cable television and other public utility services.

***Effective Date:*** The date immediately after the appeal period has expired when the permit may be actively initiated.

***Excavation/Quarry:*** The activity and location of extraction of soil, sand, gravel, stone and/or other materials. These activities usually involve heavy equipment and may cause high levels of noise and dust. Filling of land greater than the above shall require a site plan review in accordance with Section 311.

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

***Expansion to an Existing Manufactured Home Park or Subdivision:*** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

***Family:*** One or more persons occupying a single dwelling unit and living as a single household unit.

***Farm:*** Lands which are used for any purpose stated in 10 V.S.A. §6001(22), which are owned or leased by a person engaged in the activities stated in 10 V.S.A. §6001(22), if the lessee controls the leased lands to the extent that they would be considered to be the lessee's own farm. Indications of such control include whether the lessee makes the day-to-day decisions concerning the cultivation of the leased lands, subject to incidental conditions of the lessor, and whether the lessee works the leased lands during the lease period. See Agriculture.

***Farm Products:*** Products that are principally produced or grown on a farm, and which are stored, prepared or sold at the farm.

***Principally Produced on a Farm:*** Products grown or produced on a farm, and more than 50% (by volume or weight) of the agricultural products which result from the activities described in 10 V.S.A. §6001(22)(A) - (D).

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

***FIA:*** Federal Insurance Administration.

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

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

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

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

**Flood Insurance Rate Map (FIRM):** An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**Flood Proofing:** Those methods that are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floor Area:** The floor area of a building is the sum of the gross area of each floor of the building, excluding mechanical space, cellar space, floor space in open balconies, elevators or stair bulkheads.

**Foot-candle:** A unit of measure for illuminance. A unit of illuminance on a surface that is within a one (1) foot radius from a uniform point source of light of one (1) candlepower and equal to one (1) lumen per square foot.

**Footprint, Building:** Area of the building that covers the ground plus the roof overhang.

**Full Cut-off Fixture:** A luminaire or light fixture that by design of the fixture housing, does not allow any light dispersion or direct glare to shine above a 90-degree, horizontal plane from the base of the fixture.

**Fully Shielded Fixture:** A light fixture constructed and mounted such that no light rays are emitted, either directly from the lamp or indirectly by reflection or refraction from any part of the luminaire above the horizontal plane running through the lowest point of the fixture where light is emitted.

**Funeral Home:** A structure used for preparation of the deceased for burial, for display of the deceased and for ceremonies connected therewith before burial or cremation.

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**Garage Sale:** Any sale entitled “garage sale,” “lawn sale,” “moving sale,” “rummage sale” or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large can be aware of such sale. More than six days of sales within a 12-month period is considered commercial retail sales for the purposes of this ordinance. See yard sale.

**Garage, Repair:** Any structure, premises and/or land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

**Garden/Farm Supply or Nursery:** A retail business or commercial activity concerned with the sale of tools, small equipment, plants, shrubbery, and related goods used in gardening or farming. Related goods are defined as only those used on the plant or in its soil to preserve the life and health of the plants sold (e.g., fertilizers, fungicides, peat moss and mulches).

**Glare:** Stray, unshielded light striking the eye that may result in (a) nuisance or annoyance such as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; or (d) reduction of visual performance.

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

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

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

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

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

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

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

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

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

**Historic Structure:** Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

**Home Business:** A business use conducted within a residence or its accessory structures where the resident is the principal proprietor. In addition, two employees who are not family members are permitted.

**Home Occupation:** Any use customarily conducted entirely with a dwelling or accessory structure thereto and carried on by the occupants thereof, which use is clearly incidental and secondary to the use for dwelling purposes. It must not change the character of the dwelling or neighborhood.

**Homeowners Association:** A community association that administers and maintains common property and common elements.

**Horizontal Illuminance:** The measurement of brightness from a light source, usually measured in foot-candles or lumens, which is taken through a light meter's sensor in a horizontal position.

**Hospital:** See Health Care Facility.

**Hotel:** See Motel.

**Housing, Senior:** Housing that is designed for, and is occupied primarily by, those persons fifty-five (55) years of age or older.

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**Impervious Surfaces:** Any material which reduces or prevents absorption of storm water into previously undeveloped land. Impervious surfaces include graveled or paved streets, roads, parking areas or driveways, as well as structures and other man-made structures within a PUD.

**Impoundment:** A body of water, such as a pond, confined by a dam, dike, floodgate or other barrier.

**Improvement:** Street pavements or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, drains, street lights, flood control and drainage facilities, utility lines, landscaping, parks and other related matters normally associated with the development of undeveloped land into building sites.

