

**ZONING REGULATIONS  
TOWN OF WEST WINDSOR, VERMONT  
Table of Contents**

**ARTICLE I**

ENACTMENT, PURPOSE, AMENDMENTS AND EFFECTIVE DATE ..... 4

- Section 1.1 Enactment ..... 4
- Section 1.2 Purpose ..... 4
- Section 1.3 Application of Regulations..... 4
- Section 1.4 Amendments..... 4
- Section 1.5 Severability..... 5
- Section 1.6 Effective Date..... 5
- Section 1.7 Exemptions..... 5

**ARTICLE II**

ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAPS ..... 7

- Section 2.1 Establishment of Zoning Districts..... 7
- Section 2.2 Zoning Map..... 7
- Section 2.3 District Uses and Standards ..... 7
- Section 2.3-1 Primary Growth -Village ..... 8
- Section 2.3-2 Secondary Growth - Residential ..... 9
- Section 2.3-3 Rural Residential ..... 10
- Section 2.3-4 Resort/Residential ..... 11
- Section 2.3-5 Resort/Conservation PUD ..... 12
- Section 2.3-6 Light Industrial/Commercial ..... 13
- Section 2.3-7 Conservation ..... 14

**ARTICLE III**

GENERAL PROVISIONS ..... 15

- Section 3.1 Applicability ..... 15
- Section 3.2 Access and Frontage Requirements..... 15
- Section 3.2-1 Driveway Standards ..... 16
- Section 3.3 Conversion and Changes of Use..... 16
- Section 3.4 Equal Treatment of Housing ..... 17
- Section 3.5 Erosion Control and Development on Steep Slopes ..... 17
- Section 3.6 Existing Small Lots..... 17
- Section 3.7 Height Requirements ..... 18
- Section 3.8 Lot and Yard Requirements ..... 19
- Section 3.9 Nonconforming Uses and Nonconforming Structures..... 19
- Section 3.10 Open Storage of Junk and Vehicles..... 21
- Section 3.11 Parking and Loading Requirements..... 21
- Section 3.12 Performance Standards ..... 22
- Section 3.13 Protection of Natural Resources ..... 22
- Section 3.14 Rivers, Streams & Wetlands ..... 23

West Windsor Zoning Regulations

Section 3.14-1 Bridges & Stream Crossings ..... 24  
Section 3.15 Signs ..... 24  
Section 3.15-1 Off-Premises Signs ..... 24  
Section 3.15-2 On-Premises Signs..... 24  
Section 3.16 Temporary Structures ..... 25  
Section 3.17 Water Supply and Wastewater Disposal ..... 25

**ARTICLE IV**

**SPECIFIC USE STANDARDS**..... 26  
Section 4.1 Accessory Dwelling Units ..... 26  
Section 4.2 Accessory Structures/Uses..... 26  
Section 4.3 Agriculture and Forestry Use ..... 26  
Section 4.4 Campers & Recreational Vehicles ..... 27  
Section 4.5 Child Care Home ..... 27  
Section 4.6 Child Care Facilities..... 27  
Section 4.7 Extraction of Mineral Resources ..... 27  
Section 4.8 Fences & Walls..... 28  
Section 4.9 Group & Residential Care Homes ..... 29  
Section 4.10 Home Business ..... 29  
Section 4.11 Home Occupation..... 30  
Section 4.12 Landfill ..... 30  
Section 4.13 Light Industry..... 30  
Section 4.14 Low-impact Non-residential Use..... 31  
Section 4.15 Mixed Uses..... 31  
Section 4.16 Mobile, Modular, and Prefabricated Homes ..... 31  
Section 4.17 Mobile Home Park..... 32  
Section 4.18 Multi-family Dwellings..... 32  
Section 4.19 Ponds ..... 32  
Section 4.20 Public Facilities..... 33  
Section 4.21 Ramps ..... 34  
Section 4.22 Storage of Flammable Fluids ..... 34  
Section 4.23 Swimming Pools..... 34  
Section 4.24 Two-family Dwellings..... 34  
Section 4.25 Wireless Telecommunication Facilities ..... 35

**ARTICLE V**

**DEVELOPMENT REVIEW** ..... 38  
Section 5.1 Site Plan Review Application Requirements ..... 38  
Section 5.2 Site Plan Review ..... 38  
Section 5.3 Conditional Use Review ..... 40  
Section 5.4 Planned Unit Development ..... 41

**ARTICLE VI**

ADMINISTRATION, ENFORCEMENT, AND APPEALS ..... 46

- Section 6.1 Municipal Appointments ..... 46
- Section 6.2 Applications ..... 47
- Section 6.3 Issuance of a Permit..... 48
- Section 6.4 Certificates of Occupancy ..... 49
- Section 6.5 Permit Expiration..... 50
- Section 6.6 Enforcement ..... 50
- Section 6.7 Appeals ..... 51
- Section 6.8 Variances..... 53
- Section 6.9 Waivers ..... 54
- Section 6.10 Interpretation of Zoning District Boundaries ..... 56
- Section 6.11 Parcel in Two Districts ..... 56
- Section 6.12 Records ..... 57
- Section 6.13 Procedural Consolidations ..... 57
- Section 6.14 Public Hearings..... 57
- Section 6.15 Recording Requirements..... 59

**ARTICLE VII**

DEFINITIONS ..... 60

- Section 7.1 Clarification of Word Meaning..... 60
- Section 7.2 Word Definitions ..... 60
- Section 7.3 Other Definitions ..... 69

**ZONING REGULATIONS  
TOWN OF WEST WINDSOR, VERMONT**

**ARTICLE I**

**ENACTMENT, PURPOSE, AMENDMENTS AND EFFECTIVE DATE**

**SECTION 1.1 ENACTMENT**

In accordance with the Vermont Planning and Development Act (hereinafter referred to as the "Act") 24 V.S.A., Chapter 117, Subchapter 6, Sections 4401 and 4402, there are hereby established Zoning Regulations for the Town of West Windsor which are set forth in the following text and maps that constitute these Regulations. These Regulations shall be known as the "Town of West Windsor Zoning Regulations," and shall supersede the Town of West Windsor Zoning Ordinance adopted February 3, 1973. Mandatory requirements enacted by the Vermont legislature will automatically become a part of these Zoning Regulations. It is the applicant's responsibility to comply with all state and federal requirements and, upon request by the Zoning Administrator or the DRB, to provide proof of compliance.

**SECTION 1.2 PURPOSE**

It is the purpose of these Regulations to promote the health, safety and general welfare of the residents, protect the natural resources, and provide for the orderly development of the Town of West Windsor. These Regulations also strive to implement the goals and policies of the Town Plan as established in the Act, Section 4302.

**SECTION 1.3 APPLICATION OF REGULATIONS**

- (A) The application of this bylaw is subject to the provisions of all subchapters of the Act as most recently amended. In accordance with the Act [§4446], no land development as defined herein shall commence within the jurisdiction of the Town of West Windsor until a zoning permit has been issued by the Administrative Officer, as provided for in the Act [§§4448, 4449], and no appeal is pending. Any land development not specifically authorized or exempted under this bylaw is prohibited.
- (B) This bylaw is intended to repeal the previous bylaw, but is not intended to annul or in any way impair other regulations or permits previously adopted or issued. If any development subject to these regulations, under this bylaw, is also subject to other Town or State regulations, the most stringent or restrictive regulations apply.

**SECTION 1.4 AMENDMENTS**

These Regulations may be amended according to the requirements and procedures established in §4441 of the Act and, unless otherwise acted upon by the voters of the Town of West Windsor, shall be adopted, as amended, by a majority vote of the Selectboard as provided in §4442 of the Act.

**SECTION 1.5 SEVERABILITY**

The provisions of this bylaw are severable. The invalidity of any provision of these Regulations shall not invalidate any other part.

**SECTION 1.6 EFFECTIVE DATE**

These Regulations became effective on March 2, 1982 except as amended on May 11, 1984, on November 8, 1988, on March 6, 1990, on June 10, 1991 (on an interim basis for Flood Hazard Regulations), on March 3, 1992, on March 7, 1995, on March 4, 1997 as interim regulations on September 12, 2005, and on July 22, 2008.

**SECTION 1.7 EXEMPTIONS**

Except as provided in the Town of West Windsor Flood Hazard Area Regulations, no zoning permit shall be required for the following:

- 1) **Accepted Agricultural Practices** (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)] and Section 4.3. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary of Agriculture.
- 2) **Accepted Management Practices** (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
- 3) Power generation and transmission facilities which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Town Plan.
- 4) Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land is a permitted use. Facilities that support such activities, such as firing ranges or rod and gun clubs, etc., shall be reviewed as conditional uses and shall conform to all the standards and requirements in Section 5.3.
- 5) Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
- 6) Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
- 7) Exterior alterations to structures which do not result in any change to the footprint or height of the structure or a change in use (see Sections 2.3 and 3.3) or an increase in the degree of nonconformance (see Section 3.9).
- 8) Residential entry stairs (excluding decks and porches), handicap access ramps, and uncovered walkways.

## West Windsor Zoning Regulations

- 9) Essential Services (see definition)
- 10) Minor grading and excavation associated with: utility lines, road and driveway maintenance (e.g., including culvert replacement and resurfacing), gardening, landscaping, or which is otherwise incidental to an allowed, permitted, or conditional use.
- 11) Outdoor recreational trails (e.g., walking, hiking, biking, horseback riding, cross-country skiing and snowmobile trails) which do not require the installation of structures or parking areas.
- 12) Small accessory buildings associated with residential uses which are less than 64 square feet of floor area and less than twelve (12) feet in height, and are not located within required setback areas.
- 13) Filling in, with sand, gravel, soil or similar material, previously permitted in-ground swimming pools.
- 14) Garage sales, yard sales, auctions, or similar activities (and associated temporary signs) that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year. Such events may require a public assembly permit.

**ARTICLE II**

**ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAPS**

These zoning districts reflect the land use values expressed in the Town Plan and are intended to maintain traditional town growth patterns, encouraging development in and around the village center, and discouraging sprawl growth in the more rural districts.

**SECTION 2.1 ESTABLISHMENT OF ZONING DISTRICTS**

For the purpose of these Regulations, the Town of West Windsor is divided into the following zoning districts as shown on the attached Zoning Map:

<b>PGV-1</b>	<b>Primary Growth Village</b>	<b>1 acre</b>
<b>SGR-5/4</b>	<b>Secondary Growth Residential</b>	<b>5 acres</b>
<b>RR-5</b>	<b>Rural Residential</b>	<b>5 acres</b>
<b>R/R</b>	<b>Resort/Residential</b>	<b>PUD</b>
<b>R/C PUD</b>	<b>Resort/Conservation PUD</b>	<b>PUD</b>
<b>IND/COM</b>	<b>Light Industrial/Commercial</b>	<b>2 acres</b>
<b>CON-30</b>	<b>Conservation</b>	<b>30 acres</b>

**SECTION 2.2 ZONING MAP**

The boundaries of these districts are hereby established as shown on the Zoning Map of the Town of West Windsor entitled "Town Zoning Map." This map is hereby declared to be a part of these Regulations. Regardless of the existence of copies of any map, which may be made or published, the Official Zoning Map located in the Town Clerk's office shall be the final authority as to the current status of zoning district boundaries.

**SECTION 2.3 DISTRICT USES AND STANDARDS**

The following pages outline uses, both permitted and conditional, allowed in each district and certain lot and building requirements for these uses.

**2.3-1 Primary Growth – Village (PGV-1)**

The purpose of the Primary Growth - Village district is to allow for a concentrated mix of residential and limited commercial uses within the district in a manner that respects and reflects the existing historic settlement pattern, wastewater disposal constraints, building styles, materials, scale and orientation.

Permitted Uses	Conditional Uses
1. Single or Two Family Dwelling	1. Retail Service
2. Accessory Use or Structure	2. Retail Store
3. Agricultural Use/Farm Structure	3. Business Office
4. Forestry Use/Structure	4. Restaurant/Bar/Tavern
5. Home Occupation	5. Inn
6. Accessory Dwelling Unit	6. Multi-Family Dwelling
7. Group Home (serving 8 or fewer)	7. Health Care Facility †
8. Child Care Home	8. Bed and Breakfast
	9. Home Business
	10. Auto Service Station
	11. Low impact Non-residential Use
	12. Place of Worship
	13. Park or Playground, public recreation
	14. Library †
	15. School †
	16. Rooming House
	17. Public Facilities †
	18. Group Home (serving 9+)
	19. Mixed Use
	20. Child Care Facility
	21. Cemetery
	22. Indoor/Outdoor Recreational Use
	23. Hotel
	24. Private clubhouse/fraternal org.
	25. Bridge

Dimensional Standards

Minimum Lot Size/Family Unit	1 acre
Minimum Frontage	75 ft.
Minimum Yards – Front/Side/Rear	20 ft.# /20 ft./20 ft.
Maximum Structure Height	40 ft.
Coverage	50%

# Or, with the approval of the Development Review Board, the average of the front yards of the two immediately adjacent principal structures, if less.

† See § 4413 Limitations on Municipal Bylaws

**2.3-2 Secondary Growth – Residential (SGR-5/4)**

The purpose of the Secondary Growth Residential District is to allow for moderate density residential development within close proximity to the village, school and general store. The Secondary Growth Residential District covers lands where well-planned clustered development should be located. Therefore, in this district, the density factor (lot size per family unit) for residential development clustered in accordance with a plan consistent with the objectives and requirements of Section 5.4 may be reduced from the normal five (5) acres to four (4) acres.

Permitted Uses	Conditional Uses
1. Single or Two-Family Dwelling	1. Rooming House
2. Accessory Use or Structure	2. Private Clubhouse or Fraternal Org.
3. Agricultural Use/Farm Structure	3. Inn
4. Forestry Use/Structure	4. Retail store & Services
5. Accessory Dwelling Unit	5. Group Home (serving 9+)
6. Group Home (serving 8 or fewer)	6. Home Business
7. Child Care Home	7. Cemetery
8. Home Occupation	8. Outdoor Recreational Use
	9. Bed and Breakfast
	10. Multi-Family Dwelling
	11. Place of Worship
	12. Mixed Use
	13. Public Facility †
	14. Veterinary Clinic
	15. Mobile Home Park
	16. Child Care Facility
	17. Storage Facility within existing Structure
	18. Bridge

Dimensional Standards

Minimum Lot Size/Family Unit	Class A# 5 acres Class B# 4 acres
Minimum Frontage	Class A# 200 ft. Class B# Per approved PUD
Minimum Yards - Front/Side/Rear	Class A# 30 ft./50 ft./50 ft. Class B# Per approved PUD
Maximum Height	40 ft.
Lot Coverage	10%

# A Class A parcel is a conventional lot; Class B applies only to land in an approved PUD (Section 5.4)

† See § 4413 Limitations on Municipal Bylaws

**2.3-3 Rural Residential (RR-5)**

The purpose of the Rural Residential District is to maintain a clean, healthy environment, maintain the town’s historic working landscape, encourage the productive use and protection of natural resources, and provide for moderate residential development in appropriate locations.

Permitted Uses	Conditional Uses
1. Single or Two-Family Dwelling	1. Rooming House
2. Accessory Use or Structure	2. Private Clubhouse or Fraternal Org.
3. Agricultural Use/Farm Structure	3. Inn
4. Forestry Use/Structure	4. Home Business
5. Accessory Dwelling Unit	5. Cemetery
6. Group Home (serving 8 or fewer)	6. Outdoor Recreational Use
7. Child Care Home	7. Bed and Breakfast
8. Home Occupation	8. Public Facility †
	9. Child Care Facility
	10. Group Home (serving 9+)
	11. Bridge

Dimensional Standards

Minimum Lot Size/Family Unit	5 acres
Minimum Frontage	300 ft.
Minimum Yards – Front/Side/Rear	30 ft./50 ft./50 ft.
Maximum Structure Height	40 ft.
Coverage	5%

† See § 4413 Limitations on Municipal Bylaws

**2.3-4 Resort/Residential (R/R)**

The purpose of the Resort/Residential District is to provide for orderly growth in a manner compatible with adjacent districts and land uses. The mix of uses in this district (intensely developed residential and commercial areas, large tracts of open space dedicated to non-structural recreational uses, and established recreational activities) requires special care to provide for the needs and character of each. Growth in accordance with an approved comprehensive master plan is anticipated in the district, but it must not upset the delicate balance that exists between its interests and those of adjacent uses and the rest of the Town. Clustering of buildings is expected in order to maintain open space. All development within this district is part of a Planned Unit Development.

Permitted Uses	Conditional Uses
1. Single or Two-Family Dwelling	1. Indoor Recreational Use#
2. Accessory Use or Structure	2. Restaurant/Bar#
3. Agricultural Use/Farm Structure	3. Retail Service#
4. Forestry Use/Structure	4. Retail Store#
5. Home Occupation	5. Tavern#
6. Accessory Dwelling Unit	6. Inn#
7. Group Home (serving 8 or fewer)	7. Multi-Family Dwelling
8. Child Care Home	8. Outdoor Recreational Use#
	9. Bed and Breakfast
	10. Hotel#
	11. Home Business
	12. Other Resort Activity#
	13. Public Facility †
	14. Business Office#
	15. Health care facility#
	16. Mixed Use#
	18. Child care facility#
	19. Bridge

Dimensional Standards

Minimum Lot Size/Family Unit	1 acre w/on-site sewage disposal
	¼ acre w/connection to a state approved municipal sewage treatment plant and PUD approval
Minimum Yards – Front/Side/Rear	30 ft./30 ft./30 ft.
Maximum Structure Height	40 ft.
Minimum Frontage	100 ft.

The minimum lot size for non-residential uses is two acres. The minimum lot size may be increased or decreased upon the conditions set forth in the conditional use, site plan and PUD review.

# Conditional uses permitted in a PUD only.

† See §4413 Limitations on Municipal Bylaws

**2.3-5 Resort/Conservation PUD District (R/C PUD)**

The purpose of the Resort/Conservation PUD District is to provide for the orderly growth of single-family residences that make a demonstrable contribution to the viability of the Ascutney Mountain Resort, or a successor ski resort (“the Resort”), in such a manner as to preserve, to the maximum extent possible, the important open space, scenic, agricultural/forestry and natural resource characteristics of the district. The preservation of Mile Long Field is of particular importance to the Town of West Windsor.

Permitted Uses	Conditional Uses
Agricultural Use Structure	Public facility†
Forestry Use Structure	Outdoor recreation facility
Single or two-family dwelling*	Bridge
Accessory use or structure*	
Accessory dwelling unit	
Home occupation	
Child care home	
Group Home (serving 8 or fewer)	

\* permitted when part of an approved PUD

No land development or land use, other than for forestry or agriculture, may be issued a zoning permit by the Administrative Officer until the Development Review Board has reviewed the application.

**Supplemental Development Standards for PUD in the Resort/Conservation PUD District:**

In addition to complying with the requirements of Section 5.4, there shall be no development, other than infrastructure, in Mile Long Field and all development in the remainder of the Resort/Conservation PUD District must:

- Minimize the disruption of the scenic and agricultural qualities of Mile Long Field;
- Retain the fields, to the maximum extent possible, through the use of Planned Unit Development;
- Utilize, where possible, the least productive land and protect primary agricultural and forestry soils;
- Have a minimum lot size of one acre;
- Be served by a sewer and water system if the lot-size is less than five acres;
- Maintain as open space at least 50% of the total Resort/Conservation PUD district acreage;
- Be accessed through the Resort;
- Be served by underground utility lines;
- Be in conformance with the Resort’s Master Plan and West Windsor’s Town Plan.

Dimensional Standards for Planned Unit Development

Minimum Lot Size/Family Unit	5 acres w/on-site septic & water
	1 acre w/connection to a state-approved sewage treatment plant & PUD approval
Minimum Frontage	100 Ft. or per approved PUD
Minimum Yards: Front/Side/Rear	30 ft./30 ft./30 ft. or per approved PUD
Maximum Structure Height	40 ft.

All development that does not make a demonstrable contribution to the viability of the Resort shall follow the standards set forth in the Conservation District.

† See §4413 Limitations on Municipal Bylaws

**2.3-6 Light Industrial/Commercial (IND/COM)**

The purpose of the Light Industrial/Commercial District is to allow for a limited and orderly expansion of commercial and industrial uses within this district.

Permitted Uses	Conditional Uses
1. Agricultural Use/Farm Structure	1. Lumberyard/Sawmill
2. Forestry Use/Structure	2. Contractor's yard
3. Accessory Use or Structure	3. Research and Development Facility
4. Accessory Dwelling Unit	4. Industrial Accessory Use or Structure
	5. Public Facility †
	6. Home Business
	7. Veterinary/Animal Care Facility
	8. Enclosed Light Manufacturing
	9. Enclosed Warehouse
	10. Retail
	11. Bridge

Conditional Uses - Other industrial uses upon finding by the Development Review Board that such uses are of the same general character as those permitted and will not be detrimental to the other uses within the district or to the adjoining land uses.

Dimensional Standards

Minimum Lot Size	2 Acres
Minimum Frontage	150 Ft.
Minimum Yards	Front 50 Ft. Side 50 Ft. Rear 50 Ft.
Maximum Structure Height	40 ft.
Coverage	60% if parking is included

† See § 4413 Limitations on Municipal Bylaws

**2.3-7 Conservation (CON-30)**

The purpose of the Conservation District is to limit growth in this district which because of severe physical limitations, such as steep slopes and unsuitable soils for on-site septic disposal, the presence of floodplains, headwater areas, ridgelines, unbroken expanses of wildlife habitat, and special recreational and scenic qualities, should be protected from most forms of development. In addition to physical limitations, this district contains agricultural soils of national and state significance which deserve special protection. Although very low intensity uses are permitted, they should be preceded by careful inspection and thorough site planning to minimize soil erosion, groundwater pollution and other adverse impacts on these very important natural and scenic resources.

Permitted Uses	Conditional Uses
1. Single or Two-Family Dwelling	1. Outdoor Recreational Facility
2. Accessory Use or Structure	2. Bridge
3. Agricultural Use Structure	3. Public Facility†
4. Forestry Use Structure	
5. Child Care Home	
6. Accessory Dwelling Unit	
7. Home Occupation	
8. Group Home (serving 8 or fewer)	

Dimensional Standards

Minimum Lot Size/Family Unit	30 acres
Minimum Frontage	500 Ft.
Minimum Yards	Front 30 Ft. Side 50 Ft. Rear 50 Ft.
Maximum Structure Height	40 ft.
Coverage	2%

† See § 4413 Limitations on Municipal Bylaws

**ARTICLE III. GENERAL PROVISIONS**

**SECTION 3.1 APPLICABILITY**

The following general standards, including provisions required under the Act [§§4412, 4413], apply to all uses and structures as specified within the Town of West Windsor.

**SECTION 3.2 ACCESS AND FRONTAGE REQUIREMENTS**

- (A) No land development may be permitted on lots which do not have frontage on a public road or access to such a road by a permanent easement or right-of-way at least fifty (50) feet in width, approved by the Development Review Board.

Where Development Review Board approval of an easement or right-of-way is necessary, an applicant shall submit a site plan that identifies topography, slope, sight distances, and other characteristics within the proposed right-of-way deemed necessary by the Board. The easement or right-of-way, if approved by the Development Review Board, shall be surveyed and described in a deed, both of which shall be recorded in the Town land records.

- (B) No lot shall be served by more than one residential (1) access road or driveway unless otherwise permitted as a conditional use (Section 5.3) by the Development Review Board and approved by the State or the Selectboard, in accordance with the B-71 Standard (see Section 3.2-1). Accesses (curb cuts) on all roads, including private roads, are to be installed in accordance with municipal and/or state regulations. For parcels having direct access to more than one public road, access to the property may be limited to a side street or secondary road as a condition of approval under Section 5.3
- (C) Where there is the proposed subdivision of land, provision for shared access between adjoining properties may be required by the Development Review Board as a condition of approval of the subdivision. Where shared access is required, shared frontage may be permitted.
- (D) A new point of access onto a public road must have prior initial approval from the State of Vermont (state roads) or the West Windsor Selectboard (town roads).
- (E) Once an access serves three (3) or more lots, it will be deemed to serve a small housing development and must employ the lane and shoulder width criteria from the table below as well as the slope criteria from the latest revision of the A-76 standard. The Selectboard shall conduct reviews of such access proposals subject to the same procedural requirements established for a Conditional Use. Unless otherwise determined, the average daily traffic per housing unit shall equal 10.

<b>Lane and Shoulder Widths for Rural Roads</b>					
Design Volumes (average daily traffic)	0-25	25-50	50-100	100-400	400-1,500
Design Speed (mph)	Width of Lane/Shoulder (ft.)				
25	7/0	8/0	9/0	9/2	9/2
30	7/0	8/0	9/0	9/2	9/2
35	7/0	8/0	9/0	9/2	9/2
40	7/0	8/0	9/2	9/2	9/2
45	n/a	n/a	9/2	9/2	9/2
50	n/a	n/a	9/2	9/2	10/2

Source: Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets, October 1997.

- (F) Limited agricultural accesses, limited forestry accesses, and/or temporary accesses need only State or Selectboard approval. The State or the Selectboard may require culverts and/or gating, and may restrict the use of the access to specific seasons.

**3.2-1 Driveway Standards**

Driveway standards apply to all residential, commercial and industrial uses. Driveways shall be constructed to Agency of Transportation B-71 Standards for Commercial and Residential Driveways. If the topography of the land makes it impossible or unduly expensive for a landowner to comply with the B-71 standard, the landowner may apply to the Development Review Board for a variance. In considering a variance request, the DRB shall apply the five criteria in Section 6.8. In addition, the DRB shall find that the variance, if granted, will not have an adverse impact on public safety as evidenced by a letter to that effect from the Fire Chief and/or the Highway Foreman. A driveway application involving a new access location requires access approval by the Selectboard.

Non-residential driveways shall be located at least one hundred (100) feet from a highway right-of-way intersection. One- and two-family residential driveways shall be at least fifty (50) feet from the same.

No driveway shall be constructed within 10 feet of a property line unless the driveway is going to be used as a shared driveway.

**SECTION 3.3 CONVERSIONS AND CHANGES OF USE**

Changes or conversions in the use of land and/or structures are subject to the provisions of this bylaw as follows:

- (A) The proposed use shall be subject to all the requirements of this bylaw pertaining to such use, including but not limited to any district, specific use or general standards, as well as other applicable municipal, state and federal regulations.

- (B) A conversion or change from one permitted use to another permitted use, or from a conditional use to a permitted use, shall require a zoning permit issued by the Administrative Officer.
- (C) A conversion or change from a permitted use to a conditional use, or from a conditional use to a different conditional use, shall be subject to Conditional Use approval by the Development Review Board, with a zoning permit to be issued by the Administrative Officer. (See Administration and Enforcement)

### **SECTION 3.4 EQUAL TREATMENT OF HOUSING**

In accordance with the Act [§4412(1)], a mobile home shall be considered a single-family dwelling, and shall meet the same zoning requirements applicable to single-family dwellings, except when allowed as a temporary structure under Section 3.16 of this bylaw. No provision of this bylaw shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded. For mobile homes in a Special Flood Hazard Area, see also the Town of West Windsor Flood Hazard Area Regulations.

### **SECTION 3.5 EROSION CONTROL & DEVELOPMENT ON STEEP SLOPES**

All development involving the mechanical excavation, filling and/or re-grading of land (e.g. using bulldozer, backhoe, grader or similar heavy equipment) characterized by a slope gradient in excess of 25% shall be subject to review and approval by the Development Review Board.

All applications for approval shall include a sketch, drawn to scale, showing existing and proposed slopes, existing and proposed development (buildings, roads, and utilities), and surface waters (e.g. wetlands, streams or ponds). Applications shall also include erosion and sedimentation control plans.

If, after review, the DRB determines that the erosion control plan presented is inadequate, the DRB may require such plans to be prepared and monitored by a professional engineer licensed by the State of Vermont, and may require detailed information regarding proposed erosion and sedimentation control measures to be employed during all stages of the development (including site preparation, construction and post-construction).

### **SECTION 3.6 EXISTING SMALL LOTS**

- (A) In accordance with the Act [§4412(2)], any lot in individual and non-affiliated ownership from surrounding properties 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 (1/8) of an acre in area with a minimum width or depth of forty (40) feet.