**Industry, Heavy:** A use engaged in:

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

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

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

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

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

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

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

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**Land Development:** See Development.

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

**Level of Service:** The operating conditions that a driver will experience while traveling on a particular street or highway, including frequency of stops, operating speed, travel time, traffic density.

**Light Trespass:** Light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

**Lighting Fixture:** See luminaire. An assemblage of ballast, lamp receptacles, wiring, reflectors, refractors, prisms, lenses, etc., all contained within a single housing or casing, and designed to be mounted as a single unit. A fixture may be designed to accept one (1) or more lamps. One (1) or more fixtures may be mounted to a single support.

**Lighting, Festoon:** A method of illuminating a structure with a group of incandescent bulbs hung or strung overhead or used to outline a structure or any part thereof.

**Limited Outdoor Recreation:** See Recreation, Outdoor.

**Loading Space:** The off-street space, used for the temporary location of licensed motor vehicles for loading and unloading purposes.

**Locally Important Farmland:** Agricultural land which meets the threshold criteria set forth by the Westminster Land Evaluation Site Assessment system.

**Lot Area:** The total area within the property lines, excluding any part thereof lying with the boundaries of a public street or proposed Public Street.

**Lot Coverage:** The total at grade area or footprint of all structures and impervious surfaces including but not limited to structures, parking areas, walkways, drives, etc.; expressed as a percent of the total lot area.

**Lot Frontage:** The length of any lot line abutting a public road or private right of way, measured at the street right-of-way line.

**Lot Line Adjustment:** The relocation of a common property boundary where an additional lot is not created and where an existing lot is reduced in size by the adjustment which complies with the zoning district.

**Lot Merger:** The combination of two or more lots into one single lot pursuant to a single deed. See definition of Lot above. Also known as “lot line adjustment”.

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**Lot, Corner:** A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135). The front lot line for corner lots shall be found from the line parallel to the front of the structure or the street used to identify the lot.

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

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

**Lounge:** See Bar.

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

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

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

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

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

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

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

**Manufacturing:** Any process whereby the nature, size or shape of articles or raw materials is changed, or where articles are assembled and packaged.

**Medical Office:** An office used by a member of the medical profession for the conduct of that profession. See also Office and Health Clinic.

**Metal-Halide:** A high intensity discharge lamp where the light is produced by radiation from metal-halide vapors.

**Mini-Mart:** A small retail establishment usually located within or associated with another use that offers for sale convenience goods, such as prepackaged foods items, tobacco, periodicals, and other household goods.

**Mini-Storage:** A structure containing separate storage spaces of varying sizes leased or rented on an individual basis for the enclosed storage of such items including, but not limited to, inactive business records, household goods, recreation vehicles, and antique cars, and excluding the storage of hazardous, toxic, explosive or otherwise dangerous materials. Spaces shall not be used for any retail, assembly, or manufacturing uses, or as a music rehearsal hall.

**Minor Repair:** In reference to a structure in the Historic Preservation Overlay District, the replacement of a minor portion (fascia), door jam, small rotten area, or damaged area, to be replaced in kind.

**Minor Subdivision:** any residential subdivision containing more than two and less than four lots, and which does not include any of the following: any new road in excess of eight hundred (800) feet in length, any multifamily housing project, planned residential development, or a series of minor subdivisions of a tract of land occurring over a period of five years creating four or more lots.

**Mixed Building:** A building in a commercial district used partly for residential use and partly for community facility or commercial use. A building that contains any combination of uses is a mixed-use building. When a building contains more than one use, the maximum number of uses permitted on the zoning lot is two with a conditional use review, more if allowed by PUD review.

**Mobile Home Park:** A parcel of land under single or common ownership or control which contains or is designed, laid out or adapted to accommodate two or more mobile homes.

**Mobile Home:** A structure, transportable in one or more sections, which is at least eight (8) feet in width and thirty-two (32) feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities.

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

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

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

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

**New Construction:** Means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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

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

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

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

**Nursery School:** See Day Care Facility.

**Office Building:** A structure used primarily for conducting the affairs of one or more businesses, professions, services, industries, studios or governmental agencies.

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

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**Office, Residence:** The portion of one's residence used as a business, professional, service, industrial or governmental office. See Home Occupation.

**Office:** A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government, provided that no merchandise or merchandising services are sold on the premises, except such as are incidental or accessory to the principal permitted use.

**Open Space:** Land not occupied by structures, buildings, roads, rights-of-way, recreational facilities and parking lots.