- (B) Pre-existing, undeveloped small lots, less than two acres in size, in affiliated or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of this bylaw, However, such lots shall not be deemed merged, and may be separately conveyed, if:
- 1) the lots are conveyed in their pre-existing, nonconforming configuration;
  - 2) on the effective date of this bylaw, each lot had been developed with a water supply and wastewater disposal system;
  - 3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and,
  - 4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

### **SECTION 3.7 HEIGHT REQUIREMENTS**

- (A) The maximum height of structures in all districts shall be forty (40) feet, as measured from the lowest natural grade at ground level, except as permitted under Subsection (B), or for the following which are specifically exempted from the height requirements of this bylaw:
- 1) agricultural structures in accordance with the Act [§4413(d)];
  - 2) church steeples, spires and belfries;
  - 3) flag poles and residential chimneys;
  - 4) residential antenna structures, wind generators with blades less than 20 feet in diameter, and rooftop solar collectors less than 10 feet high, which are mounted on complying structures [§4412(6)].
- (B) The Development Review Board may permit structures in excess of 40 feet in height subject to conditional use review under Section 5.3, provided that:
- 1) the structure does not constitute a hazard to public safety or adjoining properties;
  - 2) the structure is not used for advertising purposes;
  - 3) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to that which is required for security and safe operation;
  - 4) the proposed building height and scale is consistent with the character of the immediate surroundings; and,
  - 5) the structure is not deemed by the DRB to have an undue adverse impact on aesthetics.

### **SECTION 3.8 LOT AND YARD REQUIREMENTS**

There shall be one principal structure or use on a single lot, unless otherwise specifically approved as a mixed use, or as part of a Planned Unit Development (PUD). Any other use of the lot must be accessory to this principal use or structure.

- (A) No lot shall be so reduced in size that the area, yards, lot width, frontage, setbacks, or other dimensions are smaller than prescribed in this bylaw, except as permitted for Planned Unit Development (PUD) pursuant to Section 5.4. The provisions of this Section shall not apply when part of a lot is taken for public purposes.
- (B) Space required under these regulations to satisfy yard, area, or other open space requirements in relation to one building shall not be counted as part of the required open space for any other building. In calculating the required area, width or depth of a lot, existing and proposed rights-of-way shall be excluded.
- (C) For lots in all districts, there shall be no impediment to vision within twenty-five feet of a street intersection or highway entrance between the height of three (3) feet and ten (10) feet above the average grade of each street, unless approved by the Selectboard and the Highway Foreman.
- (D) Side and rear setbacks are to be measured from the property line to the closest point of the structure. Front setbacks are to be measured from the edge of the highway right-of-way to the closest point of the structure. On roads with less than a fifty (50) foot right-of-way, or where the width of the road right-of-way has not been established, the front-yard requirement shall be measured from the centerline of the existing roadway and twenty-five (25) feet shall be added to the front yard requirement.
- (E) Lots at an intersection of roads shall have the required frontage on both roads. All yards adjoining a road shall be considered front yards.

### **SECTION 3.9 NONCONFORMING USES AND NONCONFORMING STRUCTURES**

In accordance with the Act [§4412(7)], these regulations address three categories of nonconformity: Nonconforming structures (see subsection (A)), Nonconforming uses (see Subsection (B)), and Existing small lots (see Section 3.6).

- (A) **Nonconforming Structures:** Any legal structure or part thereof, which is not in compliance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as parking, lighting, buffers, and lowest floor elevation in floodplain zoning) shall be deemed a nonconforming structure. Legal nonconforming structures exist as a result of construction prior to adoption of bylaws, or construction under an earlier set of less restrictive bylaws. Any nonconforming structure may be allowed to exist indefinitely, but shall be subject to the following provisions:
  - 1) Subject to conditional use approval by the DRB, a nonconforming structure may be restored or reconstructed after unintentional loss provided the reconstruction is

commenced within two years and does not increase the degree of nonconformance that existed prior to the damage.

- 2) A nonconforming structure which has been intentionally demolished shall not be reconstructed except in conformance with these bylaws. The DRB may grant a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of these bylaws. In considering a waiver from these provisions, the DRB shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.
  - 3) A nonconforming structure shall not be moved, altered, extended, or enlarged in a manner which will increase the existing degree of non-conformance. The phrase 'shall not increase the degree of non-conformance' shall be interpreted to mean that the portion of the structure which is nonconforming shall not increase in size (or decrease in the event of failing to meet minimum standards such as parking and lighting). Therefore, portions of a structure within a setback area cannot be enlarged, portions above the maximum height cannot be expanded, a nonconforming deck or porch cannot be enclosed, where parking is deficient the number or size of spaces cannot be reduced, etc. This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios provided there is no increase in size.
  - 4) Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformance.
  - 5) The DRB shall permit the alteration or expansion of a nonconforming structure for the sole purpose of compliance with mandated or required environmental, safety, health, or energy codes.
- (B) **Nonconforming Uses:** Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in compliance with the provisions of these bylaws, shall be deemed a nonconforming use. Nonconforming uses are those that exist legally as a result of existing prior to adoption of bylaws, or permitted under an earlier set of less restrictive bylaws. Any nonconforming use may be continued indefinitely, but shall be subject to the following provisions:
- 1) The nonconforming use shall not be changed to another nonconforming use without approval by the DRB, and then only to a use that, in the opinion of the DRB, is of the same or of a more conforming nature.
  - 2) The nonconforming use shall not be re-established if such use has been discontinued for a period of at least two years or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
  - 3) The nonconforming use shall not be expanded, extended, moved or enlarged unless the DRB finds that such expansion, extension, movement, or enlargement does not increase the degree of nonconformance. Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, number of employees or an increase in the size of the operation through the expansion of a complying structure.

- 4) The DRB shall permit the alteration or expansion of a nonconforming use for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

**SECTION 3.10 OPEN STORAGE OF JUNK AND VEHICLES**

- (A) The dumping, burying, disposing, or burning of garbage, refuse, scrap metal, rubber, or similar materials is prohibited except in salvage, disposal or recycling facilities specifically permitted for such use under applicable municipal and state regulations.
- (B) In any district, junk, salvaged materials, or more than two (2) motor vehicles or portions thereof which are non-operating and/or not registered with the state, with the exception of vehicles or materials used in farming or forestry operations, shall be stored in an enclosed area or in an area concealed from public roads.

**SECTION 3.11 PARKING AND LOADING REQUIREMENTS**

Adequate provision shall be made so that normal vehicular traffic associated with any use shall be parked off public roads and rights-of way. Spaces shall be provided whenever any new use is established, or when the existing use is expanded or changed. For purposes of rough computation, an off-street parking space is estimated to be approximately 300 square feet.

- 1) A minimum number of parking spaces, as determined by proposed use, shall be provided in accordance with the requirements listed in Table 3.11.

**Table 3.11**

Use	Required Parking Spaces
Residential – including PUD	2 per dwelling unit
Lodging	1 per lodging unit
Clinics, group homes, etc.	1 per bed + 1 per employee
Non-profit club	1 per four members
Churches, schools, public assembly	1 per 3 seats in main assembly room
Professional office & business service	1 per 250 sq. ft. of floor space
Retail	1 per 300 sq. ft. of floor space
Restaurants	1 per 4 seats + 1 per employee (busiest shift)
Industry	1 per employee
Other	as required by the DRB

- 2) An off-street parking space shall have a minimum width of nine (9) feet, a minimum length of twenty (20) feet, adequate maneuvering room and access to a public road. For purposes of initial calculation, an off-street parking space with access and maneuvering room may be estimated to be three hundred (300) square feet.
- 3) Out of necessity, the parking of motor vehicles may be allowed in setback areas in the Primary Growth - Village district only, following conditional use approval.

- 4) Parking areas associated with proposed conditional uses shall be located and landscaped in accordance with the standards set forth in Conditional Use and Site Plan Review.
- 5) Public parking areas shall comply with at least the minimum requirements of the Americans with Disabilities Act (ADA).

### **SECTION 3.12 PERFORMANCE STANDARDS**

As provided in §4414(5) of the Act, the following standards apply to all uses, with the exception of agriculture and forestry, in all districts. In determining ongoing compliance, the burden of proof shall fall on the applicant and/or all assessors and assigns. No use shall cause, create or result in:

- 1) smoke, dust, odors, noxious gases, or other forms of air pollution which constitute a nuisance to neighboring landowners, businesses, or residents; which endanger or adversely affect public health, safety, or welfare; or which are offensive or uncharacteristic of the area;
- 2) noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area;
- 3) noticeable, or clearly apparent vibration which, when transmitted through the ground, is discernable at property lines without the aid of instruments;
- 4) excess lighting beyond the minimum amount required for safety and security and/or lighting which is inconsistent with the character of the neighborhood. No excessive direct light shall be visible from the property line. The use of motion-activated, infra-red controlled, timer controlled, and down lighting is encouraged. Shielded up lighting or down lighting of the American flag, in accordance with federal regulations, is allowed;
- 5) fire, explosion, or other hazards, which endanger the applicant's or neighboring properties, or the general public or which result in a significantly increased burden on municipal facilities and services;
- 6) liquid or solid wastes, or other types of solid or hazardous wastes that are generated in amounts which cannot be disposed of by available or existing methods without undue burden to the municipality, public health, safety, and welfare or the environment.

### **SECTION 3.13 PROTECTION OF NATURAL RESOURCES**

Proposed development shall not have an undue adverse impact on important natural resources or fragile features located on the parcel, including wetlands currently under federal or state jurisdiction, steep slopes, rivers and streams, critical wildlife habitat and/or floodplains identified in the town plan or through field investigation. In approving a conditional use, the Development Review Board may impose conditions to ensure the protection of natural resources and fragile features such as:

- 1) The establishment of buffer areas.
- 2) Permanent protection through conservation easements or other deed restrictions.

- 3) The designation of established building locations and or building envelopes to ensure that activities incidental to the operation of the conditional use, including clearing and yard areas, do not adversely impact identified resources.

### **SECTION 3.14 RIVERS, STREAMS AND WETLANDS**

In accordance with current Vermont Wetland Rules, to prevent soil erosion, protect and enhance wildlife habitat, and maintain water quality, a natural, vegetated buffer shall be maintained for a minimum of fifty (50) feet from all wetlands currently under federal or state jurisdiction, and from streams and rivers located on the U.S. Geological Survey map. The 50' buffer shall be measured from the top of the bank or slope, or from the delineated wetland boundary. No new development, excavation, landfill, clearing, or grading, shall occur within the buffer strip, except as necessary:

- 1) To accommodate approved stream crossing structures (see Section 3.14-1);
- 2) To allow for stream bank stabilization and restoration projects, in accordance with applicable state and federal regulations;
- 3) To provide essential services (see definition). The repair, maintenance, or replacement of existing transportation infrastructure within public rights-of-way, including but not limited to bridges and culverts, is an essential service exempt from local zoning regulations. The town is responsible for obtaining all required state and/or federal permits.
- 4) As an emergency measure, to prevent or repair damage to existing structures or natural features caused by flooding or other natural causes. The applicant shall obtain written authorization from the appropriate town, state and/or federal officials, who shall concur that the situation presents an imminent threat to public safety and/or infrastructure.

Stream bank stabilization projects and emergency measures require review and approval by the Zoning Administrator. Applications for approval shall include copies of all applicable authorizations and permits. Any development other than an approved stream crossing, an approved stream bank stabilization, an essential service, or an authorized emergency measure, shall require conditional use review and approval by the Development Review Board. Upon completion of the project, all disturbed areas shall be stabilized.

The following activities shall be allowed uses within the fifty foot buffer:

- 1) Routine maintenance of existing, approved stream crossing structures, stream bank stabilization projects, and recreational trails;
- 2) Limited tree pruning;
- 3) Removal of trees (not including stumps) that pose a hazard to people or property;
- 4) Annual mowing (i.e. no more than once per year) to maintain tall-grass habitat, on or after August 1<sup>st</sup>;
- 5) Removal of invasive plants; and
- 6) Planting of non-invasive trees, vines, grasses and shrubs.

### **SECTION 3.14-1 BRIDGES & STREAM CROSSINGS**

A zoning permit is required for the construction of a bridge (see definition) or stream crossing (see definition).

Applications for pedestrian, bicycle, and snowmobile bridges or stream crossings, not located in a Special Flood Hazard Area (SFHA), for which all required state and federal permits have been obtained, shall be approved by the Zoning Administrator. Applications for pedestrian, bicycle, and snowmobile bridges or stream crossings that are located in a SFHA shall be subject to flood hazard review and conditional use review by the Development Review Board (DRB).

Applications for all bridges and stream crossings providing access to a structure shall:

- 1) Include plans, prepared by a professional engineer licensed by the State of Vermont, that meet minimum standards including, but not limited to, H-20 loading capacity.
- 2) Include copies of all required state and/or federal permits.
- 3) Require conditional use approval by the Development Review Board (DRB).

A Certificate of Occupancy shall not be issued for a bridge or stream crossing that provides access to a structure until a professional engineer has certified that the structure, as built, meets the required minimum standards..

### **SECTION 3.15 SIGNS**

#### **3.15-1 Off-Premises Signs**

No person may erect or maintain an off-premises sign except as provided in 10 V.S.A., Chapter 21.

#### **3.15-2 On-Premises Signs**

On-premises signs constructed in accordance with this Section shall be considered accessory structures. No on-premises signs shall be permitted except as hereinafter provided:

(A) In the SGR-5/4, RR-5, and CON-30 District:

- 1) One home occupation or home business sign, not exceeding six (6) square feet.
- 2) One sign for any non-residential use permitted in these districts, not exceeding fifteen (15) square feet.
- 3) Temporary real estate signs not exceeding six (6) square feet and temporary construction signs not exceeding twenty five (25) square feet.
- 4) Directional signs such as "Entrance" or "Exit" not exceeding two (2) square feet.
- 5) Temporary signs for irregularly scheduled public events such as auctions, suppers and meetings.

(B) In the PGV-1 and IND/COM Districts:

- 1) All signs permitted under 3.15-2(1) above.
- 2) One additional sign for non-residential uses not exceeding fifteen (15) square feet.

## West Windsor Zoning Regulations

- 3) Sign area under 1.b and 2.b may be combined to allow one non-projecting, facade sign not exceeding thirty (30) square feet.

(C) In Planned Unit Developments (PUDs): As approved in the PUD permit or amendment.

(D) In all districts signs must not:

- 1) be within ten (10) feet of a side or rear lot line or within a highway right-of-way (except in the PGV-1 district).
- 2) stand less than ten (10) feet above a public walkway.
- 3) exceed fifteen (15) feet in height if free standing, or extend above a roof or parapet if attached to a building.
- 4) flash, oscillate or revolve.
- 5) produce such glare or visual obstacle as to constitute a traffic hazard or a nuisance to adjacent residential uses.
- 6) be attached to trees or utility poles or drawn on rocks or other natural features.
- 7) be internally lighted.