**Open Space, Common:** Land or area of water or combination of land and water within a PUD reserved for the use and enjoyment of the PUD residents and owned and maintained in common by them through a funded trust or homeowners or condominium association. Common open space does not include street rights-of-way or off street parking areas.

**Open Space, Usable:** Land area devoted to plantings (natural and landscaped), patios, walkways and recreational areas, excluding all land covered by impervious surfaces, but including any land so determined by the Development Review Board under the criteria of Section 424c.

**Overlay District:** An overlay district is a district superimposed upon another district which supersedes, modifies or supplements the underlying regulations. Limited height districts and commercial overlay districts are examples of overlay districts.

**Owner:** Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who alone, jointly or severally with others hold(s) legal or equitable title to any real property.

**Owner Occupied:** Where owner occupancy is required by this ordinance, owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year.

**Parcel:** Any contiguous land owned or controlled by a person(s). Tracts or lots of land owned by a person(s) which have in common one or more points on any boundary or which are divided only by easement or interest consisting of less than fee simple ownership shall be deemed to be contiguous land for purposes of these Regulations except that:

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

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

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

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

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

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

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

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

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

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

**Public Assembly Facility:** Use or structure primarily for gatherings of groups of people for education, worship, or the care of individuals, excluding uses which are otherwise specifically defined under Group home, Residential Care Home, Therapeutic Community Residence Health Care Facility and Day Care Facility.

**Public:** Open to common use, whether or not under public ownership.

**Public Improvement:** Any improvement which shall be owned or maintained by the Town of Westminster, the Town School District, the Town Fire District, or Village Trustees.

**Public Utility:** A business organization performing some public service and subject to governmental utility regulations.

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**Public Utility Facility:** Structures used by utilities in the generation, distribution or collection of their products, including but not limited to electrical generating and transforming substations; satellite dish or antenna receivers and senders; pumping facilities; gas tanks; and similar mechanisms. Poles, cables, pipes, mains and exchange boxes occupying no more than fifteen (15) square feet are not included.

**Quarry:** See Excavation/Quarry.

**Quasi-Judicial:** Having a partly but essentially judicial character by possession of the right to hold hearings on and conduct investigation into items dealing with rules and regulations and to make decisions in the general manner of courts. The Development Review Board is quasi-judicial.

**Recreation:** Land uses designed and used for play, relaxation and amusement.

**Recreation, Indoor:** Recreation uses conducted inside a building. Includes an indoor bowling alley, theater, table tennis facility, pool hall, skating rink, gymnasium, swimming pool or similar place of indoor recreation

**Recreation, Limited Outdoors:** Recreation uses conducted outside a building which require minimal development. Includes facilities as cross-country skiing centers, hiking, picnicking and other similar, low-intensity recreational uses.

**Recreation, Outdoor:** Recreation uses conducted outside a building. Includes a trap, skeet and/or archery range, golf course, swimming pool, amusement park, outdoor concert area, tennis court, skiing facility or similar place of outdoor recreation.

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

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

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

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

**Residence:** See Dwelling.

**Residential Care Home:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three (3) or more adults unrelated to the home manager. Personal care is defined as assistance with meals, dressing,

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movement, bathing, grooming or other personal needs, or general supervision of physical well-being, including nursing overview, supervision and administration of medication, but not full-time nursing care. Pursuant to Section 4409 of Chapter 117, 24 V.S.A., a Residential Care Home serving not more than eight (8) persons who are developmentally or physically handicapped shall be considered by right to constitute a permitted single-family residential use of property. See also Group Home.

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

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

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

**Re-subdivision:** A change of a recorded subdivision plat that affects any road layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such other change that affects any map or plat legally recorded.

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

**Ridgeline:** a line at ground level located at the highest elevation of a connected series of hills and mountains.

**Right-of-Way, Private:** Any right of way that is not publicly owned.

**Right-of-Way, Public:** A right of way under the control of the public, established by local, state or federal proceedings for the purpose or which has been dedicated by the owner of the land and accepted by the proper authorities.

**Right-of-Way:** A public or private area that is reserved, through ownership, easement or deed restriction, solely for a highway, trail, water line, or other passageway or for utility infrastructure.

**Riverine:** Relating to, formed by or resembling a river (including tributaries), stream, brook, etc.

**Road:** A highway, street or other way which exists for vehicular travel, exclusive of a driveway serving no more than one single family residential use or lot. The word "road" shall mean the entire right-of-way.

**Road, Private:** A private way intended for vehicular traffic that is not dedicated to the public.

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**Road, Public:** A public way, typically bounded between property lines, intended for vehicular traffic, dedicated to the public and improved to public standards.