The size of signs permitted herein will be considered the square footage of one face of the sign and shall include the area of other signs attached beneath the main device. If one sign is requested for a group of non-residential uses, it shall be considered one of the signs permitted for each of those uses, and shall not exceed fifty (50) square feet in size in the PUD and the IND/COM District; and thirty (30) square feet in other districts.

### **SECTION 3.16 TEMPORARY STRUCTURES**

A temporary permit may be issued by the Administrative Officer for storage containers and office/construction trailers that meet minimum standards for the district and are not used for residential purposes, for a period not to exceed six (6) months, conditioned upon written agreement by the owner to remove the structure upon expiration of the permit. Temporary permits may be renewed for one additional six month period.

### **SECTION 3.17 WATER SUPPLY & WASTEWATER DISPOSAL**

**Compliance with State & Local Regulations.** No building or structure intended for human occupancy shall be erected, altered or converted from another use unless adequate water supply and wastewater disposal systems are provided in compliance with all applicable municipal and state regulations. For uses requiring approval under state on-site sewage disposal regulations, a state Wastewater System and Potable Water Supply permit must be obtained by the applicant prior to the commencement of construction of any structures or the initiation of any use associated with the wastewater and water supply system.

## **ARTICLE IV. SPECIFIC USE STANDARDS**

### **SECTION 4.1 ACCESSORY DWELLING UNITS**

An accessory dwelling unit that is located within or appurtenant to a single-family dwelling shall be a permitted use in all districts. An accessory dwelling unit is a one- or two-bedroom apartment, located within or appurtenant to a single-family dwelling, that is clearly subordinate to the 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 owner occupies either the single-family dwelling or the accessory dwelling.
- 2) The property has sufficient wastewater capacity.
- 3) The unit does not exceed 750 square feet, or 30% of the total habitable floor area of the single-family dwelling, whichever is greater.
- 4) Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Applicants shall contact the State Permit Specialist (885-8850) and the Vermont Department of Public Safety's Division of Fire Safety (885-8883) prior to proceeding with the construction of an accessory dwelling unit.

### **SECTION 4.2 ACCESSORY STRUCTURES AND USES**

Accessory structures, other than fences and signs, shall conform to the district setback requirements, except that the yard dimensions for an accessory structure of no more than 200 square feet with a height of no more than 15 feet are reduced to twenty (20) feet. Non-structural accessory uses may be located in front, side, or rear yards and need not comply with district yard requirements.

### **SECTION 4.3 AGRICULTURAL AND FORESTRY USES**

Agricultural and forestry uses are allowed in all districts without need for a zoning permit. Although listed as Permitted Uses in all districts, development of farm structures does not require a zoning permit. Prior to breaking ground, however, the Administrative Officer must be notified of the project (except for temporary stands as provided for below). If the structure cannot meet the minimum yard requirements as provided for in the district where it is proposed, a variance must be obtained from the Commissioner of Agriculture, Food and Markets, or the Commissioner of Forests, Parks and Recreation as provided for in Title 24 V.S.A §4413(d). Agricultural produce may be sold in connection with an on-premise agricultural use without a permit if:

- 1) stands are temporary and located at least twenty (20) feet from the edge of a traveled way and from lot lines,
- 2) business is conducted only during daylight hours, and
- 3) parking is provided off-street and limited to a total of five (5) cars at any one time.

If additional hours of operation are proposed, or parking space for more than five (5) cars is required to accommodate customer traffic off-street, a conditional use permit will be required in accordance with Section 5.3.

#### **SECTION 4.4 CAMPERS & RECREATIONAL VEHICLES**

- (A) Campers (travel trailers, recreational vehicles) shall be parked in an approved campground or on an approved sales lot, with the exception that not more than one (1) camper may be located on a residential or undeveloped lot, as an allowed use, subject to the following:
- 1) Campers that are temporarily occupied, in accordance with this Section, shall be located in a side or rear yard and may not be located within required setbacks for the district.
  - 2) It is not occupied for dwelling purposes for more than thirty (30) days within any one calendar year.
  - 3) It is not hooked up to a water or septic system.
  - 4) Any sewage generated shall be disposed of in accordance with all applicable local, state and federal regulations.
- (B) Nothing shall prohibit a property owner from parking his or her unoccupied camper, travel trailer or recreational vehicle on his or her property.

#### **SECTION 4.5 CHILD CARE HOME**

In accordance with §4412 (5), a state registered or licensed day care facility located within a single-family residence serving six (6) or fewer children on a full-time basis and not more than four (4) on a part-time basis, (the care-giver's children are not considered in determining total number of children) shall be considered a permitted single-family residential use of the property. No conditional use or site plan permit is required, but a zoning permit is required and may be issued by the zoning administrator subject to the following:

- 1) the applicant shall submit proof that the facility is properly registered and/or licensed by the State of Vermont and clearly state the number of children to be accommodated by the facility;
- 2) the facility shall meet all zoning district requirements.

#### **SECTION 4.6 CHILD CARE FACILITY**

Other child-care facilities serving more than six (6) full-time children and four (4) part-time children may be permitted within the designated districts subject to conditional use and site plan review.

#### **SECTION 4.7 EXTRACTION OF MINERAL RESOURCES**

Any activities related to mineral extraction are a conditional use and require site plan review. The removal of mineral resources, except when incidental to the construction of a building or a road on the same premises or except where extraction will not exceed 500 cubic feet per year, shall not be permitted until a plan for rehabilitation of the site has been approved by the Development Review Board. The plan shall be submitted by the applicant and shall outline excavation procedures which specify phasing of the operation whereby upon completion of the phases the excavated sections are left in a safe, attractive and useful condition. In accordance with Section

4464(b)(2) of the Act, the Development Review Board may require a performance bond to cover the costs of such phased rehabilitation of the site. Rehabilitation shall at least include slope-rounding to 100% grade if possible, mulching, fertilizing and re-planting. Work shall be done under the supervision of, and to the satisfaction of, the Development Review Board. All surface drainage affected by the operation shall be controlled by the operator to prevent erosion debris and other loose materials from filling any drainage course, road or private property. All provisions to control natural drainage shall meet with the approval of the Development Review Board. Stripping of topsoil for sale or for use on other premises, except soil made surplus by a construction project, shall be prohibited, unless not less than a four-inch layer of topsoil is replaced and re-seeded over the entire stripped area.

#### **SECTION 4.8 FENCES & WALLS**

- (A) All fences and walls, other than Boundary Line Fences and Walls, shall meet the following standards:
- 1) A fence or wall must be set back a minimum of three (3) feet from the property line.
  - 2) The finished side of the fence or wall must face the abutter's property.
  - 3) The fence or wall shall not extend into or obstruct public rights-of-way or interfere with sight distances for vehicular traffic.
- (B) Fences in Special Flood Hazard Areas: All fences and walls located in Special Flood Hazard Areas (SFHA), including Boundary Line Fences and Agricultural Fences, shall be subject to Flood Hazard Review by the Development Review Board.
- (C) Fences less than or equal to six feet in height: Fences less than or equal to six feet in height, as measured from the ground, shall meet the standards for fences and walls, and shall require a zoning permit issued by the Zoning Administrator.
- (D) Fences more than six feet high: Fences over six feet in height, as measured from the ground, shall meet the standards for fences and walls, and shall require conditional use approval by the Development Review Board.
- (E) Agricultural fences: Except in Special Flood Hazard Areas, fences that qualify as farm structures (see definition), regardless of height, shall not require a zoning permit but shall meet the standards for fences and walls. The Zoning Administrator shall be notified in writing that an agricultural fence is being constructed. The notification shall include the physical address and parcel number of the property; the name, mailing address, and signature of the property owner; the reason why the fence qualifies as a "farm structure;" and a sketch showing the dimensions, location, and setback of the fence.
- (F) Boundary line fences: A fence or wall may be constructed on the boundary line between two properties if both property owners agree on the design, size, location, and maintenance of the fence or wall. Constructing a boundary line fence or wall shall require a zoning permit, regardless of height. An application for a boundary line fence or wall shall be a joint application, signed by both property owners, and shall include:
- 1) A survey of the property line on which the fence or wall will be located.

## West Windsor Zoning Regulations

- 2) A written agreement specifying the type of fence (e.g. picket, split rail, stockade, stonewall, etc.), the dimensions and exact location of the fence or wall, and the person(s) responsible for maintenance.
- (G) Stonewalls: For the purposes of this section, a stonewall is considered a fence. A single large boulder, or an unconnected series of boulders, is not considered a stonewall or a fence.
- (H) Hedgerows: For the purposes of this section, a hedgerow is not considered a fence. However, property owners should note the following:
- 1) Nothing can be placed or planted in a highway right-of-way without written permission from the West Windsor Selectboard.
  - 2) Vegetation that extends onto an abutting property may be trimmed back to the property line by the abutting property owner without notification or permission.

### **SECTION 4.9 GROUP AND RESIDENTIAL CARE HOMES**

In accordance with 24 V.S.A. §4412(1)(G), a residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability (as defined in 9 V.S.A. §4501) shall be considered a permitted single-family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing, permitted group home. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability (as defined in 9 V.S.A. §4501) shall be reviewed as a multifamily dwelling and shall be subject to conditional use and site plan review.

### **SECTION 4.10 HOME BUSINESS**

In districts as specified in Section 2.3, home businesses accessory to a dwelling are subject to Conditional Use Review and must conform to the requirements of this section. To conduct an activity, which exceeds the standards for a Home Occupation, a Home Business permit must be obtained. An activity, which exceeds the standards for a Home Business as set forth in this Section, is not allowed unless otherwise provided for in the district. A home business shall:

- 1) be carried on by residents of the premises and not more than four (4) additional on-premise employees who are not residents;
- 2) be carried on within a principal and/or accessory structure and involve external storage of supplies or equipment only if they are screened from any adjacent highway or dwelling unit (except for outdoor parking of two business vehicles) by fencing or evergreen vegetation;
- 3) provide off-street parking for all customer and employee vehicles;
- 4) meet all performance standards, as specified in Section 3.12; and
- 5) be secondary to the use of the premises for dwelling purposes.

#### **SECTION 4.11 HOME OCCUPATIONS**

Nothing in these Regulations shall prevent residents from using a minor portion of their dwellings for an occupation that would otherwise be prohibited in the zoning district. A home occupation shall:

- 1) be carried on only by residents of the premises;
- 2) involve only a service provided or a product produced by those residents;
- 3) be operated entirely within a principal and/or accessory structure;
- 4) result in no external evidence of the enterprise except for permitted signs;
- 5) be clearly secondary to the use of the premises for dwelling purposes; and
- 6) meet all performance standards, as specified in Section 3.12.

An activity which exceeds the standards for a Home Occupation as set forth in this Section is not permitted unless otherwise provided for in the district.

#### **SECTION 4.12 LANDFILL**

In all districts, the dumping of refuse, or waste material, is prohibited. Filling of land in a special flood hazard area (SFHA) is prohibited unless it complies with the West Windsor Flood Hazard Area Regulations. Outside the SFHA, filling of land with loam, rock, stone, gravel, or sand is a permitted use in all districts provided that:

- 1) final contours are graded, covered with topsoil, and re-vegetated to prevent erosion;
- 2) natural drainage flows are not obstructed or diverted onto adjacent property;
- 3) there is no unauthorized disturbance to, or filling of, water bodies, wetlands, buffers, or other significant natural areas; and
- 4) such filling does not result in a slope greater than 25% within 50' of any property line.

Development which cannot meet the above criteria requires review and approval by the DRB in accordance with Sections 3.5 and 3.14.

#### **SECTION 4.13 LIGHT INDUSTRY**

In addition to conditional use and site plan review, manufacturing or fabricating enterprises, which do not meet the standards for a home occupation, a home business, or a low-impact non-residential use, must:

- 1) be located in the Light Industrial/Commercial district;
- 2) be carried on within a principal structure and involve external storage of supplies or equipment only if they are adequately screened from any adjacent highway or dwelling unit by fencing, evergreen vegetation, or other compatible screening;
- 3) provide off-street parking for all customer and employee vehicles; and
- 4) meet all performance standards, as specified in Section 3.12.

**SECTION 4.14 LOW-IMPACT NON-RESIDENTIAL USE**

- (A) Low-impact non-residential uses, which meet the requirements of this section, may be allowed in the Primary Growth Village district, following conditional use review by the Development Review Board (DRB). A low-impact non-residential use shall:
- 1) Be carried on within an existing principal or accessory structure, or meet the requirements of Section 4.14 (B);
  - 2) Employ no more than ten (10) on-premise workers;
  - 3) Not involve external storage of materials or equipment unless they are adequately screened from adjacent highways or dwelling units;
  - 4) Provide adequate off-street parking for all customer and employee vehicles;
  - 5) Meet all the performance standards of Section 3.12; and
  - 6) Establish hours of operations which ensure that the proposed use does not have an undue adverse impact on neighboring residential uses.
- (B) Any new construction planned in connection with an existing or proposed low-impact non-residential use, must be approved by the DRB and shall:
- 1) Have the appearance of a residence, garage or barn;
  - 2) Be designed for easy conversion to a residence or other use allowed in the district;
  - 3) Be of a size and scale similar to other structures in the neighborhood; and
  - 4) Have acreage, yards, frontage, coverage and setbacks sufficient to allow the proposed structure to meet the dimensional requirements for the district in the event that the property is subdivided in the future.

**SECTION 4.15 MIXED USES**

In designated districts, more than one use may be permitted within a single building or on a single lot subject to site plan and conditional use review, provided that:

- 1) Each of the proposed uses is allowed as a permitted or conditional use in the district in which it is proposed.
- 2) The combined uses shall meet all applicable standards for the district in which the mixed use is proposed, including setbacks, frontage, side yards, lot coverage, lot size, and parking.

**SECTION 4.16 MOBILE HOMES, MODULAR HOUSING, PREFABRICATED HOUSING**

Pursuant to 24 V.S.A. § 4412(1)(B), a mobile home shall be considered a single-family dwelling and shall meet the same zoning requirements applicable to single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under these regulations.

In all districts, mobile homes are permitted on lots as single-family dwelling units if they are secured to a permanent foundation. This foundation shall be constructed of stone, concrete or other such materials and may be either a full basement, slab, sunken piles enclosed with block facing, or some other permanent construction.

#### **SECTION 4.17 MOBILE HOME PARKS**

Mobile Home Parks are permitted in the Secondary Growth Residential district as Planned Unit Developments. Mobile home parks shall comply with the provisions of Article V and shall obtain a Mobile Home Park Permit from the State of Vermont prior to occupancy. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes.

#### **SECTION 4.18 MULTI-FAMILY DWELLINGS**

Depending upon the district, multi-family dwellings may be permitted as Conditional Uses or as part of a Planned Unit Development. The lot size for multi-family dwellings shall equal or exceed the "minimum lot size per family unit" for the district times the number of units proposed. In the Rural Residential and Conservation Districts, multi-family dwellings may be permitted only as part of a Planned Unit Development and may be either subdivisions of pre-existing structures or new structures.

#### **SECTION 4.19 PONDS**

The creation or expansion of ponds and other impoundments may be permitted as an accessory use upon application and receipt of a zoning permit in accordance with Sections 6.2 and 6.3. In issuing a zoning permit, the Zoning Administrator shall find that:

- 1) A pond with a water surface area of 10,000 square feet or more shall require conditional use approval.
- 2) Any pond that will impound, or be capable of impounding, more than 500,000 cubic feet of water must receive a permit from the Vermont Department of Environmental Conservation (VDEC), in accordance with 10 V.S.A. Chapter 43, in addition to a local zoning permit.
- 3) If the project necessitates any work within a stream, a stream alteration permit is required from VDEC in accordance with 10 V.S.A. Chapter 41.
- 4) Any application for a pond involving the impoundment of water through the creation of an embankment, berm, or other structure that exceeds the natural grade of the site, or having a water surface area of 10,000 square feet or greater, shall include certification that the pond was designed by a licensed professional engineer. Before a Certificate of Occupancy can be issued for the pond, the applicant must submit certification by a licensed professional engineer that the pond was built in accordance with the proposed design.
- 5) Applications for projects that require approval from the VDEC and/or the Army Corps of Engineers shall not be considered complete until such approvals are received by the Zoning Administrator.

A zoning permit is not required for maintenance of an existing man-made pond for which there is a permit, or which predates zoning, as long as the pond is not enlarged and the maintenance activities conform with state and federal regulations and the Construction Standards for Ponds in Section 4.19-2.

#### **4.19-1 Conditional Use Review for Ponds**

All ponds and all other impoundments, with a water surface area of 10,000 square feet or more, are subject to conditional use review. In granting approval, the Development Review Board shall find that the proposed pond is not located where failure of the embankment, berm, or other structure could cause:

- 1) Loss of life;
- 2) Injury to persons or livestock;
- 3) Damage to residences, commercial or industrial buildings;
- 4) Damage to roads, bridges, culverts, or other infrastructure; or
- 5) Interruptions of the use of public utilities.

Upon issuance of conditional use approval, the Development Review Board shall duly note that the owner of the property is responsible for the maintenance and safe functioning of the pond, and for any undue adverse impacts on neighboring properties, neighboring water supplies, or adjacent town highways.

#### **4.19-2 Construction Standards for Ponds**

Ponds must be designed and built in accordance with the following standards:

- 1) Excavated soil must be disposed of in an upland site so as not to wash back into water bodies and wetlands. All areas above the pond's waterline stripped of vegetation during construction must be seeded and mulched as soon as possible after construction is completed.
- 2) The banks of ponds should be no steeper than a 3:1 slope (i.e., three feet horizontally to one foot vertically) out to a depth of three feet.
- 3) Ponds and their supporting structures may be 25 feet from the edge of the highway right-of-way if the elevation of the pond is below the elevation of the road and the landowner has a written agreement with the West Windsor Volunteer Fire Department authorizing the installation of a hydrant.
- 4) Zoning applications for ponds with elevations above the elevation of the adjacent highway right-of-way shall include a letter from the West Windsor Highway Foreman approving the proposed pond design.

Applicants should be aware that ponds may be considered wetlands. Future development within 50' of the pond may be restricted by local, state or federal law.

### **SECTION 4.20 PUBLIC FACILITIES**

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

- 1) State or community owned and operated institutions and facilities;
- 2) Public and private schools and other educational institutions certified by the Vermont Department of Education

- 3) Churches and other places of worship, convents and parish houses;
- 4) Public and private hospitals;
- 5) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159;
- 6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

#### **SECTION 4.21 RAMPS**

Ramps, both covered and uncovered, constructed for the sole purpose of providing accessibility to buildings by individuals with disabilities do not need to meet district setback requirements provided they do not exceed the dimensions for width set forth in the federal Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities. Any part of an accessibility route with a slope greater than 1:20 shall be considered such a ramp. While no application or fee is required for construction, a sketch plan showing the proposed location of the ramp on the lot and the ramp dimensions shall be submitted to the Administrative Officer. Ramp construction shall not encroach on any public rights-of-way without the prior approval of the Selectboard or the State, where required.

#### **SECTION 4.22 STORAGE OF FLAMMABLE FLUIDS**

The storage of flammable fluids and the equipment in which they are stored is controlled under the Fire Code of Vermont (NFPA Code) as administered by the State Fire Marshal and the local Emergency Management Coordinator. Storage of flammable fluids (other than bulk storage for commercial distribution) which is accessory to another use and is consistent with this Code is permitted in any district, but will require a zoning permit if the storage capacity is over 1000 gallons. Bulk storage for commercial distribution is only permitted in the COM/IND district and must also comply with the Code. Procedures for abandoning storage tanks for flammable fluids must be approved by the Fire Marshal's office.

#### **SECTION 4.23 SWIMMING POOLS**

A swimming pool shall be considered an accessory structure. Swimming pools shall be installed and maintained in conformance with the State Health Code, and shall be surrounded by a barrier (for in-ground pools) or pool side (for above ground pools) no less than four (4) feet high to prevent uncontrolled access. Any gates shall be self-closing and self-latching. Alternative methods to prevent uncontrolled access shall require conditional use approval by the DRB.

#### **SECTION 4.24 TWO-FAMILY DWELLINGS**

Ordinarily a multi-family dwelling requires a lot size at least equal to the number of units times the minimum lot size for a single-family dwelling. However, a two-family dwelling only requires the minimum lot size if all state and local permits are obtained.

## **SECTION 4.25 WIRELESS TELECOMMUNICATIONS FACILITIES**

**Purpose:** To regulate the construction, alteration, development, decommissioning or dismantling of wireless communication facilities and ancillary structures and improvements. Activities regarding the decommissioning or dismantling of communication facilities and ancillary structures may include requirements that a bond, or other security acceptable to the Development Review Board, be posted in order to finance the decommissioning or dismantling of all or any portion of the facility. Pursuant to 24 V.S.A §4440(d), the Board 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.

### **4.25-1 Wireless Communications Facilities:**

A wireless communication facility is a conditional use in any District. In addition to the relevant bylaws, the Board shall review an application for a wireless telecommunications facility for compliance with this Section 4.25 as well as the conditional use standards in Section 5.3, and may attach certain additional requirements or conditions to a permit.

- 1) An applicant for a telecommunications tower or facility must be a telecommunications provider or must provide a copy of its lease/contract with an existing telecommunications provider. A permit shall not be granted for a tower to be built on speculation.
- 2) In addition to information otherwise required under this bylaw, all applications for wireless communications facilities shall include the following supplemental information:
  - (a) The name and address of the applicant, the record landowners, and any duly appointed agents of the landowners or applicants. If the applicant is not a natural person, the name of the business and the state in which it is registered shall be provided.
  - (b) The name, address, and telephone number of the person to be contacted and authorized to act in the event of an emergency.
  - (c) The names and addresses of the record owners of all abutting property.
  - (d) A report from a qualified and licensed professional engineer that describes the tower height and design including a cross section and elevation.
  - (e) A written five-year plan for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs, as well as plans for further developments and coverage within the Town.
  - (f) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use.
  - (g) Vicinity Map showing the entire vicinity within a 2500 foot radius of the tower site, including the topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites, and areas

designated by the Vermont Agency of Natural Resources as critical wildlife habitat or as known locations of endangered or threatened species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower.

- (h) Proposed plans of entire development indicating all improvements including landscaping, screening, power lines, storage and maintenance buildings, and roads.
  - (i) Elevations showing all facades and indicating all exterior materials of towers.
  - (j) Setback distances of all buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Board) shall meet the minimum setback requirements of the underlying zoning district. If the minimum setbacks of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum distance from the tower to any property line or occupied structure shall be no less than the height of the tower, including antennas and other vertical appurtenances.
- 3) Before receiving a permit an applicant shall demonstrate, through certification by a qualified Radio Frequency (RF) engineer, that the proposed facility will comply with all applicable Federal Communications Commission (FCC) rules governing RF radiation and interference. The Development Review Board may require post-construction monitoring to ensure compliance.
  - 4) Siting and design of communications facilities (including any support and maintenance structures, necessary access corridors, and utility lines) shall minimize impacts on natural, scenic, and aesthetic resources to the fullest extent possible. The Development Review Board is specifically authorized to place, among other conditions, restrictions on the height of a facility above existing roof lines and tree canopies. Lighting shall not be allowed unless specifically required by the Federal Aviation Administration (FAA), and must be shielded from surrounding properties to the greatest extent possible.
  - 5) For each wireless telecommunications facility installed subject to these regulations, the owner of a facility shall annually, on January 15, file a declaration with the Town of West Windsor's Administrative Officer certifying the continuing safe and FCC compliant operation of said facility, including the condition of the tower portion. Failure to file a declaration shall mean that the facility/tower is no longer in use and shall be considered discontinued or abandoned. In the event that the use of a tower or other equipment is discontinued or abandoned, the site shall be restored to its natural condition, or to the condition that existed prior to construction or installation, as appropriate, within 180 days of discontinuance; the Development Review Board may require an applicant to secure a bond ensuring removal and site rehabilitation.
  - 6) If feasible, wireless communications facilities shall be located on existing structures, including but not limited to buildings, water towers, existing communications facilities, and utility poles and towers. An applicant for a tower or support structure shall have the burden of demonstrating, to the satisfaction of the Development Review Board, that there are no existing structures on which it is feasible to locate. This demonstration shall include, at a minimum:

## West Windsor Zoning Regulations

- (a) A map showing other FCC-licensed wireless communications facilities within the town and within ten miles of the proposed site;
- (b) A propagation study, showing why available structures cannot be used to attain the coverage necessary for the applicant to provide service to the town.

## **ARTICLE V. DEVELOPMENT REVIEW**

An applicant for a Site Plan Review or Conditional Use Review by the Development Review Board shall submit, in addition to a zoning application, the information required in Section 5.1 (for Site Plan Review) and/or Section 5.3 (for Conditional Use Review). This information is required unless specifically waived by the Development Review Board. Minor amendments to previously approved development may be reviewed and approved by the Zoning Administrator under Section 6.3.

### **SECTION 5.1 SITE PLAN REVIEW APPLICATION REQUIREMENTS**

Site plans shall show or designate the following:

- 1) The location, height, dimensions and spacing of existing and proposed structures;
- 2) Streets, driveways, power lines, and other utilities;
- 3) Off-street parking spaces;
- 4) All other physical features, including surface waters and wetlands, stone walls and fences, open space, elevations and contours;
- 5) Acreage of entire parcel, with existing and proposed lot boundaries;
- 6) Areas designated by the Vermont Agency of Natural Resources as critical wildlife habitat or as known locations of endangered or threatened species;
- 7) Significant natural or cultural features;
- 8) Landscaping and screening;
- 9) Lighting design

### **SECTION 5.2 SITE PLAN REVIEW**

For any Conditional Use other than a one- or two-family dwelling, an accessory use or structure, or a home occupation, the approval of site plans by the Development Review Board (DRB) is required. In reviewing site plans, the DRB may impose conditions and safeguards with respect to adequacy of parking, traffic access, circulation for pedestrians and vehicles; landscaping and screening; the protection of the utilization of renewable energy resources; exterior lighting; size, location and design of signs; and other matters specified in the bylaws which includes, but is not limited to: compatibility with surrounding development; noise, vibration, erosion, and dust; and protection of natural and scenic resources. Consideration shall be given to traffic mobility and safety on affected streets, impacts on surrounding uses, and to desired land use patterns as encouraged by the Municipal Plan and the zoning regulations of the affected district(s). Conditions may include, but are not limited to, the following:

- (A) Compatibility with surrounding development: The DRB may require the design and placement of structures to be compatible with significant historic and natural features and resources, adjacent/surrounding buildings, and the landscape. The review may include setback distances, physical orientation, construction materials, and architectural design.

## West Windsor Zoning Regulations

Design shall not be limited to any particular style or period, but should be consistent with established patterns in the surrounding area.

- (B) Traffic access and circulation: Among other appropriate safeguards and conditions, the DRB may:
- 1) limit the number and width of access drives; require consolidation of existing access points.
  - 2) require shared access and/or parking for adjoining properties or for future users of the remainder of a parcel; require the reservation of shared rights-of-way for future roads, parking areas, and pedestrian facilities; allow for consolidation or shared use of required parking spaces between uses.
  - 3) require the applicant to obtain a traffic impact study from a qualified consultant.
  - 4) prohibit the location of parking facilities between the front line of building(s) and the street.
  - 5) accommodate existing or future facilities for non-vehicular travel.
- (C) Protection of scenic and natural resources: The DRB may require that structures, parking facilities and other development be located so as to avoid undue adverse impacts to adjacent surface waters, wetlands, wildlife habitat, agricultural land, important scenic resources, and significant natural and cultural features. These requirements may include modification of the minimum setback distances of the zoning district.
- (D) Exterior Lighting: The applicant will provide information regarding the location, type and level of illumination of all outdoor lighting. Exterior lighting shall be kept to the minimum required for safety and security and be consistent with the character of the neighborhood.

Hearings for Conditional Use and Site Plan approval may be consolidated, at the discretion of the Development Review Board.

### **5.2-1 Voluntary Review for Single and Two Family Residences**

Prior to the issuance of a zoning permit, the West Windsor Development Review Board requests that all applicants participate in an informal site plan review given the significant cultural, natural and scenic resources that may be affected by their proposed development. The review, which will be of no cost to the homeowner, will provide the Development Review Board and the landowner the opportunity to discuss any significant town resource issues and potential mitigation actions the applicant may take to lessen the impact of their project on their neighbors and the town.