**Roadside Stand:** A temporary structure not affixed to the ground and which is readily removable in its entirety, that is used solely for the display and sale of farm products, and which is less than 200 square feet in area.

**School, Private:** Elementary through high school, college and university education, including accessory uses, operated by a parochial or private institution. See Public Assembly/Facility.

**School, Public:** A town or state facility for public education. See Public Assembly/Facility.

**Screen(Ing):** A method of visually shielding one structure, space or use from another structure space or use with vegetation, fencing, walls, berms, or other natural or man-made landscape elements.

**Setback:** The minimum distance by which any structure must be separated from a right-of-way, lot line or wetland. The open, unobstructed area required to be provided between the furthestmost projection of a building and the adjacent property line. See Yard, Front, Rear & Side Setbacks.

**Shopping Center:** A group of commercial establishments planned, developed and managed as a unit with off street parking provided on the property.

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

**Site Plan:** The plan for the development, including change in use, of one or more lots, prepared in accordance with the requirements of Section 214 of this Bylaw.

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

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

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

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**Start of Construction:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

**Street:** A public traveled way including the land between street lines, whether improved or not, the right-of-way of which is dedicated by a deed or record, or a private way devoted to public use. The word “street” shall include the entire width between property lines of every way used for vehicular and pedestrian travel which has become public by authority of the law, and such ways on public places other than highways as the public is permitted to use for vehicular and pedestrian traffic. Streets shall be further classified as follows:

- a. Arterials: Limited access highways moving large volumes of traffic between major points within or outside of the city.
- b. Major Collectors: Interconnect the neighborhood of the city, other adjacent communities and the downtown to the neighborhoods.
- c. Minor Collectors: Gather traffic from local streets and feed it to major collectors.
- d. Local Streets: Streets used primarily for direct access to individual properties.
- e. Alleys: Ways which provide access to the back or side of properties abutting on a street and used primarily for providing services to such properties.
- f. Cul-de-sac: The turnaround at the dead end of a local street.

**Street Classification:** Hierarchy of streets based on use and connectivity. See Street.

**Streetscape:** The physical elements that combine to create a public street and together define its character, including but not limited to, building frontages, landscaping, signs, and lighting.

**Structure:** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as

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described in (c) of this definition, or a gas or liquid storage tank.

**Structure, Accessory:** A subordinate structure detached from but located on the same lot as a principal structure. The use of an accessory structure must be identical to, or accessory to, the principal structure. Examples: garages, woodsheds, etc.

**Structure, Secondary:** A subordinate structure detached from but located on the same lot as a principal structure for the purposes of conducting a secondary use.

**Structurally able:** The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

**Studio:** A structure or portion of a structure used as a place of work by an artist, photographer, or artisan. See Professional Office.

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

**Special Flood Hazard Area:** The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

**Subdivider:** Any person who shall lay out for the purpose of transfer of ownership or right to use any subdivision or part thereof. The term shall include an applicant for subdivision approval.

**Subdivision:** The division of a lot, tract, or parcel of land into two or more lots, tracts or parcels or other divisions of land. For the purposes of this regulation, see definitions of major and minor subdivisions and the creation of two lots from one lot.

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

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

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

**Substantially Completed Construction:** The point at which the permitted use of a project may be safely started.

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

**Temporary Structures:** A building or structure intended for removal or demolition within a prescribed time.

**Therapeutic Community Residence:** A transitional facility providing individualized treatment to three or more residents in need of a supportive living arrangement to assist them in their efforts to overcome a major life adjustment problem, such as alcoholism, drug abuse, emotional disorders, mental illness, family dysfunctions and abuse, and delinquency. Therapeutic community residences tend to be small and characterized by a sharing of common life.

**Trailer:** A vehicle capable of being used as a seasonal sleeping or living quarters, not exceeding three hundred (300) square feet in floor area, whether self-propelled or towed, or a camper body mounted on a motor vehicle. Trailer shall also include any vehicle that may be towed or used for carrying goods, equipment, machinery or recreation vehicles, or as a site office. See Camp

**Trailer Camp:** See Campground

**Tree Caliper:** Caliper Measurement of the trunk taken six inches above ground up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at 12 inches above ground up until the tree is considered too large to transplant.

**Tree Diameter:** Diameter Measurement of the trunk shall be taken at 4.5 feet above ground also known as DBH (diameter Breast Height). This measurement is used to determine size for trees.

**Truck stop:** Any structure, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities solely for the use of truck crews.

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**Trucking Terminal:** An area and structure where cargo is stored and where trucks load and unload cargo on a regular basis.