**SECTION 5.3 CONDITIONAL USE REVIEW STANDARDS AND PROCEDURES**

- (A) **Application.** An application for conditional use review, along with the required fee, shall be submitted to the Administrative Officer for consideration by the Development Review Board at their next available regularly scheduled meeting.
- (B) **Review Procedure.** The Administrative Officer shall notify the Development Review Board when a complete application is received. The Board shall hold a public hearing within sixty (60) days of receiving a complete application, and shall issue a written decision within forty-five (45) days of the adjournment of the final public hearing. Failure of the Board to issue a written decision within forty-five (45) days of the date of the adjournment of the final public hearing shall be deemed approval, and shall be effective on the 46th day. All decisions, whether to approve, approve with conditions, or disapprove an application for a Conditional Use shall be based upon the general and specific standards in these regulations. In approving a project with conditions, the Development Review Board may require specific modifications to the scale, layout, design, timing or phasing of the project; may place restrictions on its operation and/or intensity to ensure compliance with this section, and may establish additional specific conditions if circumstances peculiar to the proposed Conditional Use require it.

Appeals of Development Review Board decisions shall be to the Environmental Court in accordance with the Act and Section 6.7 of these regulations.

- (C) **General Standards.** Conditional use approval shall be granted by the Board upon their determination that the proposed use or structure complies with these regulations and does not result in any undue adverse effect on any of the following:
  - 1) **The capacity of existing or planned community facilities or services.** The Board shall consider the demand for community services and facilities which will result from the proposed development, and determine whether that demand will exceed the capacity of existing facilities or services. In making such a determination, the Board will consider any capital program or budget in effect at the time of application and may consult with school, fire department, law enforcement, or other community officials. Conditions may be imposed to minimize the impact on schools and other community facilities, infrastructure, utilities and services.
  - 2) **The character of the neighborhood, area, or district affected.** The Board shall consider the location, scale and intensity of the proposed development relative to the use and character of adjoining properties and other properties likely to be affected by the proposed use. The Board also shall consider the proposed development's compatibility with the purpose and character of the affected district as defined by these regulations, the Town Plan, and the testimony of affected property owners and other interested persons. Proposed activities that would create an undue adverse impact on the character of the neighborhood, area or district shall not be approved unless the undue adverse impacts can be avoided and/or mitigated through changes to the location, design, scale, operation, composition and/or intensity of the proposed development or use.

- 3) **Traffic on roads and highways in the vicinity.** The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency and use of affected public roads, bridges, and intersections. The Board will rely on accepted transportation standards in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists or unacceptable levels of service for local roads, highways and intersections, unless such conditions or levels of service can be mitigated by the applicant through physical improvements to the road network and/or traffic management strategies.
- 4) **Bylaws now in effect.** A conditional use must comply with all municipal bylaws and regulations in effect at the time the application is submitted, the policies of the West Windsor Town Plan, and the conditions of prior permits or approvals, including subdivision approval.
- 5) **The utilization of renewable energy resources.** The Development Review Board will consider whether the proposed development will interfere with the sustainable use of renewable energy resources either by using, restricting access to, or reducing the future availability of such resources.

(D) **Specific Standards.** Any Conditional Use:

- 1) shall not unreasonably interfere with access to, use, or enjoyment of, adjacent properties;
- 2) shall not deny neighboring properties reasonable and adequate access to light or block existing significant views;
- 3) shall allow for construction or maintenance of public utilities and infrastructure, where appropriate.

**5.4 PLANNED UNIT DEVELOPMENT**

**Purpose.** In accordance with the Act [§4417], Planned Unit Developments (PUDs) are allowed in the Town of West Windsor, subject to review and approval by the Development Review Board (DRB), to permit flexibility in the application of land development regulations for the purposes of §4302 of this title and in conformance with the Town Plan. The purposes of Planned Unit Development in West Windsor are:

- 1) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential and nonresidential uses, especially in the Primary Growth, Resort/Residential, and Secondary Growth districts.
- 2) To implement the policies of the West Windsor Town Plan.
- 3) To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.
- 4) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including

pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the Town Plan and the Zoning Bylaws.

- 5) To conserve open space features recognized as worthy of conservation in the Town Plan and the Zoning Bylaws, such as agricultural land, forest land, trails and other recreational resources, critical and sensitive natural areas, and scenic resources.
- 6) To provide protection from hazardous conditions.
- 7) To provide for efficient use of public facilities and infrastructure.
- 8) To encourage energy-efficient development and redevelopment.

### **Review Procedure.**

The Development Review Board (DRB) shall review PUD applications concurrently with conditional use and site plan review. In addition to the conditional use and site plan application requirements, an application for PUD approval shall include a statement describing all proposed modifications to existing bylaw requirements. Modifications of this bylaw approved by the DRB shall be noted in writing and appended to a plat depicting the project to be recorded in the West Windsor Land Records. All other provisions of this bylaw not specifically modified shall remain in effect and be applicable to the project.

### **Review Procedure for PUDs with Multiple Conditional Uses**

If a PUD application proposes more than one conditional use, the DRB may review the uses separately or concurrently.

### **General Standards.**

The modification of zoning regulations by the DRB may be permitted in accordance with the following standards:

- 1) The PUD shall meet all applicable conditional use standards, and shall be consistent with the West Windsor Town Plan, the Master Plan for the project (if applicable), and all other applicable municipal regulations and ordinances currently in effect, including all local and state regulations for sewage disposal and the protection of water quality.
- 2) The PUD shall include provisions for the preservation or protection of open space including surface and ground waters; wetland, stream bank, and floodplain areas; significant topographic features, including hilltops and ridgelines; areas of steep slope; significant resource lands, including agricultural and forest land; historic or archaeological sites and structures; critical wildlife habitat; and open spaces, including scenic views and vistas. Provisions shall be made to enable lands designated for agriculture and forestry to be used for these purposes. The DRB may require management plans for forests and/or wildlife habitat.
- 3) As a minimum requirement, each residential dwelling unit and each commercial building shall be connected to a communal water and wastewater system at the applicant's expense. Bonds may be required by the DRB to ensure the future viability of the communal system. If the DRB finds that this communal system requirement is not reasonable for the proposed PUD, the DRB may require that each residential dwelling or individual business unit have its own individual well and septic system, which may be located in the common area. Each such

individual system shall be the responsibility of the owner of the individual unit or commercial building. A PUD with a communal water, wastewater, or stormwater system must have an incorporated homeowners association.

- 4) The DRB may allow for greater concentration of development in some section(s) of the PUD, on individual lots which are smaller than the minimum lot size for the district, provided that the greater concentration is offset by a lesser concentration in other sections, and provided that no less than 50% of the land is preserved as open space.
- 5) The minimum front, side and rear yard setbacks at the periphery of the PUD shall be as required for the particular district unless otherwise specified by the DRB. Other than on the periphery, the DRB may allow other setback standards, such as zero lot lines, as part of PUD approval.
- 6) Preserved open space shall be:
  - (a) dedicated, either in fee or through a surveyed and deeded conservation easement, to the Town, a community association comprising all of the present and future owners of lots or dwellings in the project, or a non-profit land conservation organization. The fee or easement is subject to DRB approval or approval with conditions.
  - (b) subject to appropriate deed restrictions stipulating permitted and restricted uses, establishing suitable maintenance requirements, and designating the person or entity responsible for maintenance and long term stewardship.
  - (c) located so as to conform with and extend existing and potential open space lands on adjacent parcels.
- 7) Where a district boundary line divides a parcel, the DRB may allow the development of a single PUD with a total density based on the combined allowable density of each district.
- 8) Two (2) or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PUD. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted, in the DRB's judgment, if the land were subdivided into lots in conformance with district regulations.
- 9) The total number of dwelling units shall not exceed that which would be permitted in the DRB's judgment if the parcel were subdivided into buildable lots in conformance with the district minimum lot area required for single-family dwellings.
- 10) The dwelling units permitted may, at the discretion of the DRB, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached.
- 11) A PUD may include any permitted or conditional uses allowed in the district in which it is located. Multiple principle structures and/or uses on a lot, or multiple ownership of a single structure may be permitted at the discretion of the DRB.
- 12) Principal buildings and mixed uses shall be arranged to be compatible, and buffered as appropriate to maximize visual and acoustical privacy for the residents of the development and for adjacent properties.

**Section 5.4-1 Additional Requirements for PUD in the Resort/ Residential and Resort/Conservation PUD Districts**

In addition to the requirements of Section 5.4, the following standards apply to PUDs in the Resort/Residential and Resort/Conservation Districts.

- 1) The specific purpose of allowing planned unit development in the Resort/Residential and Resort/Conservation Districts is to provide for the development of the residential, commercial and recreational structures and uses typically provided by a Multi-Season Ski Resort. No Master Plan will be approved which does not embody these primary characteristics.
- 2) Development of a PUD must conform to a comprehensive conceptual development master plan prepared by the applicant in consultation and agreement with the Planning Commission and the Development Review Board, which shall conduct public meetings to engage townspeople in its preparation and review. Before the Planning Commission and Development Review Board can take action on a Master Plan, the plan must address the following criteria:
  - (a) A general description of the project including the total acreage; the number, location and approximate dimensions of buildings, parking areas, roads, bridges and other structures; and the timing and phasing of construction.
  - (b) A site plan map and a natural resources map showing all the elements listed in Section 5.1 of these regulations as well as soils, headwaters, and existing and proposed recreational trails. The plan must identify the type, spacing and density of buildings and uses, and include a description of the probable effect of the proposed development on the natural resources of the area.
  - (c) A municipal and regional impact study showing the probable effect that the project will have on utilities (including electric, water and wastewater), roads and traffic, schools, emergency services, town services, and the tax base. The study shall provide information on existing usage and conditions and projected usage and conditions (after the completion of the projects proposed in the Master Plan).
  - (d) An estimate of the number of additional workers to be employed as a result of the project and a plan for housing those workers.
  - (e) An estimate of the number of permanent residents who will move to the Town as a result of the project.
  - (f) An explanation of how the project conforms with the Town Plan.
- 3) The existing Resort Master Plan will expire five years from the date of agreement between the Resort and the Planning Commission/Development Review Board unless the original signatories or their heirs and assigns request that the Master Plan be reviewed and readopted. A Master Plan may be readopted for another five-year term after consultation and agreement with the Planning Commission and Development Review Board. Each phase of the Master Plan must be permitted in accordance with these regulations.
- 4) The acceptance of the Master Plan by the Planning Commission/Development Review Board does not preclude the Planning Commission/Development Review Board from fully

## West Windsor Zoning Regulations

participating in any local, regional or state permit hearings related to a project associated with the Master Plan.

- 5) The minimum setback at the periphery of the Resort/Residential and Resort/ Conservation PUD shall be 150 feet unless otherwise approved by the PC/DRB.

The Planning Commission may, after public hearing, prescribe from time to time rules and regulations to supplement the standards and conditions for PUD approval set forth herein, provided that these rules and regulations are not inconsistent with these zoning by-laws.

**ARTICLE VI. ADMINISTRATION, ENFORCEMENT, AND APPEALS**

**SECTION 6.1 MUNICIPAL APPOINTMENTS**

Municipal appointments include all appointments deemed necessary to review development and to administer and enforce the zoning regulations – including the Administrative Officer (Zoning Administrator), the Development Review Board and the Planning Commission.

**Administrative Officer (Zoning Administrator)**

The Selectboard shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with the Act [§4448]. The Selectboard may remove an Administrative Officer for cause at any time after consultation with the Planning Commission.

An assistant Administrative Officer may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who may be given the same duties and responsibilities of the Administrative Officer in the Administrative Officer’s absence. In the event an assistant Administrative Officer is appointed, the Selectboard shall, after consulting with the Planning Commission, establish clear policies regarding the authority of the Administrative Officer relative to the authority of the assistant officer.

Administrative Officer(s) shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

**Planning Commission**

The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Selectboard in accordance with the Act [§§4321– 4323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Selectboard. Resignations shall be in writing to the Selectboard.

The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under the Act [§4323(b)] and Vermont’s Open Meeting Laws. The Commission shall have the powers and duties outlined in §4325, including the following:

- (A) to prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition (Section 1.4);
- (B) to prepare and approve written reports on any proposed amendment to these regulations as required by the Act [§4441(c)]; and,
- (C) to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Selectboard [§4441(d)].

### **Development Review Board**

The Development Review Board shall consist of not less than three (3) or more than nine (9) members appointed by the Selectboard for specified terms in accordance with the Act [§4460(b) and (c)]. The Selectboard also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Board may be removed for cause by the Selectboard upon written charges and after public hearing.

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law. The Board 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) appeals from any decision, act or failure to act by the Administrative Officer (Section 6.7);
- (B) variance requests (Section 6.8);
- (C) applications for conditional use approval (Section 5.3); and
- (D) applications for site plan review (Section 5.1 and 5.2), flood hazard review, subdivision, and/or planned unit development (Section 5.4).

### **SECTION 6.2 APPLICATIONS**

#### **Application Requirements.**

A completed application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, shall also be submitted with each application. Fees will be doubled and fines may be imposed for any permit application submitted after development has started. Applicants are responsible for the accuracy of the information submitted on the application form. A permit issued based on false information shall be null and void, and the applicant shall be responsible for bringing the project into compliance with the zoning regulations. In addition, the following information will be required as applicable.

#### **Permitted Uses.**

Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:

- (1) the dimensions of the lot, including existing property boundaries;
- (2) the location, footprint and height of existing and proposed structures or additions;
- (3) the location of existing and proposed accesses (curb cuts), driveways and parking areas;
- (4) the location of existing and proposed easements, rights-of-way, or deed restrictions;
- (5) existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands;
- (6) the location of existing and proposed water and wastewater systems; and
- (7) other information, including but not limited to survey information, if deemed necessary by the Administrative Officer to determine conformance with these regulations.

### **Applications Subject to Review by the Development Review Board**

For development requiring one or more approvals from the Development Review Board prior to the issuance of a zoning permit, application information and fees are required and shall be submitted concurrently with the application for a zoning permit to the Administrative Officer. Pursuant to 24 V.S.A. §4440(d), the DRB is authorized to hire qualified persons to conduct independent technical reviews of applications and to require the applicant to pay for all reasonable costs thereof.

### **Flood Hazard Area Approval**

Any application for development within a Special Flood Hazard Area shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, the Federal Insurance Administrator, and adjacent municipalities in accordance with the Act [§4424(D)] and the West Windsor Flood Hazard Area Regulations.

### **SECTION 6.3 ISSUANCE OF A PERMIT**

A zoning permit shall be issued by the Administrative Officer only in accordance with the Act [§4449] and the following provisions:

- (1) Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Appropriate Municipal Panel and/or state for consideration. In accordance with the Act [§§4448, 4449], if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31<sup>st</sup> day.
- (2) Except as provided for in the “Administrative Review” subsection below, no zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of an Appropriate Municipal Panel or the Selectboard until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
- (3) If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Administrative Officer shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 - day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [§4449(d)].
- (4) A zoning permit shall include a statement of the time within which appeals may be taken under Section 6.7; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.

- (5) The Administrative Officer, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.

### **Administrative Review**

The administrative officer may review and approve minor amendments to previously approved development that would otherwise require review by an appropriate municipal panel in accordance with the provisions of the Act (§4464(c)), where no material changes or impacts are expected, and where bylaw conformance is found.

Any decision by an administrative officer under this subsection may be appealed as provided in Section 6.7 (§§4465 and 4466).

However, the authority to approve an application administratively does not mean that the administrative officer is required to do so. The administrative officer reserves the right to refer any application to the DRB where it is deemed that Board level review or interpretation is appropriate or necessary. In such cases, the applicant shall be responsible for any additional fees or submittals needed for Board review.

### **Effective Date**

No zoning permit shall take effect until the time for appeal under Section 6.7 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

## **SECTION 6.4 CERTIFICATES OF OCCUPANCY**

In accordance with the Act [§4449], a certificate of occupancy issued by the Administrative Officer shall be required prior to the use or occupancy of any land or structure, or part thereof, for which a zoning permit has been issued.

- (1) An application for a certificate of occupancy shall be provided with the zoning permit issued by the Administrative Officer.
- (2) A certificate of occupancy shall not be issued until all necessary approvals and permits required by these regulations have been obtained for the project, and the Administrative Officer determines that the project has been substantially completed in conformance with all local approvals and permits.
- (3) Within 14 days of receipt of the application for a certificate of occupancy, the Administrative Officer may inspect the premises to ensure that all work has been substantially completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the Administrative Officer fails to either grant or deny the certificate of occupancy within 14 days of the submission of an application, the certificate shall be deemed issued on the 15th day.
- (4) Fees for issuance of a Certificate shall be set by the Selectboard.

### **SECTION 6.5 PERMIT EXPIRATION**

Any zoning permit issued shall require renewal if the work described therein is not commenced within a period of one (1) year from the date of issuance and diligently pursued thereafter. Renewal applications must be submitted before the permit expiration date, and will be approved by the Administrative Officer provided that there is no change in either the proposed development or the regulations of the zoning district in which it is proposed.

### **SECTION 6.6 ENFORCEMENT**

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act (§4451, 4452). Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of West Windsor, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the Town of West Windsor.

#### **Notice of Violation**

No action may be brought under this Section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality under Section 6.15. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven day notice period and within the next succeeding 12 months. A copy of the notice of violation shall be sent to the property owner, the Selectboard Chair, the Development Review Board Chair and the Town Attorney.

#### **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 [§4454]. 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 under Section 6.15.

## **SECTION 6.7 APPEALS**

### **Administrative Officer Actions**

Any interested person as defined under the Act [§4465] may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Development Review Board or, if no Secretary has been elected, the Town Clerk, and by filing a copy of the notice with the Administrative Officer.

### **Notice of Appeal [To Development Review Board]**

A notice of appeal filed under this Section shall be in writing and include the following information, in accordance with the Act [§4466]:

- (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 applicable provisions of these regulations,
- (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
- (5) the alleged grounds why such relief is believed proper under the circumstances.

The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The Board shall give public notice of the hearing under Section 6.14, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by, or on behalf of, the appellant [§4470].

In accordance with the Act [§4468], all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §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 recessed by the Board from time to time, provided that the date and place the recessed hearing shall be reconvened is announced at the hearing.

A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent by certified mail to the appellant

within the 45-day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with Section 6.14. Failure of the Board to issue a decision within this 45-day period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.

### **Interested Persons**

The definition of an interested person under the Act [§4465(b)] includes the following:

- (1) a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- (2) the Town of West Windsor or any adjoining municipality;
- (3) a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
- (4) any ten (10) voters or property owners within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this Section, if granted, will not be in compliance with the policies, purposes or terms of the plan or bylaw of the municipality; and
- (5) any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

### **Appeals to Environmental Court**

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the Development Review Board or Planning Commission may appeal a decision rendered by the Panel(s) under Section 6.7, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

- (1) "Participation" in a [Panel] proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Municipal Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not

the appellant), to the appellant within five (5) 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. 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.

An interested person may, in accordance with §4464 through §4468 of the Act, appeal any provision of these Regulations, by filing a notice of appeal with the Development Review Board.

## **SECTION 6.8 VARIANCES**

### **Variance Criteria**

The Development Review Board shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Section 6.7. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a variance and render a decision in favor of the appellant only if *all* of the following facts are found, and the findings are specified in its written decision:

- (1) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations 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 these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) The 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; and
- (5) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

### **Renewable Energy Structures.**

Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act [§4469(b)], the Board may grant such variance only if *all* of the following facts are found in the affirmative and specified in its written decision:

- (1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;
- (2) The hardship was not created by the appellant;
- (3) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
- (4) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

### **Variations within the Flood Hazard Area.**

In addition to the requirements specified in Section 6.8, variances for development within the Flood Hazard Overlay District shall be granted by the Board only in accordance with the Act and the criteria for granting variances found in the West Windsor Flood Hazard Regulations.

## **SECTION 6.9 WAIVERS**

### Purpose:

The intent of this section is to provide flexibility in dimensional requirements in accordance with 24 VSA §4414(8) by allowing reductions in property line setback requirements of up to 50% in certain specific circumstances. In no event shall a waiver result in a structure with a setback of less than 10 feet from a property line or right-of-way.

### Allowable Waivers:

The DRB may grant a waiver from dimensional standards in the following situations:

- 1) To allow for fire safety improvements, recommended by the West Windsor Fire Chief, which cannot be accomplished without a waiver.
- 2) To allow for disability access improvements, or other legally required improvements, which cannot be accomplished without a waiver.
- 3) To allow for energy conservation and renewable energy structures that cannot be accommodated without a waiver.
- 4) To allow for the preservation of open space, agricultural land, scenic views, or natural resources including, but not limited to, surface waters, wetlands, or steep slopes.

### Approval Criteria:

Before approving a waiver, the DRB shall determine that the proposed development:

- 1) Meets the criteria for conditional use approval
- 2) Is designed to minimize encroachment into the setback
- 3) Cannot reasonably be constructed elsewhere on the lot.
- 4) Is compatible with the scale and design of structures in the surrounding neighborhood.

## West Windsor Zoning Regulations

In addition, the DRB shall determine that the proposed development shall not:

- 1) Result in an increase in the degree of nonconformance of a nonconforming structure
- 2) Result in a structure with a setback of less than 10 feet from a property line or right-of-way
- 3) Have an adverse impact on natural resources or encroach on surface water setback requirements
- 4) Extend into the highway right-of-way or interfere with sight distances on public or private roads, as determined by the Selectboard and/or the Highway Foreman.
- 5) Substantially or permanently impair the reasonable or appropriate use or development of adjoining properties, or alter the essential character of the neighborhood.

### Conditions of Approval:

In approving a waiver, the DRB may require certain conditions to meet the stated purpose of the zoning district, or to reduce or eliminate impacts on natural resources or surrounding properties. These conditions may include, but need not be limited to, the following:

- 1) modifications to the design (e.g. window placement) or dimensions of the proposed structure to protect the privacy of neighboring properties and/or reduce the encroachment into the setback
- 2) Landscaping and screening
- 3) Restrictions on the location and number of vehicular access points

### Application Procedure:

The applicant shall submit the waiver request to the Zoning Administrator at least 30 days prior to the next regular meeting of the DRB. The request must include: the physical address and tax map number of the property for which the waiver is being requested; the name, address, and phone number of the property owner and the applicant; a drawing to scale accurately depicting the location, dimensions and setbacks of existing and proposed structures, accesses, driveways, parking areas, rights-of-way, surface waters, utilities, wells and wastewater systems; a written explanation of the reason for the requested waiver; and a statement from the Fire Chief, Road Foreman or Selectboard (if applicable).

The ZA or the DRB shall require applicants to submit a survey or a site plan prepared by a surveyor, engineer, or architect licensed by the state of Vermont, showing the location of affected property lines, existing and proposed structures, and any other information deemed necessary by the ZA or the DRB.

### Hearings:

A public hearing shall be required prior to the issuance of a waiver. Public hearings shall be warned in accordance with 24 VSA §4464 and Section 6.14 of the West Windsor Zoning Regulations. See Section 6.14 for more information on public hearings.

### Decisions:

In accordance with 24 VSA §4464(b) and Section 6.14 of the West Windsor Zoning Regulations, the DRB shall issue a written decision on the waiver request with 45 days of the close of the hearing. See Section 6.14 for more information on DRB decisions.

Appeals of Waiver Decisions:

In accordance with 24 VSA §4471 and Section 6.7 of the West Windsor Zoning Regulations, an interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the panel to the Vermont Environmental Court. See Section 6.7 (Appeals to Environmental Court) for more information.

Expiration of Waiver Approval:

A waiver granted by the DRB shall expire one year from the date of the written decision if the applicant has not received a zoning permit within that time period.

Waiver Fee: The Legislative Body shall set the fee for waiver applications.

**SECTION 6.10 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Utilizing the following guidelines, the Administrative Officer shall determine the boundaries of the Zoning Districts. Upon appeal from the decision of the Administrative Officer as to a boundary location, the Development Review Board shall make the necessary interpretation.

- (1) Where district boundaries are indicated as approximately following a street or highway, the centerline of such street or highway right-of-way shall be construed to be the boundary.
- (2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be the boundary.
- (3) Where district boundaries are shown as paralleling streets or highways, such boundaries shall be construed as running parallel to the center lines of the rights-of-way of such streets or highways at such distance therefrom as is indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.
- (4) Where the boundary of a district follows a river or stream, the boundary shall be construed to be the normal high water mark of the river or stream.

**SECTION 6.11 PARCEL IN TWO DISTRICTS**

Where a district boundary line divides a parcel in two and the portion of the parcel in one of the districts does not meet the minimum lot size for that district but exceeds one-eighth (1/8) of an acre, the Regulations for the district shall be extended into the adjoining district the minimum distance necessary to provide for conforming lots in both districts, if development of the small portion is proposed. If conforming lots cannot be so created, the Development Review Board shall, after public hearing, establish an appropriate boundary location and may, in accordance with Section 6.8, grant a variance for development of a small lot if necessary. In no case, however, shall any use allowed in one district be extended more than thirty (30) feet into the abutting zoning district if it would not ordinarily be allowed therein.

### **SECTION 6.12 RECORDS**

The Administrative Officer shall maintain a complete record of all the applications, reviews, decisions, appeals and variances made under these Regulations and any administrative actions taken pursuant thereto.

### **SECTION 6.13 PROCEDURAL CONSOLIDATIONS**

If a proposed development requires more than one review procedure, such as PUD Review, Flood Hazard Review or Conditional Use Review, the applicant and the reviewing authority (Development Review Board) may agree to consolidation of all the pertinent proceedings into one review process as long as (1) public hearings are held as required, and (2) all parties agree to comply with the specified time limits of one of the review processes. In this case, the applicant shall include in his single submission all the requirements of the pertinent review procedures and the reviewing boards shall include in their decision findings and conditions pursuant to each of these reviews.

### **SECTION 6.14 PUBLIC HEARINGS**

#### **Public Notice**

In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review (Section 5.3), appeals of decisions of the administrative officer (Section 6.7) and variances (Sections 6.8). Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- (1) publication of the date, place and purpose of the hearing in the Town's adopted "newspaper(s) for public notices";
- (2) posting of the same information in three (3) or more public places within the municipality, including the posting of a notice by the applicant within view from the public right-of-way nearest to the property for which the application is being made;
- (3) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

Public notice of all other types of development review hearings, including erosion control review, 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:

- (1) posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
- (2) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes

a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.

No defect in the form or substance of any required public notice under this Section shall invalidate the action of the Appropriate Municipal Panel where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Development Review Board or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

### **Hearings**

In accordance with the Act [§4461], all meetings and hearing of the Appropriate Municipal Panel(s), except the deliberative sessions, shall be open to the public. For the conduct of any hearing and the taking of any action, a quorum shall be not less than the majority of members of the Appropriate Municipal Panel(s). The Appropriate Municipal Panel(s), in conjunction with any hearing under this bylaw, may:

- (1) examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
- (2) require the attendance of any person having knowledge in the premises;
- (3) take testimony and require proof material for its information; and
- (4) administer oaths or take acknowledgement in respect of those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 6.7 are met. The Appropriate Municipal Panel(s) shall keep a record of the name, address, and participation of each of these persons.

The appropriate municipal panel shall maintain an accurate record of the name and address of interested persons who participate in a municipal review procedure or appeal, including a record of their participation as defined in the Act [§4471]. Without an accurate record of participation, the rights of an interested person to appeal a local decision may be jeopardized.

In accordance with the Act [§§4464(b), 4468], the Appropriate Municipal Panel(s) may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

### **Decisions**

Any action or decision of an Appropriate Municipal Panel shall be taken by the concurrence of a majority of the members of the Panel. In accordance with the Act [§4464(b)], the Appropriate Municipal Panel shall issue a written decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46<sup>th</sup> day. In addition:

- (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 of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 6.7. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

- (2) In rendering a decision in favor of the applicant, the Appropriate Municipal Panel may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:
  - (a) the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Legislative Body, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
  - (b) a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.
- (3) All decisions of an Appropriate Municipal Panel shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

### **SECTION 6.15 RECORDING REQUIREMENTS**

Within 30 days of the issuance of a municipal land use permit or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the land records of the municipality generally as provided in 24 V.S.A. §1154(c), and file a copy in the Municipal Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.

For development within the Flood Hazard Area Overlay District, the Administrative Officer shall also maintain a record of:

1. all permits issued for development in areas of special flood hazard;
2. elevation certificates that show the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
3. the elevation, in relation to mean sea level, to which buildings have been floodproofed; all floodproofing certifications required under this regulation; and
4. all variance actions, including the justification for their issuance.

## **ARTICLE VII. DEFINITIONS**

### **SECTION 7.1 CLARIFICATION OF WORD MEANING**

Doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Development Review Board. Words not defined herein shall carry their customary meanings, taking into consideration the latest state and federal definitions.

### **SECTION 7.2 WORD DEFINITIONS**

For the purpose of these Regulations, words used in the present tense include the future, the singular includes the plural and vice versa. The word "shall" is mandatory. The word "applicant" includes an individual, partnership, association, corporation or other organization.