**Town Plan:** A plan adopted pursuant to 24 VSA, Section 4384 and 4385.

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

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

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

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

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

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

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

**Use, Pre-existing:** The use of a parcel or structure at the time of the enactment of this Bylaw.

**Use, Pre-existing Non-conforming:** A use lawfully occupying a parcel or structure on the effective date of this Bylaw and that does not conform to the use regulations of the district in which it is located, as defined in this Bylaw.

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

**Use, Primary:** The main use to which the parcel is devoted and the primary purpose for which the premises exists.

**Use, Residential:** The use of a structure as a one-family, two-family or multiple-family dwelling. Includes residential accessory uses and structures.

**Use, Secondary:** A use that is conducted on the same premises as a primary use, and which meets the requirements established in Section 614 of this Bylaw which is not customary and is incidental to the primary use, is a secondary use. Example: the renting of the third floor of a primarily retail-use structure for dwelling purposes. The renting of an apartment or any second dwelling unit on a lot which contains a single-family dwelling as a principle use, however, does not constitute a secondary use. Instead, such a use on a lot would be considered a multi-family use which, in most districts, is a permitted primary use.

**Utilities, Private:** This term shall include telephone, cable, television, electric light and power, and gas lines, wind and solar power systems, water and sewage systems not owned or operated by the Town, whether installed on, above, or beneath the surface of the ground located entirely within the lot being serviced.

**Vantage Point:** The location on a public or private road from which a viewer sees a ridgeline which has been identified as being within the ridgeline protection overlay district as defined in this Bylaw.

**Variance:** A variance is a discretionary action by the Development Review Board which grants relief from the provisions of this Bylaw to the extent necessary to permit a reasonable or practical use of the land. A variance may be granted, after a public hearing, when unique conditions on a specific parcel of land would cause the property owner practical difficulty and undue hardship if it were developed pursuant to all applicable provisions. However, the scope of a variance is limited by state law.

**Veterinary Clinic:** The use of structures and the property on which they are located for the care of animals, including boarding, major surgery and all other veterinary services.

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

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**Water Course:** A natural or artificial open channel in which a flow of water occurs, either continuously or intermittently (with some degree of regularity). Such flow must be in a definite direction and cover a prescribed area.

**Waiver:** Relief granted from a specific dimensional standard or requirement as authorized by this Bylaw.

**Waiver of Development Rights:** Any easement, restrictions, covenants or condition attached to a deed and running with the land, wherein the right to certain types of development of a parcel or parcels is waived.

**Walkway:** A passage designed for use by pedestrians.

**Warehousing:** Facilities for handling freight and/or goods for daily use or storage, with or without maintenance facilities.

**Watershed:** The land areas from which water drains to a given point; the drainage basin in which the subdivision is located or that land whose drainage is affected by the subdivision.

**Wetland:** Those areas of the State that are inundated by surface or groundwater with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lark overflows, mud flats, bogs, ponds and vernal pools, but exclude such areas as grow food or crops in connection with farming activities.

**Wildlife Refuge:** An area set aside for the conservation of plants, animals and general environment within it. These are noncommercial areas usually without any structures on them. A single parking area and walking trails are characteristic of a wildlife refuge.

**Winery:** A processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar non-distilled spirits. Such commercial use includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.

**Wireless Telecommunications Facility:** All equipment (including repeaters) and the locations of equipment with which a telecommunications provider transmits and/or receives the waves which carry their services and their support structures. This facility may be sited on one or more towers or structure(s) either owned by the provider or owned by another entity.

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**Wetland:** Those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated hydric soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

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

**Yard, Front:** A space extending across the full width of the lot between any structure and the street (front lot) line, and measured perpendicular to the structure at the closest point to the street (front lot) line.

**Yard, Rear:** A space extending across the full width of the lot between the principal structure and the rear lot line, and measured perpendicular to the structure to the closest point of the rear lot line.

**Yard, Side:** A space extending from the front yard to the rear yard between the principal structure and the side lot line, and measured perpendicular to the structure to the closest point to the side lot line.

**Yard Sale:** A temporary event for the surplusing of more than three unwanted items as an accessory use to a residence or business, in which the event does not exceed 3 days in duration or occur more than three times per calendar year. A yard sale is considered to be occurring whenever goods are on display with the clear intent for public viewing and purchase, and/or there is a sign that announces or publicizes a yard sale. The term “yard sale” includes garage sales, patio sales, estate sales, and moving sales. “Yard sales” do not include flea markets, junkyards, second hand stores, auction houses, and yard sale events not meeting the terms of this definition. Sales in excess of the above criteria are considered a commercial use.

## END OF ARTICLE XV

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# MAPS