Abutting Properties - Two or more parcels which share a common parcel boundary or point.

Accepted Agricultural Practices (AAP's) Accepted practices for agriculture, including farm structures and related dwellings, as currently defined by the Commissioner of Agriculture and in accordance with the Act [§ 4413(d)].

Accepted Management Practices (AMP's) Accepted silvicultural (forestry) practices as currently defined by the Commissioner of Vermont Department of Forests, Parks and Recreation.

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

- (a) The owner occupies either the single-family dwelling or the accessory dwelling.
- (b) The property has sufficient wastewater capacity.
- (c) The unit does not exceed 750 square feet, or 30% of the total habitable floor area of the single-family dwelling, whichever is greater.
- (d) Applicable setback, coverage and parking requirements specified in the bylaws are met. (24 V.S.A. § 4412(1)(E))

Accessory Use or Structure - A use or structure customarily incidental and subordinate to a principal use and located on the same parcel.

Affiliated - With respect to a specific owner: (a) such owner's spouse, parents (blood or adoptive), children or grandchildren (blood or adoptive), or any blood relative residing with such owner; (b) a trustee of a trust for the benefit of such owner or of any person identified in the immediately preceding clause; or (c) a corporation, partnership, firm, business or entity of which the majority of the voting interest is owned by such owner or any person identified in subdivisions (a) and (b) above; or (d) a person who is an officer, director, stockholder (15% or more), trustee, employee or partner of any entity or person referred to in subdivisions (a), (b) and/or (c) above.

## West Windsor Zoning Regulations

Agricultural Use - The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, silviculture, and animal or poultry husbandry, including incidental storage of machinery and agricultural produce raised on the property.

Allowed Use - A use that is permissible without obtaining a zoning permit from the Zoning Administrator.

Appropriate Municipal Panel – the Development Review Board, the Planning Commission, or the Selectboard performing development review.

Appurtenant – incidental, subordinate, or next to the primary use or dwelling, but sharing the same approved highway access. Appurtenant structures shall not be separately conveyed without an approved subdivision.

Auto Service Station – a building or premises used to offer maintenance and repair of motor vehicles and to dispense automobile fuels, lubricants or parts in the course of providing this service.

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

Basement – The habitable substructure or foundation of a building, usually below ground level.

Bed and Breakfast – A use accessory to a dwelling unit where the homeowner provides travelers with overnight lodging and breakfast.

Bridge – A structure having a clear span designed to convey vehicles and/or pedestrians over a watercourse, public or private right-of-way, or any depression. (see also stream crossing)

Brook – see “Stream”

Buffer - Any space between adjoining land uses or between a land use and a natural feature, that reduces 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 – A walled and roofed structure that is principally above ground.

Building Density – The number of acres in a parcel divided by the number of non-residential principal structures and/or dwelling units existing and proposed on that parcel, i.e. the number of acres per principal structure and/or dwelling unit.

Business Office - A room or suite of rooms or building used for conducting the affairs of a business, profession or government, or used as an accessory to personal services, industry and other uses. The sale of retail goods on the premises is prohibited.

## West Windsor Zoning Regulations

Camper (Recreational Vehicle, Travel Trailer) – A vehicle without permanent foundation which can be towed, hauled, or driven and is designed as a temporary living accommodation for travel, recreational, and camping use. This includes, but may not be limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes (see Section 4.4).

Certificate of Compliance – A document issued by the Administrative Officer, upon request, certifying that there are no known zoning violations on a property. The issuance of a Certificate of Compliance does not prevent the town from initiating an enforcement action to ensure compliance with the zoning regulations if a zoning violation is discovered, nor is it an adequate substitute for a thorough title examination.

Certificate of Occupancy - A document issued in accordance with 24 V.S.A. §4449(a)(2) by the Administrative Officer, prior to the use or occupancy of a structure, certifying that the structure has been built in accordance with the permit issued approving its construction.

Change of Use – A change from one permitted or conditional use to another permitted or conditional use. (Permitted and conditional uses for each zoning district are listed in Article II; see also Section 3.3)

Club House – A building or use catering exclusively to club members and their guests for recreational purposes and not operated primarily for profit.

Conditional Use - A use that conforms to the zoning regulations and is allowed after obtaining approval (with conditions if necessary) from the DRB and a zoning permit from the Zoning Administrator.

Coverage – That portion (percentage) of a lot area which is covered by buildings, structures and other man-made improvements, such as parking and loading areas, access roads, service areas, tennis courts, and other impermeable surfaces, which prevent the infiltration of stormwater. Lawn areas are specifically excluded from this definition.

Development – The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or any mining, excavation, site preparation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

Dwelling – A building or part thereof used as living quarters for one or more persons (family), containing cooking, sanitary and sleeping facilities built on a permanent foundation.

Dwelling, Single-Family – A building with living quarters for one family.

Dwelling, Two-Family – A building with independent living quarters for two families.

Dwelling, Multi-Family – A building with independent living quarters for three or more families.

## West Windsor Zoning Regulations

Essential Service – Underground or overhead gas, communication, electric, steam, water or sewer collection, distribution or transmission systems maintained by public utilities or municipal or other governmental agencies, including the equipment and accessory structures customarily associated with such systems, as well as public rights-of-way and associated roads, bridges, and culverts.

Family Child Care Home – a day care facility which provides for care on a regular basis in the caregiver’s own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. These limits shall not include children who reside in the residence of the caregiver; except:

- (a) these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
- (b) during the school summer vacation, up to twelve (12) children may be cared for provided at least six (6) of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six (6). These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902(3)

Family Child Care Facility – a facility serving more than ten children where the operator is licensed or registered by the state for child care.

Farming –

- (a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
- (b) the raising, feeding, or management of livestock, poultry, equines, fish, or bees;
- (c) the operation of greenhouses; or
- (d) the production of maple syrup; or
- (e) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or
- (f) the on-site production of fuel or power from agricultural products or wastes produced on the farm.

Farm Structure – a structure or structures that are used by a person for agricultural production that meets one or more of the following:

- (a) is used in connection with the sale of \$1,000 or more of agricultural products in a normal year; or
- (b) is used in connection with raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratics (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or
- (c) is used by a farmer filing with the Internal revenue Service a 1040(F) income tax statement in at least one of the past two years; or

## West Windsor Zoning Regulations

- (d) is on a farm with a business and farm management plan approved by the Vermont Secretary of Agriculture, Food & Markets.

Fence - A structure constructed of wood, stone, plastic, metal, masonry, or similar materials, and used for one or more of the following:

- (a) As a barrier to prevent escape or intrusion
- (b) As the demarcation of a boundary
- (c) To retain soil
- (d) To provide privacy or screening
- (e) As a landscaping feature

Finished Grade - The proposed elevation of the earth around a building after site work is complete.

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

Flood Insurance Study - An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Prone Area - That land which would be subject to flooding by the 100-year flood or that flood which would have one percent chance of occurring each year Zone A on the Flood Boundary Map.

Floodplain – See Special Flood Hazard Area

Floodproofing - Any combination of structural or non-structural additions, changes or adjustments to properties and structures made primarily for the reduction or elimination of flood damages to lands, facilities, structures and their contents.

Footprint - The square footage contained within the foundation and/or the exterior walls of a structure, not including unenclosed, flat courtyards, walkways, or patios. In the absence of exterior walls, the building footprint shall be the area under the horizontal projection of the roof. Attached decks and porches are included in the footprint regardless of whether or not they are enclosed and/or covered by a roof.

Forestry Use - The use of land for management, including logging, of a forest or woodland, including the maintenance, construction or alteration of woods-roads, skidways, landings, fences and forest drainage systems.

Frontage - Distance along the lot line dividing a lot and a public or private right-of-way or public waters.

## West Windsor Zoning Regulations

Group Home – Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight (8) unrelated persons, who have a handicap or disability as defined in 9 V.S.A. §4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Habitable Floor Area – Finished living space as specified on the Listers' property record or as demonstrated by site visit.

Health Care Facility - A clinic, hospital, sanitarium or nursing home used by the medical profession for treatment and care of human ailments.

Hedgerow - a row of bushes, shrubs or trees forming a hedge.

Height – See “Structure Height”

Hotel - An establishment providing lodging, or boarding and lodging, for more than twenty four (24) persons, with restaurant and related amenities and accessories thereto, if any, and offered to the public for compensation.

Indoor Recreational Use - A recreational use carried on within a fully enclosed structure.

Inn - An establishment providing lodging, or boarding and lodging, for not more than twenty four (24) transient persons, with or without a restaurant, offered to the public for compensation, in which ingress and egress to and from all rooms are from a central point.

Land Development - The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

Lot - Land occupied by or capable of being occupied by one principal structure and the accessory structures or uses customarily incidental to it including such yards and other open spaces as are required herein.

Lot Line - The established division line between lots or between a lot and the edge of a public right-of-way.

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 Section 60.3 of the National Flood Insurance Program (NFIP) regulations.

## West Windsor Zoning Regulations

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 connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Master Plan - A conceptual plan that identifies major new development or changes/ improvements that are proposed in the Town of West Windsor. The conceptual plan will include proposed location and numbers of residential and commercial units and recreational facilities, projections for water and sewer usage, traffic, employment, and other impacts on infrastructure as may be required by the appropriate municipal panel (AMP). The Master Plan should include Site Plan maps that illustrate the location of proposed development and natural resources such as streams, critical wildlife habitat, soils and other coverage as identified by the appropriate municipal panel (AMP).

Mean Sea Level - For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Mile Long Field - The land enclosed by the following: From the western boundary of Parcel 1 (the Southern Main Parcel) as shown on Farnsworth drawing #88-737 and #88-737A (recorded as map #176 and map #177 in the West Windsor Land Records), then easterly +/- 450 feet to the corner of the Town of West Windsor property and continuing easterly another +/- 450 feet to the brook, then northerly +/- 3600 feet along the brook to a point easterly of Rita Johnson's southeast corner (tax map parcel #3-112), thence westerly +/- 460 feet along Johnson's southern boundary, then +/- 3185 feet southwesterly along a stone wall to the point of beginning.

Mineral Resources - Substances obtained from the ground such as sand, gravel, talc or the like.

Mixed Use - More than one type of use on an individual parcel or lot (e.g a store with an apartment over it).

Mobile Home - A prefabricated dwelling unit intended for permanent residential use which is designed to be moved on wheels to a site complete and ready for occupancy except for incidental unpacking and assembly. A modular home which is constructed in two or more major sections that are transported to a site and permanently assembled there is not considered a mobile home.

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

Modular (or Prefabricated) Housing - A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

## West Windsor Zoning Regulations

Multifamily Dwelling – A building containing three or more individual dwellings with separate cooking and toilet facilities for each dwelling.

Municipal – of or relating to a town or its local government

Nonconforming Structure - A structure not complying with the building requirements for the district in which it is located, but which conformed to all applicable laws and ordinances prior to enactment of these Regulations.

Nonconforming Use - A use of land or a structure which does not comply with all use standards for the district in which it is located but which conformed to all laws and ordinances prior to enactment of these Regulations.

Open Space – Land which is set aside from development and designated to remain in its natural state, open (woodland, meadowland, wetland, etc.), for agricultural uses, or for active or passive outdoor recreation uses.

Outdoor Recreational Facility/Use - Any facility for outdoor recreation, including ski lifts, ski lift facilities, tennis courts, golf courses, athletic fields, swimming pools and trails for hiking, horseback riding, bicycling, snowmobiling, and cross country skiing or any other similar commercial recreational activity.

Owner-occupied – With respect to accessory dwelling units, the term “owner-occupied” shall mean that the property owner may be elsewhere for a significant portion of the year (i.e. the property owner does not have to be a resident of Vermont) as long as the dwelling unit typically occupied by the owner is not rented out in his or her absence.

Participation - consists of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

Part-time Childcare – care of a school-age child for not more than four (4) hours a day.

Permitted Use - A use that conforms to the zoning regulations and is allowed after obtaining a zoning permit from the Zoning Administrator.

Place(s) of Worship – a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

Public Facility – A facility or utility maintained by municipal, state, regional or federal government, or other semi-public institution, including but not limited to public utilities; solid waste facilities; ambulance, fire and emergency services; waste water facilities; etc.

## West Windsor Zoning Regulations

Recreational Use - A commercial enterprise organizing and providing an on-premise pastime, diversion, exercise or other resource affording relaxation and enjoyment.

Renewable Energy Resources – energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat and geothermal sources

Residential Care Home – a place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to nine (9) or more residents unrelated to the home operator.

Retail Service - The performance for paying customers of work of a helpful or professional nature.

Retail Store - An establishment where merchandise is sold, generally to ultimate consumers.

Rooming House - Any dwelling with at least three, but not more than eight, sleeping rooms for rent.

Sign - Any structure, device or representation which is designed or used to advertise or call attention to any business, event, product, organization or philosophy, and which is intended to be read from a public road.

Special Flood Hazard Area (SFHA) - The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map (FIRM).

Stream – Any surface water course in the town of West Windsor as depicted by the US Geological Survey maps, or as otherwise defined by the State of Vermont.

Stream Crossing - A structure having a clear span designed to convey vehicles and/or pedestrians over a watercourse that may be located on public or private property.

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

Structure Height - The vertical distance from the lowest finished grade adjacent to the foundation to the highest point of the structure, including cupolas or other architectural details.

Veterinary/Animal Care Facility – A facility used primarily for the treatment of disease and injuries of animals. Such facilities may include the boarding of animals that may or may not be patients of the facility.

Wall - See “Fence”

## West Windsor Zoning Regulations

Wetlands - Those areas of the Town of West Windsor which are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connections with farming activities (See 24 VSA §4303 (32)).

Yard - Space on a lot not occupied by a structure, except certain small accessory structures as herein permitted. Minimum yard dimensions ("set-backs") are the minimum perpendicular distances from the point of a structure nearest to a lot line. No new development may extend into a setback area.

Yard, Front - The yard extending across the full width of a lot with a minimum depth measured from the front lot line.

Yard, Rear - The yard extending across the full width of a lot with a minimum depth measured from the rear lot line.

Yard, Side - The yards extending between the front and rear yards with a minimum depth measured from the side lot line.

Zero Lot Line - The lot line on the side yard of a single family dwelling that is shared with another parcel.

### **SECTION 7.3 OTHER DEFINITIONS**

The definitions in the Act shall apply to these Regulations unless a different definition is provided herein